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LEGISLATIVE HEARING ON H.R. 4094, "PRESERVING ACCESS TO CAPE HATTERAS NATIONAL SEASHORE RECREATIONAL AREA ACT"; AND OVERSIGHT HEARING ON "ACCESS DENIED: TURNING AWAY VISITORS TO NATIONAL PARKS"

LEGISLATIVE AND OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS, FORESTS AND PUBLIC LANDS

OF THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

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LEGISLATIVE HEARING ON H.R. 4094, TO AUTHORIZE PEDESTRIAN AND MOTORIZED VEHICULAR ACCESS IN CAPE HATTERAS NATIONAL SEASHORE RECREATIONAL AREA, AND FOR OTHER PURPOSES. "PRESERVING ACCESS TO CAPE HATTERAS NATIONAL SEASHORE RECREATIONAL AREA ACT"; AND OVERSIGHT HEARING ON "ACCESS DENIED: TURNING AWAY VISITORS TO NATIONAL PARKS."

Friday, April 27, 2012
U.S. House of Representatives
Subcommittee on National Parks, Forests and Public Lands
Committee on Natural Resources
Washington, D.C.

The Subcommittee met, pursuant to call, at 9:06 a.m., in Room 1324, Longworth House Office Building, Hon. Rob Bishop [Chairman of the Subcommittee] presiding.

Present: Representatives Bishop, Rivera, Duncan, Grijalva, and Holt.

STATEMENT OF THE HON. ROB BISHOP, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. BISHOP. The Committee will come to order. You just heard the gavel bang. The Chair notes the presence of a quorum.

Under the rules, the opening statements are limited to the Chairman and Ranking Member; however, I ask unanimous consent to include any Members' opening statements in the hearing record if submitted to the clerk by the close of business today. And hearing no objections, it will be so ordered.

The Subcommittee on National Parks, Forests and Public Lands is meeting today to hear testimony on how the national park visitors are increasingly being denied access to our national parks in all defiance of common sense.

Although we will focus on two examples today, the Biscayne National Park in Florida and Cape Hatteras in North Carolina, these overly restrictive policies show signs of developing into a nationwide problem that may require congressional action to correct, which is why today's hearing is both an oversight hearing as well as a legislative hearing.

In our oversight capacity, we will hear from the Park Service on a plan by the Biscayne National Park to close a popular 10,000-acre area to fishing and further restrict activities in other parts of the park. We will also hear from the knowledgeable local experts who are intimately familiar with the park and can provide insight

into the scientific issues involved and also tell us what effect the closure will have on recreational opportunities and on the local economy.

The legislative part of the hearing today will look at H.R. 4094, introduced by our friend, Mr. Jones from North Carolina, whose district includes Cape Hatteras.

This bill will restore reasonable pedestrian and motorized access to the Cape Hatteras National Seashore Recreational Area. This bill will reinstitute a 2007 Park Service management plan that was based on a thorough biological opinion done by the U.S. Fish and Wildlife Service to ensure that shorebirds and the piping plover and the sea turtles would not be jeopardized by park activities.

Unfortunately, Federal authorities have acquiesced to the demands of a lawsuit brought by the environmental activist special interest groups for restrictions that go far beyond those found needed in the biological opinion. As a result, access to one of the top surf fishing spots in this country is severely restricted, and many local companies have seen up to a 50 percent decline in their business.

So we welcome you here. We look forward to the testimony.

I now turn to Mr. Grijalva for any opening remarks he may have.

[The prepared statement of Mr. Bishop follows:]

Statement of The Honorable Rob Bishop, Chairman, Subcommittee on National Parks, Forests and Public Lands

The Subcommittee on National Parks, Forests, and Public Lands is meeting today to hear testimony on how National Park visitors are increasingly being denied access to our nation's parks. Although we will focus on two examples today, Biscayne National Park in Florida and Cape Hatteras in North Carolina, these overly restrictive policies show signs of developing into a nation-wide problem that may require Congressional action to correct. That is why today's hearing is both an oversight hearing and a legislative hearing.

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Unfortunately, federal authorities have acquiesced to the demands and lawsuits brought by environmental activists for restrictions that go far beyond those found needed in the biological opinion. As a result, access to one of the top surf fishing spots in the country is severely restricted and many local companies have seen a 50% decline in business.

I now turn to Mr. Grijalva for his opening remarks.

STATEMENT OF THE HON. RAÚL GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. GRIJALVA. Thank you, Mr. Chairman.

Summer vacation for many families is being planned as we speak, and if you would listen to those who planned this hearing, you would think that there was no way to visit a national seashore or park this summer. The last thing people want on their beach

vacation is conflict. We get enough of that, from my experience, with the kids in the backseat.

The parks are dealing with dueling mandates issued nearly a century ago. They constantly have to balance the protection of resources with providing recreational access. In the two issues we are hearing about today, the issue is that certain people don't agree with the balance the Park Service is seeking to strike. Never mind the public process and sound science that informed the agency; people want to go outside that process and have legislators put their finger on the scale.

In the first case today, we are dealing with a bill that overrides years of work done by various organizations to reach a sound management plan. Second, we will have an oversight hearing on a plan that isn't even finished. Both of these plans have sound science supporting the suggestions—something everyone may not like, but it is a nonpartisan view.

I welcome the witnesses here today. I would have liked to welcome locals from the Outer Banks communities who have a different opinion than those that are here today. Unfortunately, those who have spoken out on this issue in town have been harassed and in some cases threatened. We ask for people to be involved in their government, yet in this situation people are ridiculed, have nails put in their driveway, and in one case photos were taken inside of a home as a threat. What a sad commentary on a situation that should involve the entire community.

Cape Hatteras has over 60 miles of beach with only 9 miles closed to resource protection. In our oversight hearing today, we are intervening in a public process because we are unhappy with the direction of that process. The plan is still a draft, and the National Park Service has engaged the community throughout this process.

One witness will testify about children fishing in the Biscayne Bay and the challenges with the marine reserve zone. Another group wanted to share their scuba diving stories with young people and how they see fewer fish each year. It is about choices we make and how they affect the future.

Thank you again to our panelists. I look forward to hearing from you.

And I yield back, Mr. Chairman.

Mr. BISHOP. Thank you.

[The prepared statement of Mr. Grijalva follows:]

Statement of The Honorable Raúl M. Grijalva, Ranking Member, Subcommittee on National Parks, Forests and Public Lands

Summer vacation for many families is being planned as we speak.

If you would listen to those who planned this hearing today, you would think that there was no way to visit a national seashore or park this summer.

The last thing people want on their beach vacation is conflict. They get enough of that from the kids riding in the back seat of the car.

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One witness will testify about children fishing in the Biscayne Bay and the challenges with the Marine Reserve Zone. Another group wanted to share their scuba diving stories with young people and how they see fewer fish each year. It is about choices that we make and how they affect the future.

I have letters of support to submit for the record on both bills.

Thank you, again, to our panelist. I look forward to hearing from you all.

Mr. BISHOP. We will now hear from our first panel, which consists of our colleagues: first, Representative Jones from North Carolina, who will talk about H.R. 4094; then our two friends from Florida, who will talk about what is happening in the Biscayne area.

I would invite all three of you, if you wish, to stay with us for the entire testimony and be part of the panel. And if anyone wishes to be part of the panel, I would ask unanimous consent that they be allowed to join us up here for as long as they wish to stay.

Seeing no objection, we are OK.

Now, realizing I have often made that offer to friends who have come here to testify and I have yet to have anyone accept that offer, if you decide to testify and go, I will take it personally and I will remember it for a hell of a long time.

But having said that, you all know the drill. You have 5 minutes for oral presentations. You have the clock in front of you. Yellow is the light that means you have 1 minute left, and red is the time has expired.

So, Congressman Jones, we will turn the 5 minutes over to you.

STATEMENT OF THE HON. WALTER B. JONES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. JONES. Mr. Chairman, thank you and the Ranking Member and Committee members for giving me an opportunity to talk about H.R. 4094.

This bill is about jobs, it is about taxpayers' right to access the recreational areas they own, and it is about restoring balance and common sense to Park Service management. H.R. 4094 would overturn a final rule implemented by the National Park Service in mid-February as well as a 2008 United States District Court order consent decree. The rule and the consent decree excessively restrict taxpayers' access to Cape Hatteras National Recreational Area, and they are unnecessary to protect the wildlife.

H.R. 4094 would reinstitute the Park Service's 2007 interim management strategy to govern vista access and species protection at Cape Hatteras. The interim strategy was backed by a 113-page biological opinion issued by the United States Fish and Wildlife Service which found that it would not jeopardize piping plover, sea turtles, or other species of concern.

In addition to providing adequate protection for wildlife, H.R. 4094 would give taxpayers more reasonable access to the lands they own. It would reopen the 26 miles of beach that are now permanently closed to motorized beach access and give seashore managers flexibility to implement more balanced measures that maximize both recreational access and species protection. By doing so, the bill would reverse the significant job loss and economic decline that Hatteras Island has experienced since the consent decree cut off access to many of the most popular areas of the seashore.

To give you an idea of how bad it is, I would like to submit a collection of notarized affidavits from Hatteras Island business owners.

Hal Lester of Buxton states that his restaurant has seen a total loss of 50 percent of business since the consent decree. "Previously, I had a staff of up to 12 people. Now our workforce is half that size, and we struggle to survive."

Motel owner Jackie Gray of Buxton states that "during the first year under the consent decree, we experienced a sudden 50 percent drop in business from the preceding year. This year, my business is down an additional 65 percent. Before the consent decree, my business employed six people. Because of the closure, we now have only two employees. Our 53-year-old business is now in jeopardy."

Mr. Chairman and Ranking Member, the bottom line here is that the Federal Government is unnecessarily blocking the public from a national seashore created for their recreation, and, in doing so, it is destroying jobs. We can fix this problem by enacting H.R. 4094, and there is broad bipartisan public support for doing so.

I am grateful that North Carolina Senators Richard Burr and Senator Kay Hagan came together yesterday to jointly introduce a Senate companion of H.R. 4094. The bill is also supported by a wide variety of national sportsmen and fishing groups, including the American Sportfishing Association, Recreational Fishing Alliance, Center for Coastal Conservation, Coastal Conservation Association, Congressional Sportsmen's Foundation, and International Game Fish Association. These groups and many others have signed letters supporting H.R. 4094, and I would like to include those in the record.

Mr. Chairman, this is a good bill. It is urgently needed, and I urge the Subcommittee to quickly take action to approve it.

With that, before closing, Mr. Chairman and Ranking Member, I would like to say: The Republicans talk about jobs; the Democrats talk about jobs. Let's save the economy of Dare County.

And, with that, I yield back the balance of my time.

Mr. BISHOP. I thank the gentleman.

Mr. BISHOP. If you will provide those other letters and supporting documents, we will include those in the record, without objection.

All right, let's turn to our good friends from Florida. The gentlelady from Florida, to talk about this particular issue, is going to be recognized for 5 minutes, if you would.

STATEMENT OF THE HON. ILEANA ROS-LEHTINEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Ms. ROS-LEHTINEN. Thank you very much, Chairman Bishop, Ranking Member Grijalva, Mr. Rivera, and Dr. Holt. Thank you so much for the opportunity to speak before you today.

Biscayne National Park is vital to my constituents, for their livelihoods as much as for their own recreation. Since the park announced that it would update its general management plan, I have heard from numerous anglers and boaters about their concerns that this magnificent resource might not remain truly accessible.

Just this past Monday, I sat down with my congressional colleagues David Rivera and Mario Diaz-Balart to discuss with Superintendent Mark Lewis the five alternative proposed general management plans. Alternative 4 might turn out to be the preferred framework of park managers. Following this meeting, I asked several members of our South Florida community who are heavily involved with Biscayne National Park to share their thoughts on what Alternative 4 would mean to them were it to be implemented. The responses I received offered strong objections to the proposed plan.

All were unified in opposing the controversial proposed marine reserve zone, which would close all fishing, that they say is overly restrictive. The marine reserve zone would be over 10,000 acres or 7 percent of the park's marine waters and is almost 30 percent of the park's reef tract.

The loss of fishing opportunities and their associated economic impacts would be significant on our community. These park users consider the closures of the most popular and productive fishing waters draconian and based on flimsy, outdated or simply feel-good speculation of perceived benefits.

Another common theme that emerged was disbelief that the park chose to disregard the recommendations of the Florida Fish and Wildlife Conservation Commission, which cooperatively manages the park's fishing resources, and the park's own Fisheries Management Plan Stakeholders Working Group.

We all share the same goal of ensuring healthy, vibrant, and sustainable park and fisheries. With careful management, our beloved Biscayne National Park will remain a jewel of our community and available for generations of visitors to respect and enjoy. I expect that this hearing will help preserve the unique culture surrounding south Florida's water-centered way of life while also protecting our environment and maintaining public access to the park's waters.

Thank you to all the Members, and I yield back.

Mr. BISHOP. Thank you. I appreciate your testimony again.

[The prepared statement of Ms. Ros-Lehtinen follows:]

Statement of The Honorable Ileana Ros-Lehtinen, a Representative in Congress from the State of Florida

Biscayne National Park is vital to my constituents, for their livelihoods as much as their own recreation.

Since the park announced that it would update its General Management Plan, I have heard from numerous anglers and boaters about their concerns that this magnificent resource might not remain truly accessible.

Just this past Monday, I sat down with my Congressional colleagues David Rivera and Mario Diaz-Balart to discuss with Superintendent Mark Lewis five alternative proposed General Management Plans.

Alternative #4 might turn out to be the preferred framework of park managers.

Following this meeting I asked several members of our South Florida community who are heavily involved with Biscayne National Park to share their thoughts on what Alternative #4 would mean to them if implemented.

The responses I received offered strong objections to the proposed plan.

And all were unified in opposing the controversial proposed Marine Reserve Zone—which could close all fishing—that they say is overly restrictive.

The MRZ would be over 10 thousand acres, or 7% of the park's marine waters, and is almost 30% of the park's reef tract.

The loss of fishing opportunities, and their associated economic impacts, would be significant.

These park users consider the closure of the most popular and productive fishing waters draconian and based on flimsy, outdated and or simply feel-good speculation of perceived benefits.

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With careful management our beloved Biscayne National Park will remain a jewel of our community and available for generations of visitors to respect and enjoy.

I expect that this hearing will help preserve the unique culture surrounding South Florida's water-centered way of life, while also protecting our environment and maintaining public to access the park's waters.

Mr. BISHOP. Representative Diaz-Balart, if you would like to take 5 minutes.

STATEMENT OF THE HON. MARIO DIAZ-BALART, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. DIAZ-BALART. Thank you very much. Mr. Chairman, thank you, and Mr. Ranking Member and members of this Committee. I think my colleague from South Florida really explained it as well as anybody could, and so I will just add—I will skip my statement and just add some points to it.

Look, a couple things. This is a park that is highly utilized. It is right next to a large urban area. By the way, I speak to you—we speak to you not only as Members of Congress but as those who use that park. It is a park that is used by thousands and thousands of people for fishing, for scuba diving, for bird watching, et cetera.

And I think just one of the things that has to be pointed out: Nobody cares more about the future of that area, about the health of that area than those that use it, than those that benefit from it, than Floridians. My colleague mentioned the Florida Fish and Wildlife Commission. This is a commission, these are individuals who dedicate their lives, frankly, to protect the pristine areas of Florida. And Florida is very aggressive in doing so.

So when we now see that—there have been meetings for a long, long time with the Florida stakeholders. And when this recommendation comes out, basically pretty much unanimously almost, all of those that were in the negotiations, that were in the conversation are, frankly, highly dissatisfied. Why are they dissat-

isfied? Because they believe that their thoughts, their recommendations, their ideas in order to protect this area without being overly intrusive were, frankly, just disregarded. And I repeat, nobody cares more about that area than those that live there, that utilize that park. That is number one.

Number two is, you know, Florida, the entire U.S. economy is struggling. I don't have to tell you all that. Florida's is struggling more than the rest of the Nation. One of the largest industries that we have, one of the most important industries is this, is recreation, is fishing, is boating and boat manufacture.

Now, I will be honest with you, if you own a 75-foot boat or a 60-foot boat, you can go anywhere. But if you have a small one, where do you go? You go to the accessible, wonderful pristine places that are right next-door because that is what you can do if you have a small boat. That is who is going to be affected—not only those people who own those small boats or who borrow or charter those small boats, but the manufacturer of those small boats.

So to wrap it up, Mr. Chairman and members of this Committee, closing off areas to those that pay for the management of the areas I believe has to be the last resort, the last thing you do. If everything else has been tried and has not been successful, then you can do that. But to do it when the stakeholders in that area who love this area, who protect this area, who utilize this area are telling us pretty much unanimously that there are other options, better options, we think that those options have to be explored first before something as draconian as this takes place.

So, with that, thank you, Mr. Chairman, thank you, members of the Committee. I share the concerns and the thoughts of my colleagues, of both my colleagues from South Florida, Chairwoman Ros-Lehtinen and Mr. David Rivera, who has also been a leader in this. Thank you, Mr. Chairman, for your leadership and for this opportunity.

I yield back.

Mr. BISHOP. I appreciate all three of you being here.

Does anyone have questions for our colleagues?

Mr. Duncan?

Mr. DUNCAN. Well, thank you, Mr. Chairman.

I don't have a question, but I would like to just briefly state that I have seen this movement over the years of trying to turn some of our national parks into wilderness areas, and it never was intended to be that way.

And then, also, I have noticed that some Federal and State wildlife and fisheries people seem to want to turn these areas into their own personal playgrounds and restrict access to ordinary people. Certainly, that makes their jobs easier, but it is a very elitist type of attitude, and it is just disgusting to me. These areas should be made as open and as accessible to as many people as possible and shouldn't be restricted to the wealthy or the elites.

Thank you.

Mr. BISHOP. Appreciate that.

Anything else?

If not, we thank you for your testimony here. It is nice to have a local viewpoint, for what good that does, it is nice to have a local viewpoint here. You still have the option of staying here with us

if you would like to do that. If you have other business, we totally understand. I won't forgive you, but I will understand.

Mr. BISHOP. With that, we would like to invite the other witnesses up. We will just have everyone come up to the panel at the same time.

So if I could invite up to the table Herbert Frost, who is from the National Resource Stewardship and Science from the National Park Service, U.S. Department of the Interior; Warren Judge, who will be testifying on 4094, who is with the Dare County Board of Commissioners, Dare County, North Carolina; John Couch, President of the Outer Banks Preservation Association from North Carolina; Kenneth Wright, who is the Vice Chairman of the Florida Fish and Wildlife Conservation Commission; K.C. Crook, who is a resident in Florida; and Jack Curlett, who is representing himself.

We thank you all for being here. I think the drill is the same as it was with the prior panel. You have the clock before you. You have 5 minutes to give your oral testimony. We are going to try and keep that specific to the 5 minutes. The green light means you have plenty of time; the yellow light means you have 1 minute left; and the red, we really want you to quit on the red.

And the same thing for the panel. When you have questions, when the red hits, we want it done on the questioning as well.

So, with that, make sure you pull the microphones close to you as you testify. Let me start going down there with Mr. Frost. And unlike other times, if you would like to testify on both bills, the oversight portion of what is happening in Biscayne as well as 4094, at the same time, that would be fine.

Mr. Frost, please.

STATEMENT OF HERBERT C. FROST, ASSOCIATE DIRECTOR, NATIONAL RESOURCE STEWARDSHIP AND SCIENCE, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Mr. FROST. Thank you, Mr. Chairman, for the opportunity to present the Department of the Interior's view on H.R. 4094. This legislation would reinstate the 2007 interim protected species management strategy governing off-road vehicle use at Cape Hatteras National Seashore.

The Department strongly opposes H.R. 4094. The Department supports allowing appropriate public use and access at the seashores to the greatest extent possible, while we ensure protection of the seashore's wildlife, provide a variety of visitor uses, minimize conflicts among users, and promote safety.

We strongly believe that the final ORV management plan and special regulation will accomplish these objectives far better than the defunct interim strategy. The plan and regulation, for the first time, provide long-term guidance for the management of ORV use and for the protection of affected wildlife species at the seashore.

The seashore's dynamic coastal processes create important habitats, including breeding sites for many important species of beach-nesting birds. These species experienced declines in breeding populations at Cape Hatteras over the past 10 to 20 years prior to the implementation of the consent decree in 2008. Under our laws and regulations and policies, the National Park Service has an affirma-

tive responsibility to conserve and protect these species as well as other resources and values of the seashore. In addition, the Service is required to designate any routes or areas for ORV use by special regulation.

The ORV management plan, a special regulation, brings the seashore into compliance with applicable laws and policies after many years of noncompliance. The plan also addresses past inconsistent management of ORV use, user conflicts, and safety concerns in a comprehensive manner.

Although wildlife breeding success depends on a number of factors with the measures in place under the consent decree, there has been a striking improvement in the condition of protected beach-nesting wildlife species. Many of these measures have been adapted in the management plan. The seashore has experienced a record number of piping plover pairs and fledge chicks, American oystercatcher fledge chicks, least tern nests, and improved nesting results for other species of nesting colonial waterbirds. The number of sea turtles' nests also has significantly increased. These improvements occurred even though many miles of the beach remain open, unaffected by species protection measures, and seashore visitation numbers remain stable.

During the preparation of the management plan, the National Park Service evaluated the potential of environmental impacts of long-term implementation of the interim strategy. The analysis determined that if the interim strategy were continued, it would result in a long-term moderate to major adverse impact to piping plovers, American oystercatchers, and colonial waterbirds, and long-term major adverse impacts to sea turtles. Impacts to sea turtles and three species of colonial waterbirds has the potential to raise to the level of impairment, which would violate the Park Service Organic Act.

In addition, if the interim strategy was to be reinstated, it would likely be counterproductive to visitor access. Many popular destinations, such as Cape Point and the inland spits, would still experience resource protection closures, particularly when highly mobile piping plover and American oystercatcher chicks are present. Several of the beach-nesting bird species at the seashore may renest several times during the same season if eggs or young chicks are lost. Under the consent decree, with its science-based buffers, there has been a noticeable reduction in the number of renesting attempts, which means the duration of the closures are typically shorter.

No matter which management approach is in effect, the birds will continue to attempt to nest at these sites, even if resource protection is inadequate, because that is where the most suitable habitat is located. The interim strategy would allow for a higher level of human disturbance in proximity to nests and chicks at these key sites, which increases the chance that nests and young chicks will be lost, which in turn increases the likelihood that birds will renest one or more times at both sites. This could extend the length of time that any particular site would be closed due to breeding activity, even if the apparent size of the closure is smaller than that under the ORV management plan or consent decree.

The Department opposes H.R. 4094 for several additional reasons. These reasons are covered in my full written statement.

Finally, I want to point out that the ORV management plan and special regulation are the products of an intensive 5-year-long planning process that included a high level of public participation, both through the NEPA process and negotiated rulemaking. It included four rounds of public comment opportunities. The NPS received more than 15,000 individual comments on the draft plan and more than 21,000 individual comments on the proposed special regulation. In completing the final plan and the special regulation, the NPS considered all comments, weighing competing interests, and ensured compliance with all applicable laws.

This concludes my testimony, Mr. Chairman.

Mr. BISHOP. Thank you.

[The prepared statements of Mr. Frost follows:]

Statement of Herbert C. Frost, Associate Director, Natural Resource Stewardship and Science, National Park Service, U.S. Department of the Interior, on H.R. 4094, To Authorize Pedestrian and Motorized Vehicular Access in Cape Hatteras National Seashore Recreational Area, and for Other Purposes

Mr. Chairman and members of the subcommittee, thank you for the opportunity to appear before you today to present the Department of the Interior's views on H.R. 4094, a bill entitled "to authorize pedestrian and motorized vehicular access in Cape Hatteras National Seashore Recreational Area, and for other purposes."

The Department strongly opposes H.R. 4094. This bill would reinstate the 2007 Interim Protected Species Management Strategy (Interim Strategy) governing off-road vehicle (ORV) use at Cape Hatteras National Seashore (Seashore). In response to a lawsuit challenging its adequacy, the Interim Strategy was modified by a court-approved Consent Decree on April 30, 2008. The Seashore was managed under the Consent Decree through 2011. Meanwhile, the final ORV Management Plan/Environmental Impact Statement (EIS), and special regulation went into effect on February 15, 2012.

The Department supports allowing appropriate public use and access at the Seashore to the greatest extent possible, while also ensuring protection for the Seashore's wildlife and providing a variety of visitor use experiences, minimizing conflicts among various users, and promoting the safety of all visitors. We strongly believe that the final ORV management plan and special regulation will accomplish these objectives far better than the defunct Interim Strategy.

The final ORV management plan for the first time provides long-term guidance for the management of ORV use and the protection of affected wildlife species at the Seashore. The plan is designed to not only provide diverse visitor experience opportunities, manage ORV use in a manner appropriate to a unit of the National Park System, and provide a science-based approach to the conservation of protected wildlife species, but also to adapt to changing conditions over the life-span of the plan. It includes a five-year periodic review process that will enable the NPS to systematically evaluate the plan's effectiveness and make any necessary changes.

The Seashore's dynamic coastal processes create important habitats, including breeding sites for many species of beach-nesting birds, among them the federally listed threatened piping plover, the state-listed threatened gull-billed tern, and a number of species of concern including the common tern, least tern, black skimmer, and the American oystercatcher. All of these species experienced declines in breeding population at Cape Hatteras over the 10–20 years prior to the implementation of the Consent Decree in 2008. For example, in 1989 the Seashore had 15 breeding pairs of piping plovers; and by 2001–2005, that number had dropped to only 2–3 pairs attempting to nest each year. The numbers of colonial waterbird nests within the Seashore also plummeted from 1,204 nests in 1999 to 320 nests in 2007.

Under the National Park Service Organic Act, the Endangered Species Act, the Migratory Bird Treaty Act, the Seashore's enabling act, and National Park Service (NPS) regulations and policies, the NPS has an affirmative responsibility to conserve and protect all of these species, as well as the other resources and values of the Seashore. Executive Order 11644 (1972), amended by Executive Order 11989 (1977), requires the NPS to issue regulations to designate specific trails and areas

for ORV use based upon resource protection, visitor safety, and minimization of conflicts among uses of agency lands. The regulation that the NPS subsequently promulgated (36 C.F.R. §4.10) requires the NPS to designate any routes or areas for ORV use by special regulation and in compliance with Executive Order 11644.

The special regulation that went into effect on February 15 brings the Seashore into compliance with that regulation and with the Executive Orders and other applicable laws and policies, after many years of non-compliance. In addition to resource impacts, the approved plan addresses past inconsistent management of ORV use, user conflicts, and safety concerns in a comprehensive and consistent manner.

The Interim Strategy was never intended to be in place over the long-term. At the time it was developed, the Seashore had no consistent approach to species protection and no ORV management plan or special regulation in place. While the Interim Strategy took an initial step toward establishing a science-based approach, key elements such as buffer distances for American oystercatchers and colonial waterbirds, and the lack of night driving restrictions during sea turtle nesting season, were inconsistent with the best available science. The 2006 USFWS biological opinion for the Interim Strategy indicated that it would cause adverse effects to federally listed species, but found no jeopardy to those species mainly because of the limited duration of implementation (expected to be no later than the end of 2009). Similarly, the 2007 NPS Finding of No Significant Impact (FONSI) for the Interim Strategy indicated the action had the potential to adversely impact federally listed species and state-listed species of concern, but found that a more detailed analysis (an EIS) was not needed because of the limited period of time that the Interim Strategy would be implemented.

By contrast, the species-specific buffer distances and the night driving restrictions contained in both the Consent Decree and in the plan/EIS are based on scientific studies and peer-reviewed management guidelines such as the U.S. Fish and Wildlife Service (USFWS) Piping Plover and Loggerhead Turtle Recovery Plans, and the U.S. Geological Survey (USGS) Open-File Report 2009–1262 (also referred to as the "USGS protocols,") on the management of species of special concern at the Seashore. Buffer distances for state-listed species are based on relevant scientific studies recommended by the North Carolina Wildlife Resources Commission, USFWS, and USGS.

Although breeding success depends on a number of factors, with the measures in place under the Consent Decree, there has been a striking improvement in the condition of protected beach-nesting wildlife species. The Seashore has experienced a record number of piping plover pairs and fledged chicks, American oystercatcher fledged chicks, least tern nests, and improved nesting results for other species of colonial waterbirds. The number of sea turtle nests also significantly increased, from an annual average of 77.3 between 2000–2007 to an average of 129 between 2008–2011. These improvements occurred even though many miles of beach remained open, unaffected by species protection measures, and Seashore visitation numbers remained stable.

During the preparation of the EIS for the management plan, the NPS evaluated the potential environmental impacts of long-term implementation of the Interim Strategy. The analysis determined that if the Interim Strategy were continued into the future, it would result in long-term, moderate to major adverse impacts to piping plovers, American oystercatchers, and colonial waterbirds, and long-term, major adverse impacts to sea turtles. Impacts to sea turtles and three species of colonial waterbirds had the potential to rise to the level of "impairment," which would violate the National Park Service Organic Act.

Because the number of nesting birds has increased significantly since 2007, if the Interim Strategy were to be reinstated, it could be counterproductive to visitor access. Many popular destinations, such as Cape Point and the inlet spits, would still experience resource protection closures, particularly when highly mobile piping plover and American oystercatcher chicks are present. Several of the beach-nesting bird species at the Seashore may renest several times during the same season if eggs or very young chicks are lost. Under the Consent Decree, with its science-based buffers, there has been a noticeable reduction in the number of renesting attempts for piping plovers and American oystercatchers, which means the duration of closures is typically shorter. No matter which management approach is in effect, the birds will continue to attempt to nest at these sites, even if resource protection is inadequate, because that is where the most suitable habitat is located. The Interim Strategy would allow a higher level of human disturbance in proximity to nests and chicks at these key sites, which increases the chances that nests and young chicks will be lost, which in turn increases the likelihood that birds will renest one or more time at those sites. This could extend the length of time that any particular site

would be closed due to breeding activity, even if the apparent size of the closure is smaller than that under the ORV plan or Consent Decree.

In addition to reinstating the Interim Strategy, H.R. 4094 provides authority for additional restrictions only for species listed as "endangered" under the Endangered Species Act of 1973, and only for the shortest possible time and on the smallest possible portions of the Seashore. This would conflict with numerous other laws and mandates including the National Park Service Organic Act, the Migratory Bird Treaty Act, the Seashore's enabling act, the aforementioned Executive Orders, and NPS regulations implementing these laws, which provide for the protection of other migratory bird species and other park resources.

H.R. 4094 also provides that the protection of endangered species at Cape Hatteras shall not be greater than the restrictions in effect for that species at any other national seashore. Species protection measures cannot reasonably be compared from seashore to seashore without considering the specific circumstances at each site and the context provided by the number and variety of protected species involved, the levels of ORV use, and the underlying restrictions provided by the respective ORV management plans and special regulations. Even though Cape Hatteras has a wider variety of beach nesting wildlife species than Cape Cod or Assateague, for example, its plan actually allows for a much higher level of ORV use on larger portions of the Seashore. It would be neither reasonable nor biologically sound for Cape Hatteras to use less protective measures if they were designed for a location where the level of ORV use is much lower to begin with. Nor does it appear that such an arbitrary approach could possibly comply with the "peer-reviewed science" requirement imposed elsewhere in the bill. The Cape Hatteras plan was specifically designed to be effective for the circumstances at Cape Hatteras.

The bill would require, to the maximum extent possible, that pedestrian and vehicle access corridors be provided around closures implemented to protect wildlife nesting areas. This concept was thoroughly considered during the preparation of the plan and EIS. The plan already allows for such access corridors when not in conflict with species protection measures. But because of the Seashore's typically narrow beaches, and the concentrations of nests at the best available habitat near the inlets and Cape Point, nesting areas are often close to the shoreline, and access corridors cannot always be allowed without defeating the fundamental purpose of such closures, which is to protect beach-nesting wildlife. Several species of shorebirds that nest at the Seashore have highly mobile chicks, which can move considerable distances from nests to foraging sites. Inadequate resource closures in the past have resulted in documented cases of human-caused loss or abandonment of nests and chick fatalities. Corridors that cut through a resource closure area would essentially undermine the function of the closure and render it compromised or even useless.

Finally, the final ORV management plan/EIS and special regulation, are the products of an intensive five-year long planning process that included a high level of public participation through both the National Environmental Policy Act (NEPA) process and negotiated rulemaking, including four rounds of public comment opportunities. The NPS received more than 15,000 individual comments on the draft plan/EIS and more than 21,000 individual comments on the proposed special regulation. In completing the final ORV management plan/EIS and special regulation, the NPS considered all comments, weighed competing interests and ensured compliance with all applicable laws.

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

Statement of Herbert C. Frost, Associate Director, Natural Resource Stewardship and Science, National Park Service, U.S. Department of the Interior, on "Access Denied: Turning Away Visitors to National Parks"

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss the issue of access to national parks, particularly with regard to the impact of management plans on visitor access and local economies at Cape Hatteras National Seashore and Biscayne National Park.

Providing for visitor enjoyment of our national parks is required by the National Park Service Organic Act, along with the mandate to conserve the scenery and the natural and historic objects of our parks unimpaired for future generations. They are areas where, in carrying out the Organic Act and other laws, we are responsible for protecting wildlife, ecosystems, water quality, and natural quiet; preserving our nation's culture and history; educating visitors; and leaving a legacy of our nation's natural and cultural heritage. For that reason, the management plans for our parks

that the National Park Service develops need to carefully weigh competing requirements, needs, and desires, particularly in terms of visitor use.

The two parks that are the subject of this hearing, Cape Hatteras National Seashore (Seashore) and Biscayne National Park (Park), have management plans—final and draft, respectively—that are seen by some as curtailing access to these two popular and highly valued Atlantic Coast parks. The off-road vehicle (ORV) management plan that was implemented this year at the Seashore has been highly controversial among both opponents and proponents of ORV restrictions. Similarly, the proposed General Management Plan (GMP) at the Park is controversial among opponents and proponents of the plan's proposed marine reserve zone and non-combustion engine use zone. In both cases, the National Park Service is acting to preserve and protect the natural resources that are fundamental to the reason both of those areas are included in the National Park System. These management plans are instruments that will help us invest in the future viability of the wildlife and the ecosystems of the two parks. Restricting a relatively modest amount of use of these two parks now will help ensure that the public continues to have access to these natural resources over the long run.

The National Park Service does not take lightly the imposition of restrictions on activities that were more freely enjoyed in the past; we understand the disappointment and loss new restrictions can generate. We are also keenly aware of how important parks are to gateway communities, and how changes in rules for recreational activities can affect the well-being of businesses in those communities. Our process for developing management plans includes taking into consideration the views of all affected parties. This public process helps us refine plans in ways that will minimize the disruption to traditional uses and businesses built around those uses while we act to comply with laws and regulations and balance competing interests.

Cape Hatteras National Seashore

Cape Hatteras National Seashore stretches for about 67 miles along three islands of the Outer Banks of North Carolina. The Seashore is famous for its soft sandy beaches, its outstanding natural beauty, and its seashore wildlife that inhabits the sand dunes, marshes, and woodlands. Long a popular recreation destination, Cape Hatteras attracts about 2.2 million visitors a year who come to walk the beach, swim, sail, fish, and enjoy the ambiance of the shore. In the towns that dot the Outer Banks, a major tourism industry has developed to serve the visiting tourists and local beachgoers, including fishermen. In 2010, visitors to the Seashore spent approximately $108 million, which supported about 1,700 jobs.

We appreciate the long tradition and popularity of ORV use at Cape Hatteras, which many anglers use to haul gear to popular fishing spots, and the economic value that activity generates for the local communities. However, ORV use at the Seashore was out of compliance with laws and regulations for many years, and, after several efforts to achieve compliance faltered, an ORV management plan and special regulation for Cape Hatteras National Seashore were finally adopted on February 15, 2012. This management plan is being implemented following four years of management of the Seashore under a court-ordered Consent Decree, which imposed new restrictions on ORV use and helped begin reversing the decline of key seashore wildlife species.

Under the science-based species protection measures of the Consent Decree, many of which are incorporated in the ORV management plan and special regulation, there has been a significant trend of improving conditions for beach nesting birds and sea turtles. During this period, the Seashore experienced record numbers of piping plover breeding pairs and fledged chicks, American oystercatcher fledged chicks, and least tern nests, as well as improved nesting results for other species of colonial waterbirds. Although a number of factors, including weather, predation, habitat availability, and the level of human disturbance ultimately affect shorebird and waterbird breeding success, under the Consent Decree the science-based buffers effectively minimized human disturbance of nesting areas at critical times during the breeding cycle. The number of sea turtle nests in the Seashore also significantly increased under the Consent Decree, which imposed a night driving restriction for the first time. During 2008—2011, the Seashore averaged 129 sea turtle nests annually, compared to an annual average of 77.3 from 2000—2007.

Although the prescribed buffers have resulted in temporary closures of some popular locations when breeding activity was occurring, even at the peak of the breeding season there have generally been many miles of open beach entirely unaffected by the species protection measures. And, during this same period, annual visitation at the Seashore continued at a level similar to that of 2006—2007. Dare County, where the Seashore is located, experienced record occupancy tax revenues in 2010

and near-record revenues in 2011, despite the impacts of Hurricane Irene that, among other effects, closed North Carolina Highway 12 to Hatteras Island from August 27 to October 10, 2011.

The ORV management plan and special regulation reflect the outcome of a five-year long intensive public process that included a high level of public participation through both the National Environmental Policy Act (NEPA) process and negotiated rulemaking. In 2006, the National Park Service began public scoping for the plan/EIS, and concurrent with that process, established a Negotiated Rulemaking Advisory Committee whose function was to assist directly in the development of special regulations for management of ORVs. The committee, composed of 29 representatives of diverse interests, met eleven times, for a total of 20 meeting days, between January 2007 and February 2009. There were also numerous subcommittee meetings on a number of issues such as agenda planning; natural resources; permits, passes and fees; routes and areas; socio-economic analysis; vehicle characteristics and operations; and village beaches. Although the committee did not reach consensus on a proposed regulation, it provided a valuable forum for the discussion of a wide variety of ORV management and resource protection issues and generated a large volume of useful information for the NPS.

During the NEPA and rulemaking processes, the NPS also provided four rounds of public comment opportunities. The NPS received more than 15,000 individual comments on the draft plan/EIS and more than 21,000 individual comments on the proposed special regulation. The views of those who wanted less restrictive measures than the proposed plan called for were fully considered along with the views of those who wanted more restrictive measures. Currently, the ORV management plan and special regulation are the subject of a complaint that was filed by a coalition of ORV organizations with the U.S. District Court in the District of Columbia on February 9, 2012.

Biscayne National Park

Biscayne National Park, located south of Miami, has over 151,000 acres of marine and estuarine waters, which make up about 95 percent of the park. Its coral reef is its signature feature. Some of the park's half-million annual visitors come just to enjoy the scenery and picnic, but the main attraction is the opportunity for water recreation—swimming, snorkelling diving, boating, and fishing. Economic data suggest that Biscayne National Park supports more than 400 local jobs.

The process to develop a new GMP to update the park's 1983 plan began in 2000. Public meetings were held in 2001, 2009, and 2011. A preferred alternative, Alternative Four, was chosen in 2010. During the public comment period in 2011, more than 18,000 public comments were received and more than 300 people attended public meetings. The National Park Service is currently analyzing the public comments and expects to finalize the GMP by the end of this year.

Two of the proposals in Alternative Four have generated significant interest and controversy: one is the proposed establishment of a marine reserve zone (MRZ), which would be a no-take area, where fishing of any kind would be prohibited. The other is the proposed establishment of non-combustion engine use zones.

The proposal for a MRZ is intended to allow a portion of the coral reef a reprieve to recover its health and to offer visitors the opportunity to see an intact and unfished coral reef system. Coral reefs contain some of the most diverse ecosystems in the world, forming important habitat for thousands of corals, algae, fish, and other marine organisms. They also serve as natural areas for recreation, boost the marine tourism economy, support recreational and commercial fisheries, protect coastlines from storm damage, and function as rich warehouses for genetic and species diversity.

Coral reefs are in decline worldwide and Biscayne's reef is part of that trend. Peer-reviewed studies from the National Park Service, the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, Miami-Dade County, the University of Miami, the University of South Florida, the University of North Carolina-Wilmington, and others have consistently detailed the loss of biological integrity of the park's coral reef. The studies show that the reef's coral and fish resources are greatly diminished from previous years. They also document a clear relationship between healthy fish populations and healthy reef ecosystems—coral reefs need healthy fish. Biscayne's reef shows dramatic losses of living coral, from approximately 28 percent coverage three decades ago to only five to seven percent today. Fish populations in the park have been declining for years, with 64 percent of species observed less frequently in 2006–2007 than in the late 1970s and early 1980s. Some species have disappeared from the park completely.

Marine scientists the world over agree that the most effective tool for marine ecosystem repair is a MRZ. Other tools can be effective for maintaining sustainable fish

populations, but the National Park Service mission is different than merely achieving sustainable fisheries. Natural coral reef ecosystems contain the full size and age spectrum of all the species found in them. Fishing size limits, slot limits, and bag limits cannot achieve the goal of ecosystem repair. Temporary closures produce short-term growth but not long-term population enhancement. Catch and release is an effective tool for shallow water species but has proven to be far less successful with reef species.

Areas where fish are not harvested also provide important recreational opportunities. Snorkeling and diving a healthy and vibrant coral reef, full of large fish and brilliant corals, are activities that many people find enjoyable and educational. MRZs are also good investments in tourism: areas that consistently contain large numbers of big fish, such as grouper and snapper, attract greater numbers of scuba divers, snorkelers, and others interested in seeing beautiful fish in their natural habitat. In MRZs, large fish often swim right up to snorkelers and divers, providing an experience unmatched in other places. By allowing Biscayne's reef ecosystem to recover, the proposed marine reserve zone could make the park one of South Florida's premier tourist destinations for divers, snorkelers, and marine enthusiasts.

The draft GMP's preferred alternative would set aside seven percent of the park's waters as a marine reserve zone for this unparalleled recreation opportunity. The remaining 151,000 acres, or 93 percent of park waters, including 70 percent of the park's reef tract, would remain open to fishing. The park carefully considered many factors in determining the location and size of the marine reserve zone. Those factors included the sea floor habitat and habitat connectivity, living coral cover, type of reef, shipwrecks, and minimization of impacts on other users.

The proposed marine reserve zone has significant public support. In reviewing the more than 18,000 public comments on the Park's draft GMP, our initial analysis indicates that more than 90 percent of the comments support alternatives containing a marine reserve zone.

While the purpose of this marine reserve zone is for resource restoration and enhanced visitor experiences, not fishery management, numerous studies show that marine reserve zones are also good investments in fisheries. Research has shown that within a few years of establishing a zone, "spillover" from fish swimming out of the zone will benefit fishing in surrounding waters. As fish in a zone become larger and more prolific, many will eventually swim out, leading to greater catches in areas adjacent to the zone. Most large "trophy" fish caught in Florida are taken adjacent to closed no-take areas.

The other issue that has attracted heightened interest in the GMP is the proposal to establish non-combustion engine use zones. These areas, commonly known as "pole and troll" zones, are needed to protect fragile resources along portions of the mainland shoreline adjacent to impenetrable mangrove forests, in shallow seagrass areas, and near bird rookeries. These zones are fairly small and are in the extremely shallow waters (less than 2–1/2 feet deep), which prudent boaters would not motor across anyway. Many fishermen specifically requested these no-motor zones in the areas where they are proposed under Alternative Four. The zones will not prevent anyone from entering or using the park, and there are no areas proposed for non-combustion engine use zones that would prevent visitors from launching motorized boats.

At both Biscayne and Cape Hatteras, the National Park Service is committed to providing for everyone's enjoyment of the parks' resources to the greatest extent possible, while ensuring protection of those resources, now and in the future. We believe that continued implementation of the current long-term ORV management plan and special regulation at Cape Hatteras, and the GMP for Biscayne, once finalized after consideration of public comments, will, over the long term, provide the best course to serve the varied interests of the both parks while meeting the National Park Service's resource protection responsibilities.

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

Mr. BISHOP. Now we will turn to Mr. Couch, who will be testifying on 4094, if you would, please. I am sorry, I am dyslexic here. We will turn to Mr. Judge, who is next on the row here. I think you are also on 4094, and then Mr. Couch. I apologize for that.

Mr. Judge, please.

STATEMENT OF WARREN JUDGE, CHAIRMAN, DARE COUNTY BOARD OF COMMISSIONERS, DARE COUNTY GOVERNMENT, NORTH CAROLINA

Mr. JUDGE. No apology needed, Mr. Chairman. And thank you, Mr. Chairman and Ranking Member and members of the Committee. I appreciate this opportunity to be here today on behalf of the 6 million people who visit Dare County every year, the 33,000 people who call it their home, and the 50,000 daily visitors inside the Cape Hatteras National Seashore Recreational Area each day during the summer season.

As Chairman of the Dare County Board of Commissioners, I would like to share with you firsthand reports of the impact that increased beach access restrictions have had on our area and the grim future our businesses face under the newly enacted ORV rule of the National Park Service.

Small businesses are the economic backbone of Dare County. Hardworking men and women have for generations created jobs and sustained economic growth for our area by offering outstanding service and hospitality to those who travel from around the Nation to enjoy our family oriented beaches and rich heritage of historical and cultural attractions.

Tourism is our primary industry. It is the engine that drives our economy. There are no corporate headquarters in Dare County. We do not have technology corridors or factories to provide employment. What we do have are industrious people who ask only for a fair opportunity to earn their part of the American dream.

That dream has been marred for many small-business owners who have dedicated their lives to serving those who visit the Cape Hatteras National Seashore Recreational Area. This group includes hundreds of grassroots entrepreneurs who operate restaurants, gift shops, motels, cottages, fishing tackle stores, and all the mom-and-pop businesses that provide the necessary infrastructure to support our visitors. Since the consent decree was enacted in the spring of 2008, these people have suffered.

People like Frank Folb, who for over 25 years has operated a popular fishing tackle business on Hatteras Island in the village of Avon. He has seen a drop in revenue directly related to restricted beach access. In the first year alone of the consent decree, he suffered a 20 percent decrease, which has taken a harsh toll on his employees and their families.

John Couch, who you will hear from in a minute, another small-business owner, is near the entrance to the Cape Hatteras Lighthouse and the popular Cape Point fishing destination. He has carefully documented that when access is denied, his business goes down. Like many, he has witnessed that it is a cause-and-effect relationship, and he has experienced the pain.

Another business owner who had the rug pulled out from beneath him by the consent decree is Bob Eakes. He was forced to lay off one-third of his workforce. And in order to survive, he also had to use funds set aside for his son's education.

These people represent a community that has already suffered enough. Unfortunately, we now face a future that holds more economic insecurity under the newly enacted ORV rule. Sadly, it imposes even greater restrictions than we have endured under the

consent decree. The ORV rule is a flawed approach to balancing reasonable recreation access with resource protection.

That is why I am reaching out to you today for your support of H.R. 4094. This legislation would reinstate the interim management plan, a proven approach that has worked with success, a plan fully vetted with much public input that the Park Service found to be accurate in 2007.

Dare County supports science-based resource management and believes this can best be achieved through H.R. 4094. It will allow the superintendent to make timely and practical adjustments that are in direct response to the actual conditions that are occurring at the seashore on a realtime basis. Under 4094, the superintendent will use his professional experience and his expertise to manage the seashore, rather than the rigid and unbending parameters of the existing ORV rule. Access decisions will be made by a park superintendent who is ultimately accountable to Congress rather than the courts or a rigid, arbitrary, flawed ORV plan.

H.R. 4094 is good for the resources that are being protected, and it is good for the people. It represents a true win-win situation.

No one is more committed to preserving a solid long-term ecological future for the beaches of the Outer Banks than the people of Dare County. For generations, our community has been on the vanguard of sustaining the natural resources for our children and our grandchildren to enjoy. I respectfully ask you to help us preserve our culture and our history and our way of life by enacting H.R. 4094.

Mr. Chairman, this concludes my remarks, and I just want to say one more thing. When this happens in Dare County, in the Cape Hatteras seashore, and if it is allowed to continue to happen, it will spread down the coastline of North Carolina, up and down the East Coast of the United States and across this great country of ours, touching every public park, national park, and area.

Thank you.

Mr. BISHOP. Thank you. I appreciate your concern. You don't want to be treated like we in the West are treated by them.

Mr. JUDGE. Yes, sir.

[The prepared statement of Mr. Judge follows:]

Statement of Warren Judge, Chairman, Dare County Board of Commissioners, County of Dare, North Carolina, on H.R. 4094, To authorize pedestrian and motorized vehicular access in the Cape Hatteras National Seashore Recreational Area

Dare County North Carolina, known as the Outer Banks, is home to the Cape Hatteras National Seashore Recreational Area. Most of the seashore is within Dare County, with a portion in Ocracoke being located in neighboring Hyde County.

The Cape Hatteras National Seashore Recreational Area (CHNSRA) was established as America's first national seashore with the promise that this unique area would always have recreational access for the people.

The people of Dare County have cooperated with the National Park Service in developing America's seashore into a popular attraction with cultural and historical significance. At the urging of the National Park Service, people built businesses and infrastructure to support and promote tourism to the area. For generations the area flourished and the area became a popular tourism destination because of its world-class fishing and a host of family-oriented recreational activities.

The County of Dare through its elected leaders, and in concert with grassroots community partners, has actively participated in every phase of the Federal Government's planning and rulemaking process.

We advocated for the "Interim Management Strategy" and participated in the negotiated rulemaking process. We also engaged in Public Hearings on the Draft Environmental Impact Statement (DEIS), Final Environmental Impact Statement, (FEIS) and ORV Management Plan. We, and others, offered practical solutions that would satisfy the concerns required by Executive Orders 11644 and 11989 without compromising the area's unique culture and economy.

The National Park Service's ORV Management Plan, and the Final Environmental Impact Statement upon which it is based, are seriously flawed. It lacks a sound scientific basis and reflects a distorted economic analysis. It also does not reflect the will of the people that was articulately expressed during public hearings.

Throughout the public process, there was an outpouring of positive and substantive comments by the people of Dare County. Thousands of others, from across the nation, who love the Cape Hatteras National Seashore Recreational Area, joined us in this effort.

We, the people, spoke as a virtually unanimous voice in recommending practical solutions for management of the seashore. However, the National Park Service did not listen to the clearly expressed will of the people and incorporate our concerns and suggestions.

It has been our longstanding position that people and wildlife can live in harmony and that reasonable recreational access is consistent with proper resource management. For decades, we have maintained that meaningful access is fundamental to the visitor experience and the continued growth and economic vitality of the Outer Banks.

Following are the specific areas of concern that we have identified for the seashore. We seek relief through passage of H.R. 4094, which would reinstate the Interim Management Plan for the Cape Hatteras National Seashore Recreational Area.

- **NO FEES** for ORV permits
- **TRAINING & PERMITS** available online and at multiple locations with convenient hours
- **NEW INFRASTRUCTURE** should be established before new corridors & VFA's
- **FLEXIBILITY FOR THE SUPERINTENDENT** to adapt corridors and routes
- **SEASONAL VILLAGE CLOSURES** based on conditions not arbitrary dates
- **ROUTES** that recognize established patterns of historical use
- **CORRIDORS** to provide access through & around areas of resource closures
- **ACCOMMODATIONS FOR HANDICAPPED PERSONS** for safe access to all areas of the seashore
- **PREDATOR REMOVAL PROGRAM** that destroys hundreds of mammals each year to protect a few selected species

NO FEES FOR ORV PERMITS

The Cape Hatteras National Seashore Recreational Area rightly belongs to the American people. For generations, families have depended on access to the seashore for recreation. This access has historically been provided at no cost for the residents and visitors of the CHNSRA.

Families plan all year long to visit Cape Hatteras. They save diligently in order to afford a destination where an American family can still enjoy a wholesome recreational experience at a reasonable price. This budgetary dynamic is a crucial one for the working people that frequent the CHNSRA. For these visitors, adding a fee to access the beach is akin to charging a fee to breathe the air.

Instituting fees for use of the CHNSRA threatens to hurt tourism and adversely affect the visitor experience. This applies not only to the National Park Service properties on the Outer Banks, but to the overall tourism-based economy on which Dare County depends.

User fees disproportionately affect those on fixed incomes, single parents, low-income visitors, and minorities. A $120 user fee for someone earning the minimum wage of $7.25 per hour is more greatly affected than someone earning an upper class income. We believe high user fees favor the rich and privileged over the poor and working middle class families that depend on free access to the Cape Hatteras National Seashore Recreational Area.

The yearly and weekly fees, as imposed by the National Park Service, are excessively high and make no provision for the many who visit the seashore for a length of stay of less than one week. By ignoring the needs of those who make day trips and weekend excursions to the Outer Banks, the Park Service further impairs the visitor experience.

TRAINING & PERMITS available online and at multiple locations with convenient hours

The American public and the visitors to the CHNSRA have responded well to educational efforts done by a variety of user groups and the County of Dare. Our residents and visitors have a long-standing position of promoting and supporting responsible stewardship of the Cape Hatteras National Seashore Recreational Area.

While additional education and training is desirable in any endeavor, we believe that requiring mandated training prior to the issuance of a permit is unwarranted in this case because of the effective job that has been done to promote and sustain reasonable use of the CHNSRA.

If NPS continues to impose a training requirement, over our objection, then the following practical issues must be considered:

Training and Permits Must Be Available Online

Visitors to the CHNSRA generally have one (1) week in which to pack in as much vacation as possible. Visitors to the Outer Banks most frequently arrive on Saturday afternoon and stay through the calendar week.

This pattern sets in place a weekly cycle that will choke the resources of NPS in handling a long line of incoming visitors each Saturday. Furthermore, the NPS permit office needs to be open well into the evening hours in order to accommodate those traveling tremendous distances to reach Dare County.

NEW INFRASTRUCTURE should be established before new corridors & VFA's

NPS proposes new infrastructure for parking, ramps and access that should be implemented prior to the new routes, corridors and vehicle free areas (VFA's) that are outlined in the ORV Management Plan.

Vehicle free areas (VFA's) will require additional off beach parking for those who want to be pedestrians within the new VFA's.

To impose new guidelines without the support system in place will only impede and restrict access and risk further harm to the visitor experience.

FLEXIBILITY FOR THE SUPERINTENDENT to adapt corridors and routes

The County of Dare has long supported giving flexibility to the Superintendent of the CHNSRA to use his or her best professional judgment in adapting corridors and routes as the physical nature and characteristics of the beach change on a dynamic basis. This common sense approach allows the Superintendent to modify access based upon the changing conditions that exist at the time, rather than arbitrarily written mandates.

For example, when buffers are established to protect a resource, once the species have begun moving from the nesting area, the Superintendent could monitor and modify the established buffer on an on-going basis. This would ultimately provide more dynamic and effective resource protection, while at the same time providing more access. This represents a win-win situation for both protected resources and the American public.

Also, as the landscape of the seashore changes due to weather and tide conditions the natural environment of the area changes as well. These changes can best be assessed, analyzed and adjusted as needed by the Superintendent. We believe the Superintendents of the CHNSRA, including the current one, are dedicated professionals with the ability and experience to manage the seashore in a responsible way.

Dare County has long supported giving flexibility to the Superintendent. This was a fundamental principle in our participation in the drafting of early guidelines for the seashore including the Interim Management Strategy. Providing this flexibility for the Superintendent was a keystone of our position throughout the negotiated rulemaking process, the public hearings on the Draft Environmental Impact Statement (DEIS), and comments on the Final Environmental Impact Statement (FEIS).

NPS needs to trust and empower its Superintendent to adapt and alter corridors and routes.

SEASONAL VILLAGE CLOSURES based on conditions not arbitrary dates

Seasonal closures, in front of Hatteras Island Villages, should be based and depend on the season rather than arbitrary dates. This can be effectively developed, on an annual basis, by the Superintendent in partnership with officials from Dare and Hyde Counties.

We believe that the seasonal closings of Village beaches has not been a problem that warrants the arbitrary and inconsistent dates outlined in the Final Environment Impact Statement (FEIS) upon which the ORV Management Plan was written.

ROUTES

The ORV Routes outlined in the ORV Management Plan have shortcomings that will significantly impair the visitor experience for the majority who visit the Cape Hatteras National Seashore Recreational Area. Eleven historically recognized routes have been excluded. These crucial areas should be revised to allow an adaptive management process that would reopen these closure areas.

CORRIDORS

Corridors are a vital tool in providing access while managing resources. The National Park Service should incorporate the use of corridors through and around buffers so the public does not suffer restricted access to an otherwise open area.

Corridors effectively provide a small path around temporary resource closures in order to provide access to open areas that would otherwise be blocked. Corridors allow visitor access to an open area that may be sandwiched between two closed areas. These corridors have limited negative impacts to the protected species, but they are crucial to providing access during closures periods.

In some instances, corridors can be made through or around closure areas. In other places, corridors can be established below the high tide line. Since unfledged chicks are not found in nests between the ocean and the high tide line, this type of pass through corridor would have no negative effect on wildlife and should be established throughout the seashore.

In the example below, the visitors intended recreational area would be accessible through a small pass through corridor. Without this corridor, the area marked "Open" would actually be closed because it would otherwise be impossible to get there.

Corridors are vital to providing access in a way that does not hinder resource protection. Therefore, Dare County believes pass through corridors should be maintained for pedestrians and ORVs in **all areas** of the Cape Hatteras National Seashore Recreational Area throughout the entire breeding and nesting season.

ACCOMMODATIONS FOR HANDICAPPED PERSONS for safe access to all areas of the seashore

It is crucial that mobility impaired persons have free and open access to all areas of the seashore. It is fundamentally unfair that they be restricted to the areas directly in front of the villages as is now provided in the ORV Management Plan.

Restricting access for the large number of handicapped visitors who frequent the Cape Hatteras National Seashore Recreational Area is a serious safety issue. Mobility impaired visitors depend upon their vehicle not only for transportation to the seashore, but as a necessary lifeline in the event of a medical emergency, a sudden change of weather or temperature conditions, or need for toilet facilities.

Our mobility-impaired community includes those using wheelchairs, walkers, and canes. It also includes elderly visitors, many of whom are frail. Additionally, those coping with chronic medical needs could be hurt and caused to suffer. For example, visitors who need the continuous administration of oxygen would benefit from having their vehicle nearby as an energy-generating source for their oxygen supply system.

PREDATOR REMOVAL PROGRAM

People who love animals are shocked when they discover that the National Park Service has an on-going program to trap and kill hundreds of mammals each year in the Cape Hatteras National Seashore Recreational Area. In an attempt to protect a few species of shorebirds, the Department of the Interior has decided to trap and kill their natural predators.

This controversial program, euphemistically called "Predator Removal," involves a small number of federally designated species, including the Piping Plover (Charadrius melodus), as well as some non-federally listed shorebirds. However,

none of the protected birds are classified as endangered, yet their natural predators are systemically trapped and killed.

The mammals targeted for annihilation include Raccoon, Otter, Fox, Mink, Opossum, Muskrat and Nutria. Sadly, none of the special interest groups, who claim to defend wildlife, have raised their voice as advocates for the hundreds of mammals that have been systematically murdered each year.

Dare County Commissioner, Jack Shea in an Op-Ed article wrote, "The environmentalists claim they want to protect wildlife, especially the innocent baby birds. But, what happens to the innocent baby raccoons, fox and mink whose murdered mother will never return home to the den?" He asks a series of probing Questions, "Is the life of one species more precious than others? If so, who decides? Where is the outrage? Why do the "environmentalists" not advocate protection for all species? Why have they not raised their voice in defense of these slaughtered mammals?" He concludes, "Perhaps their silence reveals the pragmatic truth that the greatest threat to birds and turtles is from natural predators, not humans Instead, they loudly condemn recreational access while touting a party line that tries to make humans the villain."

ADDITIONAL COMMENTS

The National Park Service in preparing its ORV Management Plan has made false, misleading and deceptive statements that warrant comment. We offer these additional comments in order to establish a clear and consistent record that reflects the position of Dare County –

- NPS said in its summary of the proposed ORV rule—"**minimizing conflicts among various users.**" In this comment, and in others like it, NPS would have everyone believe that the people who use the Cape Hatteras National Seashore Recreation Area are in conflict with each other. We find this not to be true.

  It is our experience that those who favor responsible ORV access, which represents the overwhelming majority, have taken great strides to accommodate the few who disagree.

  We believe there is something for everyone at America's first national seashore and have a documented track record of willingness to compromise and accommodate the needs of all user groups. This is a matter of public record during the negotiated rulemaking proceeding, of which Dare County was a participant.
- The Piping Plover was described by the National Park Service as "**listed under the Endangered Species Act (ESA)**." NPS in this brief statement omits to give the American people the full truth about the species that prevents access to the most popular portions of the seashore for most of the tourism season.

  The Piping Plover is a non-indigenous "threatened" species that is not "endangered." Words have meaning. NPS has chosen to describe this bird in a way that creates a false and misleading impression to the American people.
- NPS stated that, "**A consent decree agreed to by the plaintiffs, the NPS, and the interveners, Dare and Hyde counties**."

  Here again, the National Park Service makes a statement that warrants additional comment to clearly reflect our position.

  The County of Dare did in fact join as an intervener in the consent decree. However, NPS fails to disclose that our involvement was as a matter of practical necessity in order to best represent the people of Dare County.

  The Consent Decree, prepared by a few special interest groups behind closed doors, was never exposed to the light of public comment and review.

  We entered the case as an intervener rather than risk letting the special interest groups and a sympathetic Federal Judge close the seashore entirely. It was a situation where we had to choose the lesser of two evils. As Dare County Vice-Chairman Allen Burrus asked, "Do we choose to get shot in the foot, or in the head?"

  Although Dare County was a party to the Consent Decree as an intervener, for NPS to imply that Dare County was in any way in agreement with the Consent Decree is disingenuous.
- The National Park Service claimed it conducted a "small business survey." However, the work, which was done by contractor RTI, was never concluded or published prior to the close of public comments on the Environmental Impact Statements. This prevented the public from having access to the survey and being able to make informed comments about it.

Following the eventual release of the small business survey, we determined it was based upon a small sample size with a poor rate of return. The skewed results of this survey stand in stark contrast to sworn, notarized statements from business owners that were submitted by Dare County during the public comment process. Our survey of business owners documents a consistent pattern of how the Consent Decree has hurt small businesses.

- Finally, we challenge the NPS conclusion in saying that the economic impact of the ORV rule: "**will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety or State, local, or Tribal governments or communities**."

  The National Park Service has dismissed and ignored the concerns of the local business community. The hard-working small business owners of Dare County have indeed suffered harm and will continue to do so under the ORV Management Plan.

  NPS may take comfort in saying the negative impact will not be harmful in a "material way." This statement is untrue and insensitive to those in our community who have seen their savings depleted, businesses ruined and have had to lay-off valuable, long-term employees.

  The negative impact for our businesses has been already been severe and profound. If the ORV Management Plan is allowed to continue, it will cause even more harm to our fragile economy. NPS is out of touch with the local business community and insensitive to their needs and concerns.

ECONOMIC IMPACT

In his remarks to the Subcommittee on National Parks, Forests and Public Lands, Dare County Chairman Warren Judge referenced comments made by several Hatteras Island business owners. These remarks are representative of the harm that has been done to Dare County business owners by restricting visitor access to the Cape Hatteras National Seashore Recreational Area.

Family-owned businesses are the backbone of Dare County. Hard working, local families have for generations provided employment opportunities for the community, and offered outstanding service and hospitality to Outer Banks visitors.

These small business owners do not ask for special favors or government handouts, just a fair opportunity to earn their part of the American dream.

Unfortunately, the consent decree has had a devastating and unfair impact on many Dare County businesses.

The consent decree has taken a heavy toll on a wide range of business types including—automotive parts & repair, bait & tackle shops, campgrounds, charitable service providers, child care centers, fishing rod builders, marinas, motels and cottages, professional artists, restaurants, and retail shops.

Even businesses whose revenue has stayed level or showed a modest increase have accomplished this at a costly price. Many have had to cut back employee hours, forego much-needed capital improvements, and sacrifice profits.

CONCLUSION

H.R. 4094 represents sound legislation for that will benefit the residents and visitors of the Cape Hatteras National Seashore Recreational Area.

The people of Dare County have already suffered enough. Now we face even further economic insecurity under the newly enacted ORV Rule, which imposes greater restrictions than the consent decree.

No one is more committed to preserving a solid, long-term, ecological future for the beaches of the Outer Banks than the people of Dare County. For generations our community has been on the vanguard of sustaining the natural resources in order to preserve them for our children and grandchildren to enjoy.

Dare County supports science-based resource management and believes a careful balance between protection and access is provided in the Interim Management Strategy that would be reinstituted upon passage of H.R. 4094.

H.R. 4094 would allow access decisions to be made by the Park Superintendent, who is ultimately accountable to Congress, rather than the courts or a rigid and flawed ORV Management Plan.

On behalf of the residents and visitors of Dare County North Carolina, we respectfully ask you to help us preserve our culture, our history, and our way of life by supporting H.R. 4094.

Respectfully submitted

Mr. BISHOP. All right, Mr. Couch, your turn.

STATEMENT OF JOHN COUCH, PRESIDENT, OUTER BANKS PRESERVATION ASSOCIATION, NORTH CAROLINA

Mr. COUCH. Mr. Chairman, Committee members, Congressman Jones, thank you for the invitation to speak on this important piece of legislation.

My name is John Couch. I am a businessman with two ongoing businesses in the village of Buxton. I represent the Outer Banks Preservation Association, an advocate for free and open beach access. Our motto has always been, "Preserve and protect, not prohibit."

The rule instituted by the National Park Service has effectively taken the Nation's first national seashore designated by Congress to be a recreational area and turned it into a wildlife refuge without congressional authorization. This will forever diminish the visitors' experience in ways unintended by the enabling Act.

H.R. 4094 will restore access and ensure that the Cape Hatteras National Seashore Recreational Area will be managed as intended, for recreation. It will also ensure that recreation will coexist with resource protection.

The authors of the final rule strayed in their efforts. Their assessment of the visitor experience and the local economy is flawed. The guidelines and instruction provided by 4094 address this.

Visitors come to the Cape Hatteras National Seashore to participate in shore-based recreational activities. The range of family oriented activities includes swimming, fishing, lighthouse climbing, bird watching, surfing, kite boarding, and appeal to a wide cross-section of the American public. Regardless of the activity, almost all recreational opportunities occur on the beach, and these activities share a common need: the need to access the beach with gear in hand. Traditionally, beachgoers at Cape Hatteras have benefited from open access that predates the seashore.

Our visitors have always understood that the value of the ORV is to transport family, friends, and equipment to the perfect, otherwise inaccessible location. Our enjoyment comes from the access, not from joyriding. Most beaches closed to ORV access are effectively closed to pedestrian access, where, without the means to transport family, children, elderly, and gear, the beach is inaccessible.

The rule has permanently closed an additional 19 miles of beach to ORV access that has traditionally been available. And in these areas, only narrow strips of beach near parking lots are being used by walking visitors. The rule limits over 19 miles of beach to ORV access to winter months only, when recreational opportunities are limited at best. The rule suggests 29 miles of beach are open year-round to access by ORV. In truth, temporary resource protection closures for non-threatened or endangered species have already prevented both ORV and pedestrian access to most of these miles.

Easter this year, 70 percent of ocean front between the top of the seashore to the end of Ocracoke Island was closed to ORV access. Easter found many visitors voicing their dismay and frustration, wondering who is responsible, and many vowing not to return. Temporary closures already implemented at Easter due to one piping plover, threatened species, three oystercatcher nests, not threatened or endangered, have taken 8 1/2 miles away from visi-

tors. By Memorial Day and the start of the peak tourist season, beaches accessible by ORVs will likely be less than 10 miles and will remain that level until the end of August.

Other surprises await our visitors. They will find that the short expanse of beach that they can access by ORVs must be vacated by 9 o'clock at night. No more beach bonfires or late-night or late-evening picnics. They will find no morning access for sunrise viewing or early morning fishing. And, finally, the visitor will learn that the significantly reduced access comes at a price of $120 for an annual permit, $50 for a weekly permit, with no daily pass for short-term visitors.

The National Park Service concluded that the impact of the rule on visitor experience is long-term moderate to major and adverse to ORV users and long-term beneficial to visitors who desire a vehicle-free beach experience. The Service does not point out that the vast majority of our visitors are ORV users and the majority of those that are not indifferent to ORV access, and that the visitors desiring a vehicle-free beach experience had many ORV miles available prior to the rule.

The negative visitor experience as a result of the rule is directly responsible for the economic impact felt in the eight villages that lie within the seashore. For a tourist-based economy, the math is simple: no visitors, no business.

When the Department of the Interior and the National Park Service courted the original property owners to join in the creation of the seashore, they quickly pointed out the financial gains that would be enjoyed through the development of visitor services. With more than a bit of initial hesitancy and suspicion, the villagers donated or sold their land, accepted the Park Service's encouragement, and built the infrastructure to support tourism. Today, all businesses on Hatteras Island are directly driven by tourism.

Visitation has suffered for the past 5 years due to access closures implemented by the consent decree. Fall visitation, always threatened by the possibility of storms and hurricanes, will now suffer due to new permanent management closures and procedures under the final rule.

Seven hundred twenty-three businesses, 3,117 weekly rental properties, and 225 charter boats are found on Hatteras and Ocracoke Islands. All directly, indirectly exist for the tourist business.

Mr. BISHOP. Mr. Couch, if I could ask you to give one closing statement, sentence.

Mr. COUCH. Thank you.

I urge you to support the residents and the visitors of the Cape Hatteras National Seashore Recreational Area by passing H.R. 4094.

Mr. BISHOP. Good closing sentence. Thank you, sir.

Mr. COUCH. Thank you.

[The prepared statement of Mr. Couch follows:]

Statement of John Couch, President,
Outer Banks Preservation Association, on H.R. 4094

Mr. Chairman, committee members, Congressman Jones;

Thank you for the invitation to speak on this important piece of legislation.

My name is John Couch. I have lived and worked on the Outer Banks since my childhood in the 50's when my father brought our family to Hatteras Island. I am also a businessman with two ongoing businesses in the village of Buxton. I represent the Outer Banks Preservation Association, which was formed in the 1970's to be an advocate for free and open beach access at Cape Hatteras for visitors and residents alike. Our motto is, and has always been ***Preserve and Protect, Not Prohibit.***

The rule instituted by the National Park Service on February 15th has effectively taken the nation's first national seashore designated by Congress to be a "recreational area" and turned it into a wildlife refuge without congressional authorization. This will forever diminish the visitor experience in ways unintended by the enabling act.

H.R. 4094 will restore access and ensure that the Cape Hatteras National Seashore Recreational Area will be used as intended, and as it has been used for generations—***for Recreation.*** It will also ensure that recreation can co-exist with resource protection which is important to all National Parks, Seashores and Recreational Areas.

The authors of the Final Rule strayed in their efforts. Their assessment of the environmental impact of the rule in two significant areas—the visitor experience, and the local economy—is flawed. The guidelines and instruction provided by **H.R. 4094** addresses these flaws.

Visitor Experience

The primary reason visitors come to Cape Hatteras is to participate in shore-based recreational activities. A range of family oriented activities, including swimming, fishing, lighthouse climbing, bird watching and more strenuous activities such as surfing and kite-boarding, appeal to a wide cross-section of the American public. Regardless of the activity, virtually all of the recreational opportunities occur on the beach. That is what brings visitors to the Hatteras seashore—**Access to Recreational Activities on the Beach.** And these reasons for access share a common need—the need for beach access with gear in hand.

Traditionally, beach goers at Cape Hatteras have benefitted from open access dating back to before the Seashore was established. The faulty visions some have of dune buggies racing down the beach, jumping dunes and cutting donuts are far from reality at the Seashore. Visitors here have always understood that the value of the ORV is to transport family, friends and equipment to the perfect spot on the beach that would otherwise be inaccessible. Our enjoyment comes from access, not from joy-riding.

To most visitors, beaches closed to ORV access are effectively closed to pedestrian access, for without the means to transport family, children, elderly and gear, the beach is inaccessible.

The extent to which the Rule restricts ORV and other use of the Seashore is substantial.

The Rule has **permanently closed an additional 19 miles of beach to ORV access** that has traditionally been available, and in these areas only narrow strips of beach near parking lots are being used by pedestrian visitors.

The Rule **limits 19.1 miles of beach to ORV access** to winter months only, when recreational opportunities are limited at best. Prior to the Rule, these beaches were accessible by ORV in the spring, winter and fall by visitors who scheduled their trips expecting this availability.

The Rule claims 29 miles of beach are open year round to access by ORV. In truth, temporary resource protection closures for non-threatened or endangered species have already prevented both ORV and pedestrian access to most of these miles during the height of our seasons.

At Easter, this year, **70%** of oceanfront between the top of the Seashore and the end of Ocracoke Island was closed to access by ORV. Some of this area, such as the 12 miles of the Pea Island National Wildlife Refuge, is understandably closed permanently to access by ORV. However, temporary closures already implemented at Easter, due to one piping plover (threatened) and three oystercatcher nests (not threatened or endangered) have already taken an additional 8.5 miles away from visitors. By Memorial Day and the start of the peak tourist season, beaches accessible by ORV will likely be less than 10 miles, and will remain at that level until August.

Visitors also will encounter other surprises when they arrive. They will find that the short expanse of beach they can access by ORV must be vacated by 9:00 pm. No more beach bonfires or late evening picnics. They will find no morning access until 7:00 am, even though any good fisherman knows the morning bite will begin 30 minutes before sunrise and end long before they can get to their spot. And fi-

nally, the visitor will learn that the significantly reduced access they now have comes at a price of $120 for an annual permit, $50 for a weekly permit, and no daily pass for short term visitors.

Easter found many visitors at restaurants, motels, realty companies, grocery stores, gift and tackle shops voicing their dismay and frustration, wondering who is responsible, and many vowing never to return.

The National Park Service concluded that the impact of the Rule on visitor experience is "long-term moderate to major and adverse to ORV users, and long-term beneficial to visitors who desire a vehicle free beach experience". The agency does not point out that the vast majority of visitors are ORV users, or that the majority of those that are not ORV users are indifferent to ORV access, and that the visitors desiring a vehicle free beach experience had many such miles available prior to the Rule.

Economic Impact

The negative visitor experience as a result of the Rule is directly responsible for the substantial economic impact felt in the eight villages on Hatteras and Ocracoke Islands. For a tourist based economy, the math is simple—No Visitors = No Business.

When the Department of the Interior and National Park Service courted the original property owners to join in to the movement to create the Seashore, they were quick to point out the financial windfall that would be enjoyed by the villagers through the development of visitor services. With more than a bit of initial hesitancy and suspicion, the villagers eventually donated or sold their land, accepted the Park Service's encouragement and built the infrastructure to support tourism.

Today, all businesses on Hatteras and Ocracoke islands are directly or indirectly driven by tourism.

Springtime visitation has suffered for the past five years due to access closures implemented under the temporary consent decree and is suffering even more this year due to the more extensive closures in the Final Rule.

Fall visitation, which is always threatened by the possibility of tropical storms and hurricanes, will now suffer due to new permanent closures and procedures under the Final Rule.

With both the spring and fall shoulder seasons impacted by the Rule, businesses once prosperous are now struggling to survive. (Historically, 47% of visitation to Cape Hatteras occurred in the months of June, July and August. Conversely, 53% occurred in the other nine months.) Many have already failed. Unless relief is provided from the Rule, the only question is how many more will follow.

Seven-hundred twelve businesses, 3,117 weekly rental properties and 225 charter boats are found on Hatteras and Ocracoke Islands. All directly or indirectly exist for the tourist business. All have or will experience reduced income. All have or will have to survive with fewer employees, shorter hours for staff, and longer hours and hardships for the owners. Today, the unemployment rate in Dare County is 19% compared to 10% in 2008. Hyde County's unemployment rate has gone from 8% to 13%. If statistics were available, I'm sure the Islands unemployment rates would be even worse than their parent counties.

A few examples of what businesses have already experienced over the past five years include:

- Wayne Clark, owner of Edwards of Ocracoke Rooms and Cottages in Ocracoke, has lost 15% of his spring business over the past two years.
- Bob Eakes, owner of Red Drum Tackle in Buxton, has lost 55% of annual business since 2007 and now has three employees rather than ten.
- Frank Folb, owner of Frank and Fran's Fisherman's Friend tackle shop in Avon, had a 20% drop in business the first year of the consent decree and further drops since.
- Anne Bowers, owner of Indian Town Gallery in Frisco, has lost 70% of her March business due in part to the absence of springtime fishermen who always want to buy a "guilt" gift for their wives and girlfriends.
- I have experienced a 30% loss in my annual business at the Lighthouse Service Center and Lighthouse Auto Parts in Buxton. Under the consent decree when the beaches closed in the spring, my business dropped. When the beaches reopened in August, my business improved. The beaches are already closed this year. It remains to be seen what will happen in the fall since many beaches will never reopen under the Rule.

Many of the business owners on Hatteras and Ocracoke scratch their heads and comment with bitterness that although the federal government has a goal of job creation, elsewhere it appears to have a goal of job elimination here.

A timely example of the visitor and economic impact will occur this weekend, April 28th and 29th. For 26 years, fishermen added their names to the waiting list for one of the 600 spots in the annual fishing tournament sponsored by the 4–Plus club of Richmond, Virginia. Last year, the participation level fell below the 600 maximum to 550 for the first time ever. As of Wednesday, only 373 have registered for this year's event. Those choosing not to participate have cited the new fees and lack of access as the reasons they will not return. The 4 Plus tournament is the first of six long-standing annual surf fishing tournaments at the Seashore. What will happen at the remaining five?

What H.R. 4094 means to us

H.R. 4094 will replace the destructive Final Rule with the Interim Plan vetted and originally implemented in 2007 on a temporary basis. This Plan will restore much of the access and recreational opportunities denied the American public under the Rule, while continuing to protect the Seashore's wildlife and other natural resources.

H.R. 4094 will establish guidelines to ensure punishing and unnecessary closures and restrictions will not be re-created in the future as new rules are promulgated.

H.R. 4094 will ensure that, as new rules are promulgated, species protection will be instituted based on peer-reviewed science.

H.R 4094 will further demonstrate the importance of public access to Federal lands for recreational use in appropriate traditional and historical manners. Through the passage of the Sportsmen's Heritage Act of 2012 (H.R. 4089) on April 17th,the House recognized the importance of angler access to Federal lands for recreational use.

H.R. 4094 will not require any new appropriations, and, through a reduction in administrative complexity, may offer an opportunity for personnel and construction savings over that anticipated by the Rule.

Finally, H.R. 4094 will ensure that, in the future, the Cape Hatteras National Seashore Recreational Area will be managed such that

- The Seashore's wildlife and other natural resources will be protected without unnecessarily restricting public access, use and enjoyment, and
- Traditional, cultural, recreational and commercial values so important to the visiting public and residents will be respected and maintained.

I urge you to support the residents and visitors of the Cape Hatteras National Seashore Recreational Area by passing H.R. 4094.

Thank you Congressman Jones for introducing this legislation, and thank you Mr. Chairman and members of the committee for this opportunity to testify on this critical issue.

Additional Information

The Cape Hatteras Access Preservation Alliance (CHAPA) is a project of the Outer Banks Preservation Association. The following organizations support the access positions that have been developed and presented by CHAPA.

- North Carolina Beach Buggy Association (NCBBA)
- Cape Hatteras Anglers Club
- Dare County Board of Commissioners
- Hyde County Board of Commissioners
- American Sportfishing Association (ASA)
- United Mobile Access Preservation Alliance (UMAP)
- United Four Wheel Drive Associations
- Watersports Industry Association, Inc.
- Recreational Fishing Alliance
- Outer Banks Chamber of Commerce
- Dare County Tourism Board
- Ocracoke Civic and Business Association
- Hatteras Village Civic Association
- Avon Property Owners Association
- Assateague Mobile Sportsfishermen Association
- New Jersey Beach Buggy Association
- Long Island Beach Buggy Association
- Rhode Island Mobile Sportsfishermen
- Davis Island Fishing Federation
- Massachusetts Beach Buggy Association
- Virginia Coastal Access Now
- Virginia Beach Anglers Club
- Tidewater Anglers Club
- Delaware Mobil Surf Fishermen

- Farragut Striper Club
- Association of Surf Angling Clubs
- CCA of North Carolina

If the Environmental Groups are successful in denying vehicular access to the beaches, how will our Veterans, those with disabilities & Seniors enjoy the beaches?

While in his teens, Truman Joyner volunteered his services to defend his country in a land he had never seen. His government sent him to the beach, OMAHA. After following General Patton across Europe he was hospitalized with severe frost bite to his feet. A decision to not amputate was welcomed and after rehabilitation he returned to America to lead a full and productive life. Late in life the injuries suffered in WW II slowly destroyed his ability to walk without assistance. Now he had to rely on his son's care to visit his favorite American beach, Cape Hatteras. Instead he was denied access to his favorite beach after giving so much on a foreign beach. Truman served in Europe a long time ago but the injustice to him continues today to our returning vets and Americans with disabilities.

The Park Service showed how they feel about visitor access shortly after the Final Rule was promulgated. Thanks to Congressman Jones, these signs were later replaced with others that were less uncaring for public safety.

Mr. BISHOP. All right. Let's turn to the other area of concern, the oversight portion that deals with what is happening in Florida.

First to Mr. Wright, Kenneth Wright, who is the Vice Chairman of the Florida Fish and Wildlife Conservation Commission. Same 5-minute rule, please.

STATEMENT OF KENNETH W. WRIGHT, VICE CHAIRMAN, FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION

Mr. WRIGHT. Good morning, Chairman Bishop and Ranking Member and members of the Subcommittee, and particularly the good Congressman from the great State of Florida, Congressman Rivera. And I appreciate the comments made by the earlier Congress Members on the previous panel.

My name is Ken Wright. I am the Vice Chair of the Florida Fish and Wildlife Conservation Commission, which I will refer to as the FWC. We are the agency responsible for managing fish and wildlife resources in the State of Florida. And I appreciate the opportunity to address our concerns regarding the development of a new general management plan for the Biscayne National Park.

Located only 30 miles from downtown Miami, this park is truly a national and State treasure. Fishing, boating, diving, wildlife viewing, or just basking in the Florida sunshine have long been longstanding traditions of citizens of South Florida and countless visitors even from around the world. The recreational activities within the park provide a substantial economic driver for South Florida, which creates a ripple effect throughout the State of Florida as an economic stimulus.

I am here to express the view that the State of Florida and my agency are essential partners with the Federal Government in making sure the park will be available to be enjoyed for generations to come. We know from our experience that in order to achieve our goals, public access and recreation must be sustained. And, of course, it must be sustained in a sustainable manner. There must be a balance between accessibility and appropriate management.

We in Florida and particularly the Florida FWC have many years of experience, and we are confident that public enjoyment of natural resources can be balanced with resource protection. This approach should recognize and respect traditional activities like boating and fishing as the critical fabric to resource conservation and should not be taken away from the public when less and more effective options are readily available.

I have a number of points to make.

We are concerned that the preferred alternative for a new plan will unnecessarily prohibit fishing, both recreational and commercial, in a 10,000-plus-acre marine reserve zone. While this area constitutes 7 percent of the entire water area of the park, as has been noted, it is some of our most popular and productive fishing grounds in the park. This prohibition will have a negative impact on public use and the local economy, yet there are no efforts to try less restrictive management strategies.

These actions lack sufficient scientific basis. They are based largely on anecdotal and intuitive beliefs of expected outcomes. Studies relied upon are from much different ecological situations, much different in scale and different in stress factors. The plan includes broad assumptions but no analysis or metrics for their support.

Management of wide-ranging fishery stocks must be addressed on a much larger and broader scale than simply the park area to

be successful, along with appropriate monitoring and with regulation. Such systems are in place in Florida.

The plan states no-fishing zones are effective for managing coral reef fisheries and that less restrictive options would be difficult to enforce. It is disturbing that these statements clearly pertain to fisheries management yet are made without recognition of the provision in an MOU between the park and the Florida FWC that states no-take areas shall be for, quote, "other than sound fisheries management" and without recognition of the fact that Florida FWC is the agency that provides the majority of the boating and resource law enforcement within the park. And we don't believe that less restrictive options would be any more difficult to enforce than a no-take zone.

The input of boaters and anglers provided throughout the process has essentially been ignored. Nor did the Park Service adequately engage the State of Florida nor the FWC in the process of selecting the preferred alternative, particularly with regard to a fishing management issue. The preferred alternative is inconsistent with our coastal management program, and it ignores the role that the FWC and the State of Florida would have in this process.

We are disappointed that they proposed to take the no-take zone action without adequately considering less impactive alternatives. We are cautiously optimistic that if we are able to continue to work with the Park Service, we have experience, Mr. Chairman and Members, in managing fish resources and would love to continue to do so, but we don't think this closure is necessary.

Thank you.

Mr. BISHOP. Thank you. Appreciate it.

[The prepared statement of Mr. Wright follows:]

Statement of Kenneth W. Wright, Vice-Chair, Florida Fish and Wildlife Conservation Commission (FWC), on "Access Denied: Turning Away Visitors to National Parks"

The Florida Fish and Wildlife Conservation Commission (FWC) is the agency responsible for managing fish and wildlife resources for the State of Florida. Ken Wright, Vice-Chair of FWC will address the agency's concerns regarding the development of a new General Management Plan for Biscayne National Park (Park), Florida.

Background

Located only 30 miles from downtown Miami, the Park is truly a national and state treasure boasting beautiful clear blue waters, extensive coral reefs, amazing marine life, a variety of sea birds, and rare hardwood hammock islands. People flock to the Park to enjoy a wide array of outdoor recreational experiences. Fishing, boating, diving, wildlife viewing, or just basking in the Florida sunshine are long standing traditions for citizens of south Florida and countless visitors from around the world. Recreational activities in the Park are a substantial economic driver for south Florida, creating a ripple effect of economic stimulus across the entire state.

The Park is currently operating under a General Management Plan (GMP) that was completed in 1983. The National Park Service (NPS) is revising and updating the GMP to better address current and future conditions and various management challenges. The new GMP proposes alternatives for management of the Park for the next 20 or more years. The FWC has significant concerns with the management actions that are proposed in the GMP by the NPS, but are hopeful and guardedly optimistic that these concerns can be resolved through further coordination with the NPS.

Overview

The FWC takes stewardship of the natural resources and public interest in this Park very seriously. The FWC recognizes that the State of Florida is an essential

partner with the Federal Government in making sure the Park will be appreciated and enjoyed by generations to come. Floridians and particularly the citizens of south Florida have the keenest interest and the most at stake when it comes to the future of this wonderful Park.

To achieve these goals, public access and recreation must be sustained and must be sustainable. The Park must be managed carefully to maintain the integrity and diversity of the natural features that are so attractive. The good news is through many years of experience and scientific study, it has been proven that public enjoyment of natural resources can be readily balanced with resource protection by using a measured approach and proper management tools. A measured approach must recognize and respect traditional activities like boating and fishing as critical to the very fabric of resource conservation and restoration in the Park, and should not be taken away from the public when less restrictive and less intrusive options are readily available.

The following are five key points that summarize the FWC's concerns. It should be noted that a "no-take zone" is a term that is used interchangeably in this document with a "Marine Reserve Zone". A "Marine Reserve Zone" is the term used by the Park to implement a no-take area, wherein all fishing activities are prohibited.

Point one: The GMP states that no-take zones (i.e., Marine Reserve Zones) are more effective for managing coral reef fisheries populations than other less restrictive options, and further states that less restrictive options would be difficult to enforce. It is highly troubling that such statements are clearly all about fisheries management and are made without recognition of a provision in the Memorandum of Understanding (MOU) between the NPS and the FWC that only agrees to no-take areas under the GMP process for purposes "other than sound fisheries management", and without recognition of the fact that the FWC is the primary provider of resource and boating law enforcement support in the Park.

Point two: The Marine Reserve Zone included in the preferred alternative for the new GMP, will unnecessarily prohibit all recreational and commercial fishing in a 10,522 acre area. The GMP notes that the Marine Reserve Zone would represent only 7% of the entire water area of the Park, but fails to include that the Zone would encompass some of the most popular and productive fishing grounds in the Park. Furthermore, the Marine Reserve Zone will have significant negative impacts on public use and the local economy and was proposed without serious consideration of less restrictive management strategies.

Point three: There is insufficient scientific basis to support fisheries closures included in the preferred alternative. The GMP cites scientific studies relative to restoration of coral reef systems, but these studies were done in much different ecological situations, on a much different scale, and do not have the same environmental conditions or stress factors. It is troubling that the GMP includes broad assumptions regarding the effectiveness of no fishing zones but includes no analyses, metrics, or any other quantifiable measures to support these statements. Moreover, there is no consideration given to the fact that management of wide ranging fisheries stocks must be addressed on a much broader scale than the Park to be successful using more a comprehensive system of monitoring and regulation. Such a system is already in place for the coastal waters of the Atlantic.

Point four: The input and interests of boaters and anglers provided in good faith during the GMP planning process and prior to selection of the preferred alternative were not adequately considered by NPS. In addition, the NPS did not adequately engage the State of Florida and the FWC in the process of selecting the preferred alternative, particularly regarding the matter of fisheries management and associated restrictions. This concern is amplified by the fact that since 1970, the State of Florida has conveyed a significant amount of acreage to the NPS to be incorporated into the Park, and further amplified by the fact that the NPS agreed through the MOU to share responsibilities and authorities regarding fisheries management with the FWC formalized in a Fishery Management Plan.

Point five: Implementing the preferred alternative would be inconsistent with Florida's federally approved Coastal Management Program, and therefore inconsistent pursuant to the Coastal Zone Management Act passed by the United State Congress. The Park has not acknowledged the right of the State of Florida to manage its fish and wildlife resources in a consistent manner as provided for by the Coastal Zone Management Act. Additionally, the Park has also not adhered to the cooperative nature of the MOU that, if followed, would likely have avoided inconsistencies with the Florida Coastal Management Program.

It is important to note that the FWC has been engaging in constructive dialogue with the NPS regarding fisheries management issues contained in the GMP, but only since the release of the GMP to the public. The FWC has offered a very workable solution that honors the cooperative commitments and recognizes the shared

goals and responsibilities of the two levels of government. The FWC proposes that the elements of the GMP regarding no-take zones and other fisheries management issues be withdrawn from the GMP, and alternatively evaluated as part of the Fishery Management Plan development process. This would allow the agencies to address these issues in a collaborative and transparent manner in coordination with interested stakeholders, and would allow the GMP to move forward without delay.

Supporting Information

A. Memorandum of Understanding: Fishery Management Plan and fisheries management coordination

In 2002 and subsequently in 2007, the FWC entered into a Memorandum of Understanding (MOU) with the Park to "facilitate the management, protection, and scientific study of fish and aquatic resources" within the Park "by improving communication, cooperation and coordination" between the FWC and the Park (Appendix A). The MOU provides relevant background information, lists objectives to be achieved, outlines regulatory authorities, and details expectations of work on behalf of both the FWC and the Park for the mutual benefit of the aquatic resources within the Park. One of the tasks identified in the MOU is the joint development of a comprehensive fisheries management plan. The purpose of the Fishery Management Plan is to provide for the long-term management of fish and aquatic resources within the Park, separately yet complementary to a GMP.

The development of the Fishery Management Plan is ongoing, and the GMP specifically states:

> "Due to this ongoing planning process, the GMP will not address fisheries management in its alternatives" (page 16 of the GMP). In fact, however, Alternatives 2 through 5 of the GMP do address fisheries management, either directly or indirectly, by proposing to establish zones where fishing activities would be prohibited, access would be limited, additional permits would be required, and limitations or prohibitions would be placed on the use of harvesting gear, internal combustion motors, and vessel type, size and speed. All ten of the proposed zones in the GMP manage fishing activities in some manner, and the GMP specifically identifies "managing recreational [and commercial] fishing in the interest of sound conservation" as a management action in the majority of the zones' descriptions (pages 48–58 of the GMP).

In addition to addressing fishery management issues in the GMP, the proposed management actions within the GMP have not been jointly evaluated with the FWC, nor was the agency consulted in advance of these actions being proposed and released to the public for comment. This is also in direct conflict with the MOU, which states:

> Article III—Statement of Work:
>
> A. FWC and the Park agree to:
>
> . . .2. Acknowledge that the FWC will play a crucial role in implementing and promulgating new regulations as may be deemed appropriate, as well as take other management actions to achieve the mutual objectives for the management of fisheries within the boundaries of the Park for the term of this MOU. However, the agencies agree to consult with each other on any actions that they may propose to be taken to conserve or protect fish populations and other aquatic resources within Park boundaries or to further regulate the fisheries.
>
> . . .5. Consult with each other and jointly evaluate the commercial and recreational harvest of fishery resources within the Park. Such consultation and evaluation, as set forth in the enabling legislation establishing the Park, should include a full review of all commercial and recreational fishery practices, harvest data, permitting requirements, techniques and other pertinent information for the purposes of determining to what extent mutually agreed upon fishery management goals are being met within the Park and to determine what additional management actions, if any, are necessary to achieve stated management goals.

The enabling legislation establishing the Park and the MOU executed in good faith clearly call for consultation and coordination with the State of Florida/FWC regarding fisheries management. The Fishery Management Plan is the most appropriate tool to support this consultation and coordination. The proposed regulatory actions in the GMP that affect fishing activities combined with the lack of advanced agency coordination make it abundantly evident that the Park's regulatory strategy is to address fisheries management issues within the context of the GMP, and outside of the framework of the MOU and the Fishery Management Plan.

Accordingly, the FWC has respectfully called for the NPS to honor these requirements and commitments by withdrawing fishery- and fishing-related provisions from the GMP, and working closely with the FWC and stakeholders to develop proposals that reflect a better balance between conservation and recreation in the Fishery Management Plan.

B. Memorandum of Understanding: Use of unnecessarily restrictive management actions

The FWC and the Park have differing viewpoints regarding the use of marine reserves or no-take areas as a management strategy. This was specifically addressed in the MOU as follows:

> WHEREAS, FWC and the Park agree to seek the least restrictive management actions necessary to fully achieve mutual management goals for the fishery resources of the Park and adjoining areas. Furthermore, both parties recognize the FWC's belief that marine reserves (no-take areas) are overly restrictive and that less-restrictive management measures should be implemented during the duration of this MOU. Consequently, the FWC does not intend to implement a marine reserve (no-take area) in the waters of the Park during the duration of this MOU, unless both parties agree it is absolutely necessary. Furthermore, the FWC and the Park recognize that the Park intends to consider the establishment of one or more marine reserves (no-take areas) under its General Management Planning process for purposes other than sound fisheries management in accordance with Federal authorities, management policies, directives and executive orders. . .

The Park did not seek the least restrictive management actions to accomplish management goals, and did not propose a Marine Reserve Zone in the GMP "for purposes other than sound fisheries management." The GMP states that the proposed Marine Reserve Zone "would be about 7% of the waters of the Park, and less than 13% of the offshore areas of the park" (page 82 of the GMP). Whether intentional or not, this reference to "waters" and "offshore areas" instead of actual "fishing areas" creates the illusion that the proposed Marine Reserve Zone is a very small area in comparison to the rest of the Park, ". . .while not being so large as to completely eliminate the opportunities for fishing any of the park's reef areas" (page 327 of the GMP). The reality is that the proposed Marine Reserve Zone includes some of the most popular reef fishing areas within the Park. Combined with nine other proposed Zones that will restrict or eliminate fishing opportunities either directly or indirectly, these actions will have a serious negative impact on fishing within the Park. The management actions proposed in the GMP represent the most extreme tools available for resource management in these selected areas within the Park, ignoring alternative ways to achieve desired resource improvements without sacrificing the public's ability to access portions of the Park for fishing.

C. Lack of information to support proposed management actions

The FWC recognizes that the NPS has different but complementary goals for managing Florida's fish and wildlife resources located within the Park's boundaries. The FWC also recognizes the significant value of the habitat resources within the Park to recreational and commercial fisheries, and the need to protect them. While the FWC supports sound resource management within the Park, the FWC cannot support how certain management actions in the GMP have been developed and proposed because of the lack of scientific evidence and lack of consideration of public access and use.

1. The Science

The Park has failed to provide the scientific evidence necessary to support the need for a complete fishery closure in the Marine Reserve Zone. For example, data or analyses demonstrating the conservation benefits achieved by a complete fishery closure as compared to other, less restrictive management measures (e.g., catch-and-release fishing, size or slot limits, and closed seasons) were never presented in the GMP or specifically discussed with the FWC before releasing the GMP. Instead, the GMP states:

> Scientific data indicates that no-take zones are more effective at reducing mortality, especially for reef species, than other methodologies, including catch and release, slot limits, etc. Additionally, a catch and release zone would be difficult to enforce. Therefore, within this zone, recreational and commercial fishing would be prohibited to encourage long-term protection of the reef ecosystem (page 82 of the GMP).

Since no data, analyses, or any other quantifiable measure is provided to support these statements, it is impossible for the FWC to evaluate their scientific credibility. Furthermore, the FWC provides the boating and resources enforcement in the Park.

Enforcement of less restrictive management measures are no more difficult for the agency to enforce than no-take zones—both require officers to patrol and check boaters/anglers to ensure compliance with whatever the regulation may be.

The FWC is also seriously concerned that, although the proposed Marine Reserve Zone is supposed to provide ". . .beneficial impacts on fisheries, and submerged aquatic communities. . ." (page iv of the GMP), no data or other scientific evidence is provided to evaluate whether this Zone was designed to provide protection from the full suite of known threats (e.g., water quality and other non-fishing, human-caused stressors) that can affect the biodiversity and long-term viability of coral reef ecosystems. It is well documented in scientific literature that non-fishing activities such as diving and snorkeling can have a significant impact on reef communities, yet the Park is not proposing to manage these activities and is only focusing on fishing activities. Had the options for managing each threat been the subject of appropriate assessments, it would likely have been apparent that area closures, such as the proposed Marine Reserve Zone, represents an inappropriate or at least an inefficient mechanism for the management, precautionary or otherwise, of many recognized threats, including those from fishing and diving.

Common "unintended consequences" (e.g., potential impacts caused by displacement of fishing effort to areas outside the no-take zone) of implementing marine no-take zones that are well documented in the scientific literature, also seem to have not been evaluated by the Park. For example, the Park's Preferred Alternative, which includes the proposed Marine Reserve Zone, lacks any evaluation of the potential negative impacts caused by increased fishing effort outside the Zone by fishers displaced to nearby areas where fishing would continue to be allowed. The GMP states:

> Even though fishing pressure may increase outside this zone [emphasis added], the expected increase in size and abundance of fish within the Marine Reserve Zone is expected to have a "spillover" effect outside the zone, as documented in other Marine Reserve Zones worldwide (page 230 of the GMP).

Again, no analyses, metrics, or any other quantifiable measure is provided to support this statement, much less how it relates to the specific no-take zone being proposed in the Park. What the Park is presenting as the science supporting their proposed management actions is that studies of no-take zones in the Florida Keys have shown conservation benefits to coral reef ecosystems, including the reef fish communities therein, to a "more natural state." In other words, if no-take zones are good for the Florida Keys, they must be good for Biscayne Bay. This kind of extrapolation should not be made without working through a comprehensive and collaborative analysis of all factors influencing the health and recovery of coral reef ecosystems in the Park to provide a valid scientific basis for evaluation of a number of management options that ultimately demonstrate: (1) the conservation benefits likely to be achieved by management actions; and (2) whether the same conservation benefits could be achieved by applying less restrictive management actions.

In summary, the Park has failed to provide the scientific evidence necessary to support the proposed Marine Reserve Zone. Furthermore, the proposed Marine Reserve Zone affects fishing practices that are already well-managed by state and federal agencies, according to well-established and scientifically credible conservation standards. The FWC is concerned the focus on restricting fishing and boating is diverting attention from the suite of real threats potentially affecting both protected and unprotected areas in the Park including water quality issues.

2. Public Access and Use

The GMP proposes to implement zones that have the potential to significantly limit access by fishers through vessel operation (e.g., vessel speed, vessel size and motor type). Strategies such as slow-speed or non-combustion engines zones used to protect resources can be important management tools. On the other hand, these strategies also have the potential to impact resources if not designed to avoid or minimize access limitation. It is a commonly held misconception that fishers continue to have access to areas for fishing after slow-speed or non-combustion engine management strategies are implemented, because in theory fishers can still pole, troll, or operate a vessel at limited speed in order to fish. In reality, many fishers do not utilize these areas because of factors that significantly contribute to accessibility. These factors include public and private boat launch locations, currents, tides, prevailing winds, and how to get in and out of a zone quickly in the event of bad weather or with enough time to fish a tide. As mentioned above, access limitation may result in concentrating resource impacts in adjacent areas that are not managed under these strategies, or concentrating resource impacts in smaller, accessible

portions of the areas managed under these strategies because factors that contribute to accessibility were not considered during the planning process.

D. "Who has management authority in Biscayne National Park?"

The issue of management authority of fish and wildlife in the Park has been discussed by the FWC and the NPS for many years. When only considering the state and federal laws that apply to the establishment of the Park, it is a situation the two agencies have simply had to agree to disagree.

The current authority issue has arisen in response to the State of Florida's review of the draft version of the Park's GMP under the federal Coastal Zone Management Act. The Coastal Zone Management Act, passed by Congress and implemented by NOAA, requires that activities conducted by federal agencies (or on behalf of federal agencies) affecting the land or water uses or natural resources of a state's coastal zone be fully consistent with each state's coastal management program. Each state's coastal management program must be approved by NOAA. Florida's approved Coastal Management Program allows the State to review federal activities affecting the land or water uses or natural resources of Florida for consistency with Florida's Coastal Management Program.

The management actions proposed by the Park in the GMP are not fully consistent with the Florida Coastal Management Program. Specifically, the Park has not fully taken into account the right of the State of Florida to manage its fish and wildlife resources in a consistent manner as provided for by the Coastal Zone Management Act. If the Park had adhered to the cooperative nature of the MOU, it would have likely avoided inconsistencies with the Florida Coastal Management Program.

The Solution

The FWC is disappointed that the Park chose to propose the most restrictive management actions without adequately considering less restrictive management options that would likely accomplish the same goals. The solution moving forward is for the NP to follow the "Purpose of the Plan" as stated in the GMP: "Ensure that this foundation for decision making has been developed in consultation with interested stakeholders and adopted by the National Park Service leadership after an adequate analysis of the benefits, impacts, and economic costs of alternative courses of action" (page 6 of the GMP). This can be accomplished by removing fisheries management issues from the GMP, and instead provide for an evaluation of alternative fisheries management strategies in the Fishery Management Plan developed in consultation with the FWC and interested stakeholders. This will not delay finalizing the GMP, and it will allow for a more balanced approach to management.

Appendix A

Memorandum of Understanding between the State of Florida, Fish and Wildlife Conservation Commission and the National Park Service, Biscayne National Park

NPS Agreement Number G5250H0083

ARTICLE I—BACKGROUND AND OBJECTIVES

WHEREAS, The purpose of this Memorandum of Agreement (MOU) is to facilitate the management, protection and scientific study of fish and aquatic resources within the National Park Service, Biscayne National Park (hereinafter referred to as the Park) by improving communication, cooperation and coordination between the Florida Fish and Wildlife Conservation Commission, (hereinafter referred to as the FWC) and the Park; and

WHEREAS, Biscayne National Monument was established by Congress in 1968 "in order to preserve and protect for the education, inspiration, recreation, and enjoyment of present and future generations a rare combination of terrestrial, marine, and amphibious life in a tropical setting of great natural beauty" (PL 90–606). The Monument was later expanded in 1974 (PL 93–477), and again in 1980 (PL 96–287), to its current size of 173,000 acres (270 square miles), when it was also redesignated as the Park, where excellent opportunities are provided for fishing, snorkeling, scuba diving, boating, canoeing, kayaking, windsurfing and swimming; and

WHEREAS, the State of Florida conveyed sovereign submerged lands to the United States in 19.70 to become part of Biscayne National Monument; and

WHEREAS, the Park is made up predominantly of submerged lands (95 percent), and may be divided generally into three major environments: coral reef, estuarine and terrestrial. The boundaries of the Park begin at the west mangrove shoreline, extend east to Biscayne Bay (including seagrass communities and shoals), the keys (including hardwood hammocks, mangrove wetlands, sandy beaches and rocky intertidal areas), the reef, and continue to their easternmost extent at a contiguous 60-foot depth contour. The northern boundary of the Park is near the southern extent of Key Biscayne, while the southern boundary is near the northern extent of Key Largo, adjacent to the Barnes Sound and Card Sound areas; and

WHEREAS, Biscayne Bay has also been designated by the State of Florida as an Aquatic Preserve, Outstanding Florida Water, Outstanding National Resource Water (pending ratification of State water quality standards) and lobster sanctuary under Florida Law, and by Dade County as an aquatic park and conservation area; and

WHEREAS, both FWC and the Park have responsibilities under Federal and State laws and regulations that affect fish and other aquatic resources within the Park; and

WHEREAS, FWC and the Park agree that "when possible and practicable, stocks of fish shall be managed as a biological unit" (Chapter 370.025(d) Florida Statutes). This statement is intended to recognize that measures to end overfishing and rebuild stocks are most effective when implemented over the range of the biological stock; however, it is not intended to preclude implementation of additional or more restrictive management measures within the Park than in adjacent State waters as a means of achieving mutual objectives; and

WHEREAS, FWC and the Park agree that properly regulated commercial and recreational fishing will be continued within the boundaries of the Park. FWC and the Park recognize and acknowledge that commercial and recreational fishing constitutes activities of statewide importance that benefit the health and welfare of the people of the State of Florida. The parties also recognize and acknowledge that preserving the nationally significant resources of the Park to a high conservation and protection standard to be agreed upon by both parties in the fishery management plan for all citizens to enjoy is of statewide as well as national importance, and as such, will also benefit the health and welfare of the people of the State of Florida; and

WHEREAS, FWC and the Park agree to seek the least restrictive management actions necessary to fully achieve mutual management goals for the fishery resources of the Park and adjoining areas. Furthermore, both parties recognize the FWC's belief that marine reserves (no-take areas) are overly restrictive and that less-restrictive management measures should be implemented during the duration of this MOD. Consequently, the FWC does not intend to implement a marine reserve (no-take area) in the waters of the Park during the duration of this MOD, unless both parties agree it is absolutely necessary. Furthermore, the FWC and the Park recognize that the Park intends to consider the establishment of one or more marine reserves (no-take areas) under its General Management Planning process for purposes other than sound fisheries management in accordance with Federal authorities, management policies, directives and executive orders; and

WHEREAS, both parties wish this MOU to reflect their common goals and intended cooperation and coordination to achieve those goals.

ARTICLE II—AUTHORITY

In the Organic Act of 1916, U.S.C. § 1, Congress created the National Park Service (NPS) to promote and regulate the National Park System for "the purpose of conserving the scenery and the natural and historic objects and wildlife therein and to provide for the enjoyment of the same in such manner and by such means as would leave them unimpaired for the enjoyment of future generations." Congress further determined, in 16 U.S.C. § la-I, that the authorization of activities within units of the National Park System be construed, and the protection, management and administration of national parks be conducted, in the light of high public value and integrity of the National Park System.

The legislation establishing the Park states that the "Secretary shall preserve and administer the park in accordance with the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented. The waters within the park shall continue to be open to fishing in conformity with the laws of the State of Florida except as the Secretary, after consultation with appropriate officials of said State, designates species for which, areas and times within which, and methods by which fishing is prohibited, limited, or otherwise regulated in the interest of sound conservation to

achieve the purposes for which the park is established: Provided, that with respect to lands donated by the State after the effective date of this Act, fishing shall be in conformance with State law." PL 96–287, § 103(a), codified at 16 U.S.C. § 410gg-2(a).

As a unit of the National Park System, the Park is authorized under 16 U.S.C. §§ 1–6 to participate in memoranda of understanding that document mutually agreed upon policies, procedures and relationships that do not involve funding.

The FWC was created by Article IV, § 9 of the Florida Constitution and is vested with the state's executive and regulatory authority with respect to freshwater aquatic life, wild animal life and marine life. This authority, directly derived from the Constitution, provides the FWC with autonomy to regulate and manage wild animal life, freshwater aquatic life and marine life within the State of Florida, which includes the areas encompassed by the Park.

The FWC is authorized under Chapter 370.103, Florida Statutes, to enter into cooperative agreements with the Federal Government or agencies thereof for the purpose of preserving saltwater fisheries within and without state waters and for the purpose of protecting against overfishing, waste, depletion, or any abuse whatsoever. Such authority includes authority to enter into cooperative agreements whereby officers of the FWC are empowered to enforce federal statutes and rules pertaining to fisheries management.

The regulatory responsibility of the State of Florida with respect to fishing on the original Park lands is set forth in section 1 03(a) of PL 96–287 (see above). The regulatory responsibility of the State of Florida with respect to fishing on additional lands conveyed to the Park after the effective date of PL 96–287 is set forth in a Board of Trustees of the Internal Improvement Trust Fund Dedication dated December 13, 1985, which contains the following special reservation: "All rights to fish on the waters shall be retained and not transferred to the United States and fishing on the waters shall be subject to the laws of the State of Florida."

NOW, THEREFORE, both parties agree as follows:

ARTICLE III—STATEMENT OF WORK

A. FWC and the Park agree to:

Seek concurrence in meeting their management goals and strive to identify means, measures and other interagency actions for the mutual benefit of the aquatic resources within Biscayne Bay and the Park.

Acknowledge that the FWC will play a crucial role in implementing and promulgating new regulations as may be deemed appropriate, as well as take other management actions to achieve the mutual objectives for the management of fisheries within the boundaries of the Park for the term of this MOD. However, the agencies agree to consult with each other on any actions that they may propose to be taken to conserve or protect fish populations and other aquatic resources within Park boundaries or to further regulate the fisheries.

Provide for recreational and commercial fishing and opportunities for the angling public and other Park visitors to enjoy the natural aquatic environment.

Manage fisheries within the Park and Biscayne Bay according to applicable Federal and State laws, and in a manner that promotes healthy, self-sustaining fish populations and recognizes the biological characteristics and reproductive potential of individual species. Desired future conditions for fisheries and visitor experiences within the Park will be established cooperatively to further guide fisheries management.

Consult with each other and jointly evaluate the commercial and recreational harvest of fishery resources within the Park. Such consultation and evaluation, as set forth in the enabling legislation establishing the Park, should include a full review of all commercial and recreational fishery practices, harvest data, permitting requirements, techniques and other pertinent information for the purposes of determining to what extent mutually agreed upon fishery management goals are being met within the Park and to determine what additional management actions, if any, are necessary to achieve stated management goals.

Collaborate on the review and approval of proposals for fisheries stock assessment, site characterization, maintenance or restoration, including scientifically based harvest management, species reestablishment, stocking, habitat protection, and habitat restoration or rehabilitation.

Notify each other, as early as possible, of the release of information pertaining to the development of agency policies, management plans, statutes, rules and regulations that may affect fisheries and aquatic resource management within the Park boundary.

Share scientific information, field data and observations on Park fishery resources and activities affecting those resources, except in situations where the exchange of

such data would violate State or Federal laws or regulations (e.g. law enforcement investigations and confidential landings statistics). The parties will provide each other with copies of reports that include results of work conducted within the Park or Biscayne Bay.

Jointly consider proposals for the management and control of exotic (non-indigenous) species, if found to occur within the Park or in adjacent areas, that may pose a threat to the integrity of Park resources. Exotic species are those that occur in a given place as a result of direct or indirect, deliberate or accidental actions by humans.

Review and coordinate, on an annual basis, proposals for fisheries and aquatic resources management, research, inventory and monitoring within the Park and Biscayne Bay. Each party will provide prospective researchers with legal notice of agency-specific permitting requirements. Additionally, as a courtesy, and to encourage information sharing, the FWC and the Park will provide each other with annual summaries of marine and terrestrial research, inventory and monitoring activities conducted within and in close proximity to the Park.

Meet at least once annually and otherwise as needed to coordinate management and research activities and exchange information on fish and aquatic resources within the Park and Biscayne Bay.

Recognize that there may be times when the missions of the FWC and the Park may differ, and that while efforts will be made to the maximum extent possible to cooperate fully and jointly manage fishing within the Park as intended by Congress when the Park was established, there may be occasion when the two agencies choose to disagree. Such occasions will not be construed, as impasses and every attempt will made to avoid communication barriers and to not jeopardize future working relationships.

Develop a comprehensive fisheries management plan (hereinafter referred to as the Plan) for the long-term management of fish and aquatic resources within the Park. The Plan will summarize existing information and ongoing activities, clarify agency jurisdiction, roles and responsibilities, identify additional opportunities for cooperative management, list key issues, establish management goals and objectives, describe desired future conditions, indicators, performance measures and management triggers, and develop a list of prioritized project statements. Specifically, with respect to developing the Plan, the two agencies agree as follows:

B. The FWC agrees to:

1. Assist the Park, and play a collaborative role in coordinating with the Park and its cooperators, in the development and ongoing review of the Plan.
2. Provide representation to a technical committee formed to guide interagency fisheries management within Biscayne Bay, including the Park, and participate in monthly teleconference calls and meetings as may be scheduled for purposes of steering fisheries management planning project.
3. Assign staff, including those from the Florida Marine Research Institute, as deemed appropriate to assist the Park and its cooperators in developing credible project statements or preliminary research proposals. The emphasis of such proposals will be to design and prioritize projects intended to meet known fisheries data gaps or resource knowledge deficiencies to facilitate scientifically based and informed fisheries management decision-and rulemaking.
4. Provide representation to and support for forming the Scientific Advisory Panel for the purposes described in *CA* below.
5. Provide access to and support for requests by the Park to existing data and information as may be applicable to Biscayne Bay fisheries and aquatic resources, jurisdictions and other pertinent aspects to developing the Plan.
6. Review and comment upon drafts of the Plan and participate in joint meetings that will be arranged to solicit public opinion and comment concerning proposed fisheries management actions and/or alternatives as may be described within the draft Plan; and to review and comment upon any fisheries and aquatic resources issues and alternatives as may be identified within the Park's General Management Plan, also being developed in 2001–2002.
7. Facilitate information exchange and otherwise provide briefings to FWC Commissioners as necessary and deemed appropriate by the FWC.
8. Facilitate information exchange and otherwise provide briefings as may be deemed appropriate to the South Atlantic Fishery Management Council, of which FWC's Director of the Division of Marine Fisheries is a member.

9. Work with the Park to promulgate or revise existing State and Federal rules/regulations as may be jointly identified and recommended within the Plan.
10. As may be provided under State law and FWC policies, and upon full review, comment, revision and concurrence by the FWC, co-sign and endorse the Plan.

C. The Park agrees to:

Subject to the availability of funds, provide project funding support to cooperators, under contractual requirements separate from this MOU and described within an approved study plan prepared by NPS, to complete the Plan.

Secure contractors and cooperation from other fisheries experts to develop and/or assist the Park in developing the Plan. These cooperators may include, but are not limited to, research fishery biologists, aquatic ecologists and fisheries program managers from the FWC, Tennessee Valley Authority, Everglades National Park, National Marine Fisheries Service, Southeast Fisheries Science Center, and the University of Miami—Rosenstiel School of Marine and Atmospheric Science.

Form a technical steering committee comprised of Park personnel as well as those cited inC.2 above, and arrange and coordinate monthly teleconference calls and periodic other meetings of this committee as necessary to develop the Plan.

Arrange and coordinate a Scientific Advisory Panel to review the findings and recommendations contained in the 2001 report entitled "Site Characterization for Biscayne National Park: Assessment of Fisheries Resources and Habitats," prepared under contract for the Park by Dr. Jerald S. Ault, et al.

Work with the FWC to promulgate or revise existing State and Federal rules/regulations as may be jointly identified and recommended within the Plan.

Pursuant to the National Environmental Policy Act, arrange and coordinate public meetings, Federal Register Notices, and other requirements associated with preparing an Environmental Impact Statement in conjunction with the Plan.

Under contractual arrangements separate from this MOU, finance, print, and distribute a reasonable and sufficient number of draft and final copies of the Plan to all cooperators and other entities with an expressed or vested interest.

As requested by the FWC, help conduct or simply attend briefings, presentations or other forums concerning fisheries/wildlife management within Biscayne Bay, including the Park.

Facilitate and encourage the joint publication of press releases and the interchange between parties of all pertinent agency policies and objectives, statutes, rules and regulations, and other information required for the wise use and perpetuation of the fisheries resources of the Park.

Facilitate research permitting to state entities for activities needed to accomplish goals identified in the Plan.

ARTICLE IV—TERMS OF AGREEMENT

This MOU shall become effective upon signature by all parties hereto, and is executed as of the date of the last of those signatures and shall remain in effect for a term of five (5) years unless rescinded as provided in Article IX. It may be reaffirmed and extended for an additional five years.

This MOU in no way restricts the FWC or the Park from participating in similar activities with other public or private agencies, organizations, and individuals.

This MOu is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement or contribution of funds between the Park and the FWC will be handled in accordance with applicable laws, regulations, and procedures. Such endeavors will be set forth in separate written agreements executed by the parties and shall be independently authorized by appropriate statutory authority.

ARTICLE V—KEY OFFICIALS

A. For Biscayne National Park:

Superintendent
Biscayne National Park
9700 SW 328th Street
Homestead, FL 33033 B.

B. For the Florida Fish and Wildlife Conservation Commission:

Executive Director
Florida Fish and Wildlife Conservation Commission
620 South Meridian Street
Tallahassee, FL 32399–1600

ARTICLE VI—PRIOR APPROVAL

Not applicable

ARTICLE VII—REPORTS AND/OR OTHER DELIVERABLES

Upon request and to the full extent permitted by applicable law, the parties shall share with each other final reports of actions involving both parties.

ARTICLE VIII—PROPERTY UTILIZATION

Unless otherwise agreed to in writing by the parties, any property furnished by one party to the other shall remain the property of the furnishing party. Any property furnished by the Park to the FWC during the performance of this MOU shall be used and disposed of as set forth in Federal property management regulations found at 41 C.F.R. Part 102.

ARTICLE IX—MODIFICATION AND TERMINATION

Either party may terminate this MOU by providing 60 days advance written notice to the other party. However, following such notice and before termination becomes effective, the parties will attempt to address and resolve the issues that led to the issuance of the notice.

Any disputes that may arise as a result of this MOU shall be subject to negotiation upon written request of either party, and each of the parties agrees to negotiate in good faith. The parties shall use their best efforts to conduct such negotiations at the lowest organizational level before seeking to elevate a dispute. If the parties cannot resolve the dispute through negotiation, they may agree to mediation using a neutral acceptable to both parties. Subject to the availability of funds, each party will pay an equal share of any costs for mediation services as such costs are incurred. If the dispute cannot be resolved through mediation, it will be elevated to a third party acceptable to both the Park and FWC for a final decision.

This MOU may be reviewed and/or modified at any time upon written agreement of the FWC and the Park.

ARTICLE X—STANDARD CLAUSES

A. Compliance With Laws

This MOU is subject to the laws of the United States and the State of Florida, and all lawful rules and regulations promulgated thereunder, and shall be interpreted accordingly.

B. Civil Rights

During the performance of this MOU, the parties agree to abide by the terms of the U.S. Department of the Interior (hereinafter referred to as the Department)-Civil Rights Assurance Certification, non-discrimination and will not discriminate against any person because of race, color, religion, sex, or national origin. The participants will take affirmative action to ensure that applicants are employed without regard to their race, color, sexual orientation, national origin, disabilities, religion, age or sex.

C. Promotions

The FWC will not publicize or otherwise circulate promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts, or other publications), which states or implies Governmental, Departmental, bureau or Government employee endorsement of a product, service or position, which the Department represents. No release of information relating to this MOU may state or imply that the Government approves of the FWC's work product, or considers the Department's work product to be superior to other products or services.

D. Public Information Release

The FWC will obtain prior approval from the Park for any public information releases, which refers, to the Department, any bureau, park unit, or employee (by name or title), or to this MOU. The specific text, layout, photographs, etc. of the proposed release must be submitted with the request for approval.

E. Liability Provision

Each party to this agreement will indemnify, save and hold harmless, and defend each other against all fines, claims, damages, losses, judgments, and expenses arising out of, or from, any omission or activity of such person organization, its representatives, or employees. During the term of the MOD, the Park will be liable for property damage, injury or death caused by the wrongful or negligent act or omission of an employee, agent, or assign of the Park acting within the scope of his or

her employment under circumstances in which the Park, if a private person, would be liable to a claimant in accordance with the law of the place where the act or omission occurred, only to the extent allowable under the Federal Tort Claims Act, 28 U.S.C. Sec. 2671 et seq.

ARTICLE XI—SIGNATURES

IN WITNESS HEREOF, the parties hereto have executed this agreement on the dates set forth below.

FOR BISCAYNE NATIONAL PARK:

Signature:

Mark Lewis Superintendent Biscayne National Park

Date:

FOR THE FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION:

Signature:

Ken Haddad

Executive Director
Florida Fish and Wildlife Conservation Commission
Date:

Mr. BISHOP. Mr. Crook, you have 5 minutes.

STATEMENT OF KARL CROOK, PRESIDENT AND CEO, CROOK AND CROOK, INC., FLORIDA RESIDENT

Mr. CROOK. Good morning, Mr. Chairman and members of the Subcommittee. My name is Karl Crook, and I am honored to be here to testify before you today.

I am President and CEO of Crook and Crook Marine and Fishing Supplies, which was established by my parents in 1958 in Miami, Florida. I have been in the business all my life. For 53 years, my company knows that our business is directly tied to and very dependent on the fishery resources that our residents, our visitors, and customers enjoy today. We are also dependent on them having access—access is key—to our public waters, which is what brings me here today.

Anglers are willing to make sacrifice for the betterment of the resources as long as they are confident that these sacrifices are based on strong science, good common sense, and a true desire to improve the health of the fisheries they so enjoy today.

The closures being proposed in Biscayne National Park, specifically the 10,000-acre marine reserve, in the draft general management plan preferred alternative are not based on solid fishery management data and will significantly and unnecessarily close a massive area of park waters. Since we are still in draft form, there is still time to make the correct decision and listen to the public, the representatives, and the people that know the fisheries of South Florida.21Through 35 years of involvement in the marine and fishing community, I am very familiar with the use of the surrounding waters and fisheries, including those in Biscayne National Park. The National Park Service will tell you that their proposed reserve zone is small, only 7 percent of the park. But when you consider that it is 35 percent of the most fished areas, it changes that dynamic. This massive closure covers some of the park's most popular and productive fishing areas. The tremendous loss of fishing opportunity is more significant than that 7 percent.

The National Park Service will also tell you that they are proposing this closure for reasons other than fishery management. But once you look a little deeper and you read paragraph and page after page, it is clear that this is false. Restricting and prohibiting fishing in order to protect fish habitat and rebuild fish stocks is inherently fish management responsibility. Both the Florida Fish and Wildlife Management Commission and the park's Fishery Management Plan Stakeholder Working Group have concluded that other less restrictive management measures other than a marine reserve can and should be implemented in the park.

By proposing a marine reserve, the National Park Service is casting aside professional and local expertise of fisheries management and severing trust with the local boating and sport-fishing community. I contend this is the easy way out but not the best way.

Where the recreational fishing is having an impact on reefs, there are many less restrictive management approaches, like anchoring areas and strong species-by-species fishing regulations, which can be put in place to mitigate fishing impact. Closing local fisheries' access will substantially impact hundreds of jobs and livelihoods in our local economy and beyond. The National Park Service should stop and reconsider the proposed marine reserve in the general management plan and instead work with the FWC and local stakeholders to address fishery resources challenges within the fisheries management plan.

By slowing this process down and reevaluating the variety of other tools available, I am confident that the plan can be reached that addresses the resource challenges in the park while still allowing the public to access the public park's waters and fisheries.

Please consider in your reading of the original memorandum of understanding between the State of Florida and the intent of the State when the land was given to the Park Service. Please also read the working group proposal of 2004. Considering all that is being discussed before you today, it becomes apparent that most of the working group proposals have been ignored. Both the documents are attached in my written testimony.

I thank you very much for the opportunity to speak before you here today.

Mr. BISHOP. Thank you. Appreciate it.

[The prepared statement of Mr. Crook follows:]

Statement of Karl Crook, President and CEO, Crook and Crook Inc., DBA Crook and Crook Fishing and Marine Supplies, on "Access Denied: Turning Away Visitors to National Parks"

Good Morning, my name is Karl Crook and I am honored to have been asked to testify before the House Committee on Natural Resources Subcommittee on National Parks, Forests and Public Lands regarding the proposed General Management Plan for Biscayne National Park located in Miami-Dade County, Florida. I have been a resident of Miami Dade County since 1957 when my parents moved from New England to Miami. Having been born in 1956, I can say I have spent my entire life close to, or literally on, the waters of Biscayne National Park. My parents and I resided on a 34 foot boat at Dinner Key Marina when I was a child.

In 1958 my parents founded Crook and Crook Fishing and Marine Supplies in Coconut Grove Florida. I grew up in the business and took over full reign of Crook and Crook upon my mother's passing in 1985. I have run the business as a sole proprietor up to today.

I am currently an active member of the Dade County chapter of the Coastal Conservation Association and the American Sports fishing Association. I currently serve

on the Board of Directors of the Bob Lewis Memorial Fishing Tournament and the University of Miami Hall of Fame Fishing Tournament. As a company, Crook and Crook sponsors and supports fishing tournaments and fishing related children charities in and around our community and abroad to promote and support recreational fishing.

Having been in business for 53 years, my company has learned that our business is directly tied to, and dependent on, the fisheries resources that our customers enjoy. In order to serve the anglers and boaters that shop in our stores and our online catalog, we must first support creating healthy and abundant fisheries for them to pursue. We also depend on them having access to our public waters, which is what brings me here today to talk about a major threat to fishing access in on of south Florida's prime fishing areas—Biscayne National Park.

Biscayne National Park is a regional treasure. It deserves the proper attention and controlled use to sustain and protect the natural beauty and resources contained within the park. Through 35 years of involvement with the marine and fishing community, I am very familiar with the uses of the surrounding waters and fisheries with respect to recreational fishing, tourism and to somewhat of a lesser degree, commercial fishing.

Anglers are willing to make sacrifices for the betterment of the resource, as long as they are confident that these sacrifices are based on strong science and a true desire to improve the health of the fisheries we enjoy. However, the closures being proposed in Biscayne National Park—specifically the 10,522 acre marine reserve in the draft General Management Plan preferred alternative—are not based on solid fisheries management and seem to place undue blame for any and all problems in the park on anglers and boaters.

The National Park Service will tell you that their proposed marine reserve is small—only 7 percent of the park—but I can assure you that the word "small" does not come close to describing the area at stake. This 16 square mile closure covers some of the park's most popular and productive fishing areas. The tremendous loss of fishing opportunity is much more significant than the simple "7 percent of the park" figure might lead one to believe.

The National Park Service will also tell you that they are proposing this closure for reasons other than fisheries management, but once you look a little deeper, that is clearly false. The National Park Service claims in their draft General Management Plan that the proposed marine reserve is intended to "provide snorkelers and divers with the opportunity to experience a healthy, natural coral reef, with larger and more numerous tropical reef fish and an ecologically intact reef system." However, restricting or prohibiting fishing in order to protect fish habitat and rebuild fish stocks is inherently fisheries management. Management of the park's fisheries resources is defined by a Memorandum of Understanding (MOU) to facilitate cooperative management between the National Park Service and the Florida Fish and Wildlife Conservation Commission (FWC). Over the last several decades, the FWC has established itself as a leader in state fish and wildlife management, particularly saltwater fisheries management, as evidenced by its efforts to help bring back species such as snook, redfish, and sailfish to their current sustainable levels. In the MOU, the FWC states its position that "marine reserves (no-take areas) are overly restrictive and that less-restrictive management measures should be implemented during the duration of this MOU." The FWC has stated numerous times its believe that other, less restrictive management measures than a marine reserve can and should be implemented in the park to help rebuild the park's fisheries resources.

This conclusion was also reached by the park's Fishery Management Plan Stakeholder Working group, which was formed by the park in 2004 to develop recommendations on goals and actions the park's Fishery Management Plan, and to comment and make recommendations on portions of BNP's General Management Plan that are pertinent to fisheries. After six months of meetings, the group, which consisted of commercial and recreational fishers, divers, scientists and representatives of environmental groups, produced recommendations included more restrictive fishing regulations for certain species, species-specific spawning closures and a mechanism to pay for improved enforcement and education of park rules and regulations. Importantly the group concluded that a marine reserve should only be established as measure of last resort and only after all else had failed.

By proposing a marine reserve, the National Park Service is ignoring the recommendations of the FWC and the stakeholder working group. In doing so, it is casting aside professional and local expertise of fisheries management and severing trust with the local sportfishing community.

The National Park Service claims that this area will provide a haven for snorkelers and divers, which will more than make up for the lost angler trips and associated economic impacts, but I challenge the National Park Service to explain

how this will occur. According to Park Superintendent Mark Lewis, there are only 15–20 mooring buoys for boats to tie off on in the proposed marine reserve, where anchoring will not be allowed. So all of these supposed divers and snorkelers the park is counting on making up for lost fishing trips will only be able to access the reserve from these 15 or 20 spots. In actuality, not only will this area be closed to anglers, but the vast majority of it will also be inaccessible to anyone else.

As is the case with coral reefs the world over, the reefs in Biscayne National Park are facing numerous threats. However, the most significant of these threats—ocean warming, disease and acidification—cannot be addressed by simply closing areas to fishing. Where recreational fishing is having an impact on reefs, there are numerous less restrictive management approaches, like no-anchoring areas and stronger species-by-species fishing regulations, which can be put in place to mitigate fishing impacts.

The estimated impact of salt water fishing in the State of Florida is approximately $15 billion annually. Closing local fisheries and access to fisheries will substantially impact hundreds of livelihoods, in our local economy and beyond. Given our current economy and the recent difficult times we have just endured, any additional impact on jobs would significantly affect our residents.

If the National Park Service's goal is to improve the park's fisheries and habitat, there are other, less restrictive options that could effectively rebuild and sustain the park's fisheries resources. The National Park Service should step back from the proposed marine reserve in the General Management Plan and instead work with the FWC and local stakeholders to address these issues in the Fishery Management Plan. By slowing this process down and reviewing the variety of other tools available, I am confident that a plan can be reached that addresses the resource challenges in the park while still allowing the public to access the park's waters.

I thank you for the opportunity to speak before you this morning and respectfully hope the voice of the people will be heard in protecting livelihoods while working together to protect our beautiful resources.

[NOTE: Attachments have been retained in the Committee's official files.]

Mr. BISHOP. Mr. Curlett?

STATEMENT OF JOHN J. CURLETT, FLORIDA RESIDENT

Mr. CURLETT. Good morning, Mr. Chairman, Committee members, and my soon-to-be Congressman, Congressman Rivera. And for what it is worth, I am a third-generation member of the party of Lincoln.

My name is John J. Curlett. My friends call me Jack. I am a year-round resident of South Florida, North Key Largo to be exact, and I have been there since 1984. I am a recreational angler. I fish both offshore and inshore, I have managed inshore and offshore sailfish tournaments, and I am here today on my own dime.

We have talked about this 2005 working group. In 2005, when Biscayne National Park first started the process of redrafting the general management plan, which all parks are required to do every 20 years, Biscayne National Park was also required to do a fishery management plan that they shared the jurisdictional responsibilities with the Florida Fish and Wildlife Commission. With agreement of both, and with the assistance of the Florida Keys National Marine Sanctuary Advisory Council, a fishery management plan working group was formed. That group is comprised of two dozen stakeholders, along with some environmental interests. And people say that we have ignored that. Trust me, we haven't. I chaired that group.

During the same period of time, I also served on the boards of Bonefish and Tarpon Trust, the Ocean Reef Rod and Gun Club, and the Florida Keys National Marine Sanctuary Advisory Council. In fact, I am the recreational angling rep to the Advisory Council.

I still work in those same organizations today, along with the South Florida National Parks Trust, which encompasses Biscayne National Park; the Ocean Reef Conservation Association; and the Wildlife Foundation of Florida. I do this for one reason and one reason only: I want to make it a better place going forward. And the things I want to make better are the local habitat and the local fishery.

I am here today because I witnessed firsthand the degradation of the local habitat and the depletion of the fishery. We are here today because Biscayne National Park has in its 2001 draft general management plan designated a small area, 7 percent, 10,000 acres that we heard today, as a marine reserve as the means to protect and reserve what is left of that depleted habitat and fishery.

When Congress originally established the National Park System, the intention was that the parks are to be protected and preserved for the common benefit of all people of the United States, not just any one single user group. To that end, the national parks are held to a higher standard than other Federally owned lands and bodies of water and, therefore, to a higher degree of maintenance and management.

The last scientific assessment of the habitats in Biscayne National Park was conducted by the University of Miami, the RSMAS school, back in 1999. No one has mentioned that, but 13 years ago, fish stocks, 70 percent of the 35 individual fish stocks, 70 percent were overfished and undersized. I mean, do we have any reason to believe that 13 years later they have gotten any better? You know, today we have better fish finders, better bottom reading machinery, better GPS, better devices to find, catch, locate, fish. And on top of that, the number of recreational anglers has grown exponentially. I am a recreational angler; I know that for a fact.

The main purpose of a marine reserve is not to intentionally deny access to anyone, but it is to protect the precious resources that are entrusted to the park's care, at the same time offering rewarding experiences for all visitors, including sightseers, boaters, snorkelers, divers, kayakers, glass-bottom boat operators. Visitors from all around the country and all over the globe visit Biscayne National Park, and they expect to see something that resembles a national park, not a terrestrial Bureau of Land Management piece of property or just another body of water. They want to see an aquatic Yellowstone or Yosemite. That is what they expect, and that is what they deserve. Biscayne National Park is not there solely for the enjoyment of local residents; it is there for everyone, and that is why it is called a national park.

My experience in fishing and providing advice to the Florida Keys National Marine Sanctuary leaves me with the recommendation that a marine reserve is the right tool at this time. I keep hearing, oddly enough, from the Keys community, and they are encouraging NOAA to increase the number and the size of some of the similar RNAs, marine protected areas, within the sanctuary.

Coincidentally, next month we are going to see the scientific report from a research natural area at the Dry Tortugas that was put together through a collaborative effort from the National Park Service, NOAA, Florida Fish and Wildlife, and the angling community—an agreement that took years. And we have a 5-year report

coming out. And I have spoken to those scientists who did the before and are doing the present, and we are going to see all sorts of fish size growth and species increase. There is just so damn more of them.

Biscayne National Park is fortunate, and unfortunate, to be right next to such a bustling metropolis, Miami. The great park is accessible and available to millions, and unfortunately that access takes its toll. The Park Service has the responsibility to mitigate for such heavy use and to protect the resource. And if we ever want to see it recover from the decades of damage it has seen, they have to do that.

All told, I am supportive of a marine reserve in Biscayne National Park as a means to protect this unique resource that exists in my backyard and your backyard. I want my grandchildren and their children and your grandchildren to be able to enjoy this incredible resource.

I am Jack Curlett, and I am a recreational angler. You know, for years I have had people come to the Keys and go out on the water, have a great time, and say, "Wow, I can't believe it." I say, you know, "You should have been here 25, 30 years ago. You wouldn't believe what it was like then." You know, I have people say that to me whenever I say it as well, "You should have been here." Wouldn't it be great if 25 years from now——

Mr. BISHOP. Mr. Curlett, I need you to finish in a sentence.

Mr. CURLETT.—one of our kids says, "You are so lucky that my parents did something 25 years back"?

Thank you for your time.

Mr. BISHOP. Thank you.

[The prepared statement of Mr. Curlett follows:]

Statement of John J. Curlett on
"Access Denied: Turning Away Visitors to National Parks"

My name is John J. Curlett. My family, friends, and creditors call me Jack. I am presently, and have been since 1984, a resident of South Florida, North Key Largo exactly. I fish both offshore as well as inshore. Literally, at my doorstep, I have the ability to fish in either the Florida Keys National Marine Sanctuary, Everglades National Park, John Pennekamp Coral Reef State Park or, why we are all here today, Biscayne National Park. I am a recreational angler.

In 2005 when Biscayne National Park first started the process of redrafting their General Management Plan, which all national parks are required to do every twenty years, Biscayne National Park was also required to draft a Fishery Management Plan, as they shared jurisdictional responsibility of the park's waters with the Florida Fish and Wildlife Conservation Commission. With the agreement of both, a Fishery Management Plan Working Group was formed with the assistance of the Florida Keys National Marine Sanctuary and Atmospheric Association and that group was comprised of two dozen local stakeholders and several environmental representatives. I chaired that working group from January through September of 2005. During this same period of time I also served on the boards of Bonefish and Tarpon Trust, the Ocean Reef Rod and Club and the Florida Keys National Marine Sanctuary Advisory Council. I still work with those same organizations today, along with the South Florida National Parks Trust, the Ocean Reef Conservation Association and the Wildlife Foundation of Florida. I do this for one reason. I want to help make things better, those things being the local fishery, water and habitat. I am here today as I have witnessed first hand the degradation of our local habitat and the depletion of our fishery.

We are here today because Biscayne National Park has, in its 2011 draft General Management Plan, designated a small portion, seven percent, of the park as a marine reserve.

When Congress originally established the National Park System the intention was that it was to be preserved and protected for the common benefit of all of the people

of the United States, not just for any single user group. To that end, national parks are held to a greater standard than some other parcel of land or body of water and therefore deserve a higher degree of maintenance and management. The last scientific assessment of habitats and fish population in Biscayne National Park was conducted by the University of Miami in 1999. Even then, 13 years ago, it was found that 77% of the 35 individual fish stocks that could be analyzed were overfished. Have we any reason to believe 13 years later they have improved. Today we have better fish finders and bottom reading machinery and better global positing devices to catch fish. On top of that, the number of recreational anglers has dramatically increased as well. I know, I am a recreational angler.

As I mentioned earlier, I serve on the Florida Keys National Marine Sanctuary Advisory Council. The Florida Keys National Marine Sanctuary and Protection Act was signed into law in 1990. Since that time numerous areas in the Sanctuary have been set aside as Sanctuary Preservation Areas(SPAs) and Ecological Preserves. All of these, just like the proposed Marine Protected Areas for Biscayne National Park are open to everyone but uses are restrictive to non consumptive uses. At first the local Monroe County residents were up in arms that they were being denied fishing in this resource. I know. I was one of them. I am a recreational fisherman. Over the past decade, like many other local anglers, I have seen fish populations increase in and around these SPAs, and as fish tend to swim and know no defined boundaries, they end up populating nearby and adjacent reefs and habitat. Fishing around these areas has never been better.

The main purpose of a marine reserve is not to intentionally deny access to anyone but to protect the precious resources entrusted to the park's care and at the same time offering rewarding experiences for all visitors, including boaters, sightseers, anglers, snorkelers, divers, kayakers, birders, and glass-bottom boat tour passengers. Visitors from all around the country, and all over the globe, visit Biscayne National Park and they expect to see something that resembles a national park, not a terrestrial BLM piece of property or just another body of open water. They want to see an aquatic Yellowstone, or a Yosemite. That is what they expect and that is what they deserve. Biscayne National Park is not there solely for the enjoyment of local residents. It is there for everyone. That is why it is called a national park. That responsibility is ours, yours and mine.

I stand here as one of the few if not the only resident of Florida on this panel. I am an avid and regular angler of these waters. Anyone who truly knows the waters of Biscayne National Park knows that the reef is in serious danger of collapse. No conscientious angler would agree that fishing in this area shouldn't be significantly curtailed. Strong tools need to be used in this park if it is ever to recover the reef coverage or fish numbers, species, and sizes that used to exist here. Bag limits and catch sizes just won't matter in this area, as the fish simply aren't there. A marine reserve is the most logical tool to apply in this area. Indeed, during my chairmanship on the Fishery Management Plan Working Group, we came very close to recommending a marine reserve of approximately 9000 acres. This recommendation was generated by the local stakeholders who sat on that committee, not a bunch of extreme environmentalists who've never been to the park or had a rod and reel in their hand.

My experience fishing in and providing advice to the Florida Keys National Marine Sanctuary leaves me with the recommendation that a marine reserve is the right tool to use here. In fact, I keep hearing from the community that they are encouraging NOAA to increase the number and the size of these sites throughout the sanctuary.

These same results, I understand, are coming out of the marine reserve, or Research Natural Area at Dry Tortugas National Park. Indeed, through a collaborative process with the National Park Service, NOAA, the Florida Fish and Wildlife Conservation Commission, and the angling community, we came to agreement over five years ago, after many years of negotiation, that we needed to close an area in and around the reefs in Dry Tortugas. The initial results are showing that fish sizes are larger, there are more of them, and there is a wider variety of species, too.

Biscayne National Park is in both the fortunate and unfortunate situation of being right next to the bustling metropolis of Miami. This great park is available and accessible to millions of people. That access, though takes its toll. The park service has a responsibility to mitigate for such heavy use to protect this resource if we ever want to see it recover from the decades of damage that it has seen.

All told, I am supportive of a marine reserve to protect the incredibly unique reef tract that exists in my backyard. I want my grandkids kids and your grandkids to be able to see and enjoy this incredible resource when they visit Miami.

Mr. BISHOP. Now, questions for this panel. Mr. Jones, do you want to start us off?

Mr. JONES. Mr. Chairman, that is very kind. Thank you.

Mr. Chairman, I want Mr. Judge or Mr. Couch to respond. When I look at how this problem developed, it really angers me for this reason: In 2005, the National Park Service initiated negotiation rulemaking process with 26 groups, including the citizens of Dare County. The negotiation rulemaking broke down when environmental groups in 2006, Mr. Chairman and Ranking Member, walked away from the discussions. You had the Federal Government, you had the people that pay the taxes coming together to reach a compromise, and 3 of the 26 walked away—the Southern Environmental Law Center, Audubon Society, and Defenders of Wildlife.

Would you, Mr. Judge, or you, Mr. Couch, whichever one, comment on what you almost had but you lost it?

Mr. JUDGE. Thank you, Congressman Jones, and I would be glad to.

After almost 15 months of very intense 2- and 3-day continuous meetings monthly or every other month, 20, 21 different entities representing access, from ORV to local governments, which I represented, just that people have access to the beaches, to pedestrian, to birdwatchers—after all this time, in February of 2009, which turned out to be the last day—it was not scheduled to be the last day, but all of a sudden, the superintendent ruled it to be the last day—we put a plan on the floor.

That plan had 19 votes in favor, 5 votes opposed. That plan represented a huge shift from where the beach access caucuses began all the way back in October of 2007 in their initial positions. That plan had 19 votes for it, 5 votes against it.

The outfit that was hired by the Department of the Interior to run the negotiated rulemaking process instituted a rule that the only decision that would go forward would have to be unanimous. So they ruled that plan as a—they ruled that vote as a loss, that the vote failed.

Mr. JONES. Mr. Couch, will you share, with the minute and a half that is left, the—isn't Dare County, out of 100 counties, has the second-highest unemployment rate in the State of North Carolina, somewhere around 19 percent?

Mr. COUCH. Yes, sir, that is correct.

Obviously, Hatteras Island, Dare County, we are tourist-based, and our numbers fluctuate. But since this beach access fiasco, as indicated in my business—I used to do it with 10 full-time employees; now I am down to 6. I used to work 6 days a week; now I am working 10 days a week just to make up for those losses.

And this has just handcuffed it, as Mr. Judge has said, it handcuffs our—we have no predictability other than what will come in bird closures, thus stifling our economy.

Mr. JONES. Mr. Chairman, in closing, I would like to say that a gentleman who served in World War II that lives in Dare County, that stormed the beaches of Omaha and later became injured, who has enjoyed going out to fish down in Hatteras and that area, that he has to have somebody carry him, he now cannot get on the beach to fish because of the vehicle situation, but yet he was will-

ing to give his life for this country. That is why this is an important hearing. And we must find balance before it is too late. And the people of this country have a right to those accesses.

So I thank you for letting me sit on the dais today.

Mr. BISHOP. Thank you. Appreciate that. There may be other rounds of questions if you want to stay.

Mr. Grijalva, do you have questions?

Mr. GRIJALVA. Yes. Thank you, Mr. Chairman.

Dr. Frost, in reference to 4094, if you could quickly, if you have figures, that would be very useful. What was the economic benefit of the park to the local area that we are referencing today?

Mr. FROST. You want dollar figures?

Mr. GRIJALVA. Yeah.

Mr. FROST. I don't know if I have those numbers off the top of my head. And I apologize. So I will have to get those numbers for you.

Mr. GRIJALVA. We would appreciate that.

Mr. GRIJALVA. What is the plan for the ORV permit money?

Mr. FROST. The plan would cover the costs of implementing the permit basically. It doesn't do anything else. So in terms of, you know, the staff time that would be required to issue the permits, help on law enforcement, help on resource protection, it wouldn't go into any other operational sort of thing for the park. It would just be used to cover the operational expenses of implementing the permit system.

Mr. GRIJALVA. Thank you. Commissioner Judge, in your testimony, you claim that the park's new ORV policy has destroyed the economies of the community by limiting or cutting the access to the park.

Let me get some points of clarification if I may, Commissioner. In the 2009 Dare County tax report, which was issued following the impact of the consent decree, stated that the community had fared well and experiences a revenue reduction of 0.53. Is that figure correct?

Mr. JUDGE. That is macroeconomics for the county of Dare. The county of Dare reaches from the Dare County Currituck line to the Hatteras inlet, approximately 93 or 94 miles. We have thousands of homes that stretch from that area.

Mr. GRIJALVA. So overall it is 0.53?

Mr. JUDGE. Yes, sir. But that is the entire county. It doesn't talk about the villages of Buxton and Frisco and Avon specifically.

Mr. GRIJALVA. Thank you. And that same report stated that expected growth rate would be 6 to 8 percent overall in the county, correct?

Mr. JUDGE. Yes, sir.

Mr. GRIJALVA. Occupancy of campgrounds, cottages, motels, as measured and reported by Dare County on its tax report, appears to have increased since the emergency ORV restrictions were put in place.

Mr. JUDGE. The economy of Dare County, the commerce of tourism has enjoyed growth over the years because of the family destination that we are. But again, you are looking at a countywide figure. That doesn't break out and talk about the impact on the

businesses in the villages of Hatteras Island which is inside the Cape Hatteras National Seashore Recreational Area.

Mr. GRIJALVA. The consent decree agreed to by the lawyers in your community and particularly negotiated by your county attorney, your group signed the paperwork that ended the first lawsuit; that is correct, right?

Mr. JUDGE. Part of that statement, I would like to challenge, and that is that our county attorney—I don't think any of y'all, if you knew the facts, would agree that he in any way handled negotiations. In fact, it was after he came home after the first round of negotiations in Raleigh with the special interest groups and the U.S. attorney, that we released a press release that we were pretty much cut out of the process. Shining the light of day on the process grew their anger, and he was told what the deal was going to be. And, yes, I along with my six other colleagues, we did sign a consent decree; as my colleague Alan Burr said, we chose to be shot in our foot and not in our head.

Mr. GRIJALVA. And Commissioner, one of the things that I understand is a significant threat to the beach nesting wildlife at the seashore, especially on Harris Island, are the feral cat colonies. And just for my own edification, I know that the Commissioner and Dare County is concerned about that, concerned about the wildlife. What is being done to address that very dangerous situation with feral cats and the wildlife?

Mr. JUDGE. I don't know that I can speak to how—the National Park Service shoots animals in the National Park Service. I really can't address in the national park—I am not an expert on that, other than we know that they kill a bunch of them.

Mr. BISHOP. OK. Well, there may be some other rounds here, if you want to follow up on that question at another time. I am going to have to leave in a few minutes. And the good Congressman from Florida will take over from here. So let me ask a couple of questions just before I go. Usually I try to go at the end. And I apologize for that.

Commissioner Wright, if I could ask you to very briefly tell me about the MOU that Florida Fish and Wildlife has with the Park Service and why it is relevant in this situation.

Mr. WRIGHT. Thank you, Mr. Chairman. The MOU is up, in fact, to expire in this coming September. But that memorandum of understanding is between the Park Service and the Fish and Wildlife Commission, entered into and, quite frankly, we were concerned—my predecessors on the Commission were concerned about the possibility of no-access areas being created. And there is specific language in the MOU that provides that no-access areas would not be used for purposes of fisheries management.

Mr. BISHOP. All right.

Mr. WRIGHT. And we are the agency that does fisheries.

Mr. BISHOP. I appreciate that. And I will ask Mr. Rivera to follow up on that concept with me at some time.

Mr. Judge, as I understand it, there was a lawsuit that dealt with this. Was that lawsuit ever adjudicated?

Mr. JUDGE. No. No, sir.

Mr. BISHOP. So you did a consent? You cut a deal in some way?

Mr. JUDGE. The U.S. attorney and Southern Environmental Law Center, representing their clients, cut the deal. We were defended interveners.

Mr. BISHOP. So let me see if I get this right. And this is not necessarily a question, Mr. Frost. It is a frustration I have with the entire Department of the Interior that keeps touting their wanting to do common sense and this doesn't seem like common sense.

The economic study you did that was purported in here took care of the entire county, but did not deal with the areas that are most impacted by this piece of property. You created a buffer zone that is far greater than any other buffer zones we have seen for certain purposes. We have—the Department of the Interior ignored local concerns and local input. There was a lawsuit that was never adjudicated by a court. Instead, you cut a deal before it ever happened, which even if that deal was appropriated, smells once again of political decisions being made outside of court to try and do some kind of political agenda.

Good grief, this is a recreation area. And the only thing you seem to be prohibiting is recreation. It does not make sense. And I can understand why the people of North Carolina are so upset about that. When you have specific requirements in there that simply tell people—what is the verbiage you have there? Shoreline open to restricted pedestrian access. Leave no footprints behind. Walk in water where footprints wash away. No vehicles. No pets. No kites.

No wonder when States in the West want to take back Federal land, they don't want Park Service land because it doesn't produce any revenue, because the Park Service has an attitude that makes it unfriendly and unpopular and disinviting for people to actually welcome it and to go there. This is a recreation area. It should be a primary concern.

So what the Park Service has done—and this one is totally inconsistent with reality. It defies common sense, and it is simply inappropriate. And I thank Representative Jones for introducing this legislation, because somehow someone has got to bring reality back to the Department of the Interior, which seems to be devoid of that very concept. And fortunately, I hope we don't do the same mistake in Florida, which is why this oversight hearing is here.

Obviously what the local people are telling you is you are marching along a path that is going to lead to another conflict again, and hopefully you will make decisions ahead of that time that don't send you down to a wrong decision. Get local input in there. I have always said that I really trust the people on the ground back in the State because they understand the situation. It seems as soon as you go up the food chain here, all of a sudden arbitrary decisions are made often. And once again, a lot of those decisions are made by consent decrees where a case is not being adjudicated, simply the Department is a making a deal outside of court and then saying, well that is what we have to do because that is the way the process works.

I am sorry. This looks wrong. It smells wrong. It is bad. And once again, I realize you are not the decision maker there. But Mr. Frost, when you go back to your colleagues, tell them once again they have screwed up. Fix it. And I yield back.

Mr. Rivera, if you will take my place. And I think it is fair to say, Mr. Rivera, you have not had a chance to ask any questions. Please feel free to take that opportunity and then we will give Mr. Grijalva a second round here.

Mr. RIVERA. [Presiding.] Thank you, Mr. Chairman. I am actually going to yield to Representative Jones my time so we can continue on the Cape Hatteras issue and then Mr. Grijalva as well. Representative Jones, you are recognized.

Mr. JONES. Mr. Chairman, thank you very much.

And I want to say that if you knew Dare County well, you would understand that they are two different worlds. The upper part of Dare County is where you have Kill Devil Hills, you have the areas where the Wright brothers took off for the first flight. That is where the people are going. They go down to where these people live because that is where they can fish. It is two different worlds. It is two different economies, quite frankly.

And I want Mr. Judge or Mr. Couch to speak to the fact that the two different worlds—and they are so different, it is almost unbelievable; the same wonderful people, but most of the people that have moved from the north and the west to Dare County end up living in the northern part of the county—excuse me, Mr. Chairman—but the southern part of the county is where these people are coming from, and it is their economy that is collapsing, thanks to the Park Service who, in 2005 said, We want to work with you. We want to see this work. But all of a sudden when the lawsuits came, they just changed their whole attitude. And I agree with the Chairman's words. So if you don't mind, if Mr. Couch or Mr. Judge could speak on the two different worlds.

Mr. COUCH. Thank you, Congressman Jones. There are two important things I would like to go ahead and mention. Tomorrow there is a fishing tournament. It is an individual surf fishing tournament, sponsored by Four Plus out of Richmond, Virginia. It takes in 600 individual contestants for a 24-hour tournament, and it limits it to 600 people. Last year, it dipped to 550. As of yesterday, it has a total enrollment of 373. We have a fishing tournament in the fall which is done by Capital City out of Richmond, Virginia. It will most likely be the same thing.

When the Park Service closes down Cape Point, which is right at my backdoor, last year it closed before April 1 and stayed closed all the way until August. Those people in our businesses that are around that entrance into that ramp, we suffered greatly. Those people who want to go to Cape Point but can't because a threatened species has 1,000 meters worth of protection all the way around it, that business goes elsewhere, and we are denied that until August. And these things can be easily fixed if the Park Service would listen. Warren?

Mr. JUDGE. Thank you, Congressman. And that is a very good question, a very good point. Hatteras Island is the vacation land for not only the people that stay on Hatteras Island but the people that stay north of Oregon and for residents of Dare County. There are two extremely valuable areas in the Cape Hatteras National Seashore. One is the Oregon inlet spit, which we have no more access there, and that is one of the greatest places to go on the backside of that spit and take your little children, your families. People

would cook out. They would spend a day picnicking. And the kids could wade in tidal water that was calm and safe for them. Parents could have a great family experience. The other place is South Beach, just adjacent to the geographical area that John was talking about, just to the west of Cape Point, again, one of the greatest beaches for people to go to enjoy safer waters from the ocean's edge, and it is where we go. It is where the resident goes as well as the tourist.

And Congressman, a very important point here. We talk about all these miles, and the special interest groups are going to argue one point and we are going to have another point. The Park Service has even another point. The Park Service developed this beach access by vehicle. There are 11 accesses from Oregon inlet to Hatteras inlet. There are 805 parking spaces. Unless you can afford to own and rent an ocean-front house or own it, you have to drive to the beach. That is how it was developed. There are 805 parking spaces. And you have to be an athlete to park in one of those parking spaces and make it to the beach. We eliminate children. We eliminate the elderly. We eliminate the handicapped under this rule.

Mr. JONES. Thank you, Mr. Chairman.

Mr. RIVERA. Representative Grijalva.

Mr. GRIJALVA. Thank you, Mr. Chairman. Mr. Couch, in your testimony—and you are trying to make the case for the economics of small business in your testimony. Your testimony puts almost the entire blame on reduced access to the small part of the area as the cause for that business drop. The park, as I understand it, has consistently seen an increase in visitation over the last 5 years. Occupancy rates have also increased, climbing to record levels in 2007, 2008, 2009, 2010.

Dare County has also, if I may—and I want to know what that impact has had on small businesses—has also made choices to impact your small business and others, including allowing several box stores like Home Depot to be built, increasing the footprint of Wal-Mart. And you know the history of Wal-Mart is as they grow, and they are able to undercut, and the price is lower and the choice is greater, businesses that used to do the same thing that is now in that big box began to disappear in local and smaller communities.

There have also been zoning regulations that have been changed. This recession has been the worst in 80 years. Hurricane Irene hit the island. People have cut back on personal spending. So how would you categorize all those economic impacts relative to the influence that the park is having in terms of the access issue?

Mr. COUCH. Thank you for your question. Home Depot, Kmart, Wal-Mart the new Lowe's is about 89 miles from my door. I certainly can't go there and get back in time for lunch. It is an all-day trip. The figures that are typically given in response to our concerns are for the more populated areas of Kill Devil Hills, Kitty Hawk, and certainly not Hatteras Island, and also includes Ocracoke Island, one of the poorest counties within the national seashore. There are eight villages that live within the seashore. People have to come in to us. And we are dictated by the Park Service with this ORV rule of when and where and how business is going to be conducted. We can't go ahead and expect that. When

you come on to Hatteras Island, you come across Bonner Bridge and you go down through Pea Island Wildlife Refuge, which is 13 miles, and then there is another additional six to seven miles before you can even go ahead and access the beach by ORVs.

And ORVs is getting a bad name. This is just motorized access. It enables my children, my grandchildren, and my elderly relatives, so I can take them to the beach and we can sit there all day long.

Mr. GRIJALVA. That part was part of your initial testimony and I appreciate that.

Mr. COUCH. Thank you.

Mr. GRIJALVA. Just one more question if I may, Mr. Couch. Your organization was an intervener on behalf of the park during the 2008 lawsuit. Your group signed off on the consent decree; correct or incorrect?

Mr. COUCH. That is correct.

Mr. GRIJALVA. And now the plan is not exactly what you want. So your group is now countersuing for that open access?

Mr. COUCH. That is correct.

Mr. GRIJALVA. And as the process goes forward, you know, the population of Dare County is about 35,000 people, if I am not mistaken. That was the commissioner's testimony. In the summer it goes up to 100,000. Any public safety issues that you see on those beaches, now that you are commenting on that for the long haul, when people and vehicles collide?

Mr. COUCH. No. I don't characterize it that way. It is not certainly a safety issue. I would certainly like to go ahead and see what type of statistics are being used for somehow some sort of safety measures, when there is to my knowledge no data to support that. But we have a situation down there where these closures—and I kind of get back to this—when they put 1,000 meters around an area for a bird and then it closes off areas that are otherwise open but you can't get to.

And these numbers of the economy, they don't sustain those for Cape Hatteras, Hatteras Island and Ocracoke Island.

Mr. GRIJALVA. I appreciate it, sir. Thank you, Mr. Chairman.

Mr. BISHOP. Thank you very much. I am going to yield a minute or so of my time to Representative Jones.

Mr. JONES. Mr. Chairman, thank you. And this will be my close in a way. You have been very gracious.

I want to ask about the zoning of box stores in the county. And that would go to Mr. Judge. And then I would like if there would be some response to what the Ranking Member was saying about the safety issue.

Mr. JUDGE. Thank you, Congressman Jones. Dare County, the zoning in the stores that the Ranking Member asked about are—although they are in Dare County, they are not in Dare County's governmental jurisdiction. They are in the towns of Kill Devil Hills and Kitty Hawk. Years ago, Dare County zoned—we put a limit size on big box stores. I believe the most you can have is 20,000 square feet. We did it in conjunction with our land use plan. Our land use plan specifically speaks to the nurturing and the reinforcement and the continued development of our mom-and-pop businesses.

The only thing you can build bigger than 20,000 square feet in unincorporated Dare County would be a hotel or a motel, if it was in a properly zoned—if it was in a correctly zoned part of the county.

As far as public safety, I am unaware of any public safety issues. The Park Service has an outstanding force of rangers. They have a great relationship with the Dare County Sheriff's Department. We have seven volunteer fire departments on Hatteras Island that all participate in ocean rescue and are trained in that way. We have an independent village EMS service that is an adjunct to the Dare County EMS Service. Here again, they are very well trained on water rescue and those types of things.

So I am unaware of—that is not to say that the ranger won't arrest somebody tomorrow for a traffic violation on the beach. It is not to say that there might be an injury on the beach or whatnot. We are certainly not free of any sort of problems. But I know of no public safety issues that should be of concern should H.R. 4094 be adopted.

Mr. JONES. Mr. Chairman, in closing, again I thank you and the Ranking Member. If you really would go back and just see, when they try to work a plan out and the stakeholders came together with the exception of four or five, and when you look at the fact that, again, these are two different worlds, I cannot stress that enough. You go from the growing area of Dare County where people are moving in with money, buying the big homes and everything. And you go down over the bridge and you go down to Rodanthe, Buxton, and Hatteras and those areas, it is wonderful but it is two different worlds. And their economy is strictly and only succeeds because people come to that part of Dare County. And if they stop coming and they half the people that are coming now, then it won't be but so long before these small businesses that are independently owned, they will go out of business.

That is why we need to find common sense with the government and the people who pay the taxes of those of us who work for the government. And we need to understand, we are public servants. Public servants need to find compromise. Extremism will ruin this Nation. This is a prime example. This is what is going to happen to the southern part of Dare County if we don't help them out. Thank you for this time.

Mr. RIVERA. Thank you very much. I am actually going to yield back the remainder of my time on this round. And we still have some questions on Cape Hatteras so we will go to Mr. Grijalva.

Mr. GRIJALVA. Dr. Frost, Biscayne, a couple of oversight questions. One question: Through the testimony we have heard relative to that, the impression one gets is that this process has been in the dark, that there has been no transparency, that people don't know that they had limited to no input, that the public comment period was limited. How many public meetings have you had?

Mr. FROST. I think there were three public meetings over the course of 3 or 4 years.

Mr. GRIJALVA. And how many comments have you received?

Mr. FROST. I think somewhere around 18,000.

Mr. GRIJALVA. And how would you categorize those comments?

Mr. FROST. Most of those comments are in support of the marine reserve or establishing a marine reserve.

Mr. GRIJALVA. And Mr. Curlett, thank you for your testimony. Are people in the angling community supportive of the reserve? And if you could briefly—because I have other follow-up questions on this—if you could briefly tell me why.

Mr. CURLETT. Well as I started to say earlier, we have several reserves in the Keys. And we have had them there for—starting 20 years ago in 1990. I fought them 20 years ago. I was dead set against them. I was on the Sanctuary Advisory Council to be the other side. And after serving on the Council over the past 8 years, I see them work. I have seen them work in the Dry Tortugas, and I have seen them work right in front of my house off of Carysfort Reef. Biscayne National Park is an intensive care patient. You don't give it two aspirins and send it home. It needs something a little bit more dramatic, unfortunately.

Mr. GRIJALVA. And the reserve is——

Mr. CURLETT. The reserve is it.

Mr. GRIJALVA. Thank you. Mr. Wright—and thank you for your testimony as well.

Counsel, the MOU that we have been referencing was signed in 2002 and again in 2007. You were not a member of the Commission until August of that year; is that correct?

Mr. WRIGHT. That is correct, sir.

Mr. GRIJALVA. So let me ask, the Florida Fish and Wildlife Commission, what science does it use to make their decisions to continue sustainability of their fisheries and to make those vital decisions that you, under the MOU, have that prerogative?

Mr. WRIGHT. I am glad you asked that question. Our research institute is world famous. We regulate our fisheries not by intuition or guesswork, or certainly not by referendum, but we regulate by science. We have scientists that are renowned for the fisheries management that we do. We have brought back red fish from the brink of extinction. We manage down to the point of scientifically determining the spawning potential ratio of surviving fish after a sustainable catch. And that is the kind of science that we think ought to be at least looked at in this instance before we go to an absolute closure.

Mr. GRIJALVA. Thank you. And let me in reference to the science—and I think that is very important. And if more decisions were made on science, in fact, we would be a lot better off, all of us collectively.

The Port of Miami is pursuing a big expansion to attract those big freighters that are going to be expected to arrive from Asia when the Panama Canal gets widened. That is supposed to be completed in 2014. There is opposition from the environmentalists and anglers over the impact on species and the coral reef. Yet your organization, the Commission, has voiced support for allowing there to be 600 no fishing days with this new work. You see that as a valid action; yet creating the marine reserve zone to protect activity such as scuba diving is not valid? How do you reconcile those two?

Mr. WRIGHT. Well, because there is a scientific basis for the reconciliation. There has been a comparison to the Dry Tortugas clo-

sure to the one proposed in Biscayne National Park. The Dry Tortugas, by comparison that area is, number one, extremely remote and it encompasses 400 square nautical miles. The area that is being proposed for closure is literally within the outskirts of Miami and, by comparison, constitutes only 16 square miles. The ability to manage 400 square miles from a closure as opposed to 16 is overwhelming.

Mr. GRIJALVA. I appreciate that, counsel. And with that, Mr. Chairman, thank you for your courtesy. And I yield back.

Mr. RIVERA. Thank you. Thank you so very much.

First, let me ask for unanimous consent to include into the record statements submitted by Tom Davidson of the Bonefish Tarp and Trust and Bruce Popham of Marathon Boat Yard Marine Center who support the Service's proposal.

And in opposition, I would like to submit statements from Carl Liederman of Captain Harry's Fishing Supply Company; Jefferson Angers, President of the Center for Coastal Conservation; Joe Neber of Contender Boats Incorporated; Don Waters, a Florida State spearfishing champion with over 40 years of experience in diving and fishing in the park; Karl Wickstrom, the founder of Florida Sportsmen; and Rob Southwick, President of Southwick Associates, which conducted a socioeconomic impact study of the Service's proposal.

I also have a letter to Secretary Salazar from both of Florida's Senators, Senator Bill Nelson and Senator Marco Rubio, that was sent yesterday in opposition to the Park Service's proposal. So, without objection, I would like to ask that these be included in the record. Seeing no objection.

Now to my questions. Biscayne National Park is the largest marine park in the National Park System. My constituents visit the park for all the recreational activities available there. A large component of these activities is recreational fishing, which supports and sustains angling and angling-related jobs in South Florida. A healthy fishery is vital to these businesses, and we should work on conserving these natural resources and certainly not locking them up.

Just to offer a few statistics, Florida's approximately 2 million saltwater anglers annually contribute approximately $3 billion in retail sales, 50,000 jobs, and over $345 million in State and local tax revenues. Similarly, the boating industry supplies over 200,000 jobs and over $16 billion in economic impact statewide each year, with a substantial portion of that economic output occurring in South Florida.

Now in their letter, Senators Nelson and Rubio say, quote, the measures proposed in the Park Service plan represent the most extreme tools available for making fishery management modifications to Biscayne National Park, ignoring alternative ways to achieve the desired resource improvements without sacrificing the public's ability to access and enjoy the park, unquote.

The Biscayne National Park Fishery Management Plan Working Group—and Mr. Curlett, you are the chairman of the working group—in their capacity to consult on the fisheries portion of the park's general management plan, did not include implementing marine reserves or no-take zones within the park in their final rec-

ommendations. However, the Park Service, in their preferred alternative plan, plan four, does include a marine reserve.

So first, Mr. Frost, the Service went against the recommendation of the working group?

Mr. FROST. Well, the working group was dealing primarily with fishery issues and a fishery management plan. The GMP is a much broader document and it looks at all aspects of how we manage a national park. And as part of the MOU, we mentioned in the MOU that while we weren't going to look at marine reserves in the fisheries management plan, we reserved the right to look at a marine reserve as part of the larger GMP process. So if you read the GMP in its entirety, it is really not just about fishing. It is about visitor use and visitor experience.

So Biscayne was established to provide a variety of visitor experiences. People like to come there to snorkel. They like to come to scuba dive. They come to watch wildlife. They come just to hang out and be quiet. And then they come to fish. So there is a variety of users.

So the GMP is trying to make those visitor experiences to everyone available. So what the marine reserve is going to do is, while it will restrict fishing in that 7 percent of the park, it is not going to restrict anything else. Boats are still going to be able to go into that area. They are going to be able to tie up to moorings. They are going to be able to dive. They are going to be able to snorkel. They are going to be able to swim in the water. So it is just that—we are trying to—but at the same time, by doing that, we are going to allow that fisheries to recoup. And what that is going to provide is, it is going to provide sort of a respite from the pressure of the fishing. And those fish along the coral reef, they are going to grow and they are going to be bigger, and that is what people want to see. They want to come and see big fish. And as a result, as that happens over time, those fish are going to spill out and it is going to be available for fisheries options, too.

Mr. RIVERA. Well, you really read my mind in terms of that distinction between the GMP and a fishery management plan. So let me ask you specifically: I believe in the memorandum of understanding which the Service has with the Florida Fish and Wildlife Conservation Commission, all fisheries within the park will be governed cooperatively with the Florida Fish and Wildlife Commission in a fishery management plan, not a general management plan.

So why is the Park Service placing fishery management issues in the general management plan and not the fishery management plan? And how is that consistent with the MOU?

Mr. FROST. Well, again, as I stated previously, the general management plan is looking at visitor use primarily. And as sort of a side thing for visitor use, trying to enhance those recreational opportunities, you are going to get some fisheries benefit. The GMP is not trying to regulate a fisheries there. It is really about, how do we operate a park to provide a broad opportunity for all visitors—not just one subset of visitors but all visitors—an opportunity to experience the park the way it was envisioned when it was created back in the 1960s?

Mr. RIVERA. Well, let me ask Mr. Wright. In Mr. Popham's statement in support of the park's proposals, he brings up the protected

areas in Dry Tortugas National Park, which you mentioned earlier. I guess, first, I would like you to comment on Mr. Frost's comments just now but also—I know you mentioned it earlier—but briefly compare and contrast Dry Tortugas National Park and Biscayne National Park.

Mr. WRIGHT. Let me take the latter first, if I can, Mr. Chairman. First of all, there is no scientific basis for the almost intuitive assumption, if you will, that by closing an area within the Biscayne National Park that there are going to be, quote, big fish and that big fish will migrate from that and will enhance fishing opportunities surrounding that area. There simply is no—I am not saying that that is an incorrect statement. I am saying that I have consulted with my staff, and I am being told there is no scientific basis to make that statement. And, of course, then there is no scientific basis for the closure that is based on that assumption.

With regard to taking an area and enhancing the experience——

Mr. RIVERA. Before you go there, can you also briefly describe the consultation the Service had with the Commission on Dry Tortugas and what you were just talking about, the comparison between Dry Tortugas and Biscayne National Park? Was there any consultation?

Mr. WRIGHT. There was a consultation, and we supported that. That is a completely different ecosystem. It was impacted and was to benefit in that closure, if you will, because of the very distinct stresses upon it. But it is remote from activities. As I indicate, it is 200 square miles as opposed to 16 square miles. There were a lot of reasons why, based on the science and based on the recommendation of our scientists, we did support that.

But we do not support this one. And we do not believe that there should be a closure denying anglers an opportunity; and, if you will, at their expense providing an opportunity for others. We have found, the Commission has found that the resource can be managed effectively and access can be granted to all persons but not necessarily to exclusive groups.

Mr. RIVERA. And did you want to comment at all on any of the earlier comments from Mr. Frost on the use?

Mr. WRIGHT. Well, on the use—well, on the use issue, that is what I was speaking to, Congressman. We, as a Commission, regulate fisheries and have historically regulated them while providing the most protection with the least regulation. It is my belief as a commissioner—and I speak for my Commission and for our staff—that there are many other successful tools in our toolbox to regulate this area in consultation with the Park Service for the goals that they claim they want to achieve without leaping directly to the most draconian measure, which is a closure of use or limitation of use.

Mr. BISHOP. Mr. Frost, have you consulted with the Florida Fish and Wildlife out at Biscayne National Park? And how is their input incorporated?

Mr. FROST. Yes. I know that our superintendent and our regional director just met recently with staff from the Florida Fish and Game Commission. And the bottom line is we need the State Fish and Game agencies to work closely with us. And we want to continue to reach out to the Commission and to the staff to continue the dialogue.

The thing we have to remember is we haven't made a decision. This is a proposal. We are continuing to have those discussions. We want to have additional discussions before the plan becomes final. So we absolutely have reached out and we are going to continue to reach out before the plan becomes finalized later this year.

Mr. RIVERA. Let me go directly there to these proposals. I see in alternatives 3 and 5, you included a permit zone in a northwest portion of the park. My understanding is that anglers would have been required to purchase a permit to fish in those waters. Instead of a marine reserve, would the Service consider this proposal for the reserve no-take zones in alternative 4? First question. And perhaps ban fishing for specific species seasonally during their spawning periods? I have been told that enforcement has been a problem in the past. Perhaps funds generated from the permits or fines or infractions can be used for increased patrols and inspectors, so have less intrusive proposals like this that have been studied and evaluated?

Mr. FROST. Absolutely. I mean, as you stated in the other alternatives, we haven't evaluated those alternatives. And we have to be a little bit careful because we don't want to be predecisional and sort of mess up the NEPA process. But we have heard all the comments and we are considering them. So absolutely, we are going to look at those options and see how we can make the best decision possible in the final general management plan.

Mr. RIVERA. In meetings I have had with Parks Director Mark Lewis, I have been told that anglers do not even fish in the proposed marine preserve. So can you provide the Committee, within the next week, with any surveys or studies the Service has done to come to this determination and the methodology of that survey?

Mr. FROST. We will provide you whatever we have, absolutely.

Mr. RIVERA. Let me ask Mr. Crook, since you gave your testimony earlier, any thoughts that you may have regarding anything you have heard today from the Park Service or anyone else?

Mr. CROOK. Yes. I would like to make sort of a summary comment. As to the use of the park, Superintendent Mark Lewis mentions 15 to 20 moorings with no anchoring. This is so far away from the current use that enhanced use of the park and the benefits that it provides don't seem to be consistent.

In the case of the coral reefs, we have to look at the numerous threats that are happening all over the world. And it is not just angling. We have disease. We have warming, acidification, and we have environmental issues that took place 30, 40, 50 years ago that are probably a major effect on the fisheries over the last 10, 20 years.

When I was growing up, about a mile north of the Feather Beds Banks, you could no longer see the bottom of the bay. Today you can see the bottom of the bay almost to the Rickenbacker Causeway. The water cleanliness, the water quality is a major issue as to what happened to the park.

I contend that when the University of Miami in 1999 said fish stocks were down, I would not dispute that. And I say this from a common user's point of view, not a scientist, not an enforcement agency or some fisheries commission, but from our customers, the people that are with us. The quality of the water today is better.

That will start to generate a habitat. The grass beds are better in the north bay. It will improve the habitat that is in the park. And over time—and I can talk almost to an angler, to a charter boat guy, and probably to most law enforcement, there is better fishery today than there was 10 or 15 years ago.

There are issues, and we can get into species specifics, that will tell you there are exceptions to what I have just said. And I would not deny that. But that falls back to fish management. It is an ongoing effort that needs to be made. Just stripping access and making closures is not the answer.

The economic impact—I was talking to a charter boat guy. If we start making closures, the amount of dollars that they generate, it doesn't just go to the chapter captain, the charter boat. It goes to the suppliers of products he needs, it goes to his crew who earn livelihoods from it, the people he buys stuff, there are livelihoods at stake.

So to date, the fishing establishments in Miami have decreased severely over the last 5 years under current economic conditions. If we further reduce the economic value which fishing brings to South Florida, we are going to affect more livelihoods.

Mr. RIVERA. Thank you. Thank you very much. Mr. Curlett, do you have any final thoughts?

Mr. CURLETT. Congressman Rivera, if I might, two things. You hit on the Fishery Management Plan Working Group and not coming to a decision to close, have an RNA. They didn't have a decision not to have one. In fact, we were told we could not have one under that MOU. We were scheduled for five meetings. We had to have a sixth meeting because we started pushing on that. I said "we." The group did. The stakeholders did, from Bill Curtis who had fished that resource for 60 years and would tell you that there is nowhere near the fish there today that there were 60 years ago. And we had a sixth meeting and we were that many votes away from agreeing to an 8,500-acre RNA in the park. So the Fisheries Management Group did kick it around.

Second, it is in your testimony that there are other tools in the box to use. The fishery was depleted, the last scientific report in 1999; where the heck are the tools? The tools have been there, the same tools. What tools have been used to bring it back? Once again, this is a patient on life support. Giving it a couple aspirins and sending it home and saying, we will look at you tomorrow, is not going to work. I fish there. I live within a 5-mile ride of the Carysfort no-take zone. I see the success story there. I am a recreational angler.

Mr. RIVERA. Thank you very much. I want to thank the Chairman for holding this hearing on a very important issue that affects the real lives of a lot of people, both in North Carolina and in Florida and, really, for the Nation.

I think Congresswoman Ros-Lehtinen, Congressman Diaz-Balart, Congressman Jones, were very prescient in their comments to note the real impact that this has on our fisheries and on our economy.

I want to thank the panelists as well. Thank all of you for being here and for your time and effort. I look forward to receiving information from the Park Service as we go forward.

I would like to note that members of the Subcommittee may have additional questions for the witnesses, and we ask that you please respond to these in writing. The hearing record will be open for 10 days to receive these responses.

Mr. RIVERA. And if there is no further business, without objection, the Subcommittee stands adjourned.

[Whereupon, at 10:55 a.m., the Subcommittee was adjourned.]

[Additional material submitted for the record follows:]

Documents Submitted for the Record for H.R. 4094

The following documents submitted by The Honorable Walter B. Jones, Jr., in support of H.R. 4094 have been retained in the Committee's official files.

- AFFIDAVIT, State of North Carolina, County of Dare
- Allegro, Peter, Secretary, Rhode Island Mobile Sportsmen Inc., Letter submitted for the record
- American Sportfishing Association, B.A.S.S. LLC, Center for Coastal Conservation, Coastal Conservation Association, Congressional Sportsmen's Foundation, and International Game Fish Association, Letter submitted for the record
- Conk, Gary L., Director, New Jersey Beach Buggy Association, Letter submitted for the record
- Correia, Bill, Vice President, Massachusetts Beach Buggy Association, Letter submitted for the record
- Eakes, Bob, President, Red Drum Tackle Shop, Inc., Letter submitted for the record
- Gilliland, Reb, New Jersey Beach Buggy Association, Letter submitted for the record
- Hardham, Lawrence, Letter submitted for the record
- Hyde County, North Carolina, Resolution submitted for the record
- Joyner, David K., President, North Carolina Beach Buggy Association, Letter submitted for the record
- Judge, Warren C., Chairman, County of Dare Board of Commissioners, Letter submitted for the record
- Spear, Hon. Timothy L., State Representative, North Carolina General Assembly, Letter submitted for the record
- Taylor, Douglas A., Secretary, Jersey Devils Fish Club, Letter submitted for the record
- White, Hon. Stan M., State Senator, North Carolina General Assembly, Letter submitted for the record

Documents submitted for the record for the Oversight Hearing on "Access Denied: Turning Away Visitors to National Parks"

- Angers, Jefferson, Center for Coastal Conservation, Letter submitted for the record
- Curlett, John, North Key Largo, Florida, Letter submitted for the record
- Davidson, Tom, Bonefish and Tarpon Trust, Letter submitted for the record
- Liederman, Carl, Capt. Harry's Fishing Supply Co., Inc., Letter submitted for the record
- Neber, Joe, Contender Boats, Inc., Letter submitted for the record
- Nelson, Hon. Bill and Hon. Marco Rubio, U.S. Senators, Letter to Secretary of the Interior Ken Salazar submitted for the record
- Popham, Bruce, Marathon Boat Yard Marine Center, Letter submitted for the record
- South Beach Dive and Surf, Grove Scuba, Aquatic Explorers, Underwater Archaeology Program, Tennessee Aquatic Project and Development Group, National Association of Black Scuba Divers, History of Diving Museum, Tarpoon Lagoon Dive Center, and Beneath The Sea, Inc., Letter submitted for the record
- Southwick, Rob, Southwick Association, Letter submitted for the record
- Waters, Don M., Sr., Palmetto Bay, Florida, Letter submitted for the record
- Wickstrom, Karl, Florida Sportsman, Letter submitted for the record
- Youngman, Julia F., Southern Environmental Law Center, Letter, statement, fact sheet and photographs submitted for the record

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