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REPLACEMENT OF COASTAL BARRIER RESOURCES SYSTEM MAP RELATING TO GRAYTON BEACH UNIT FL–95P IN WALTON COUNTY, FLORIDA

SEPTEMBER 6, 2006.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 479]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 479) to replace a Coastal Barrier Resources System map relating to Coastal Barrier Resources System Grayton Beach Unit FL–95P in Walton County, Florida, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. REPLACEMENT OF COASTAL BARRIER RESOURCES SYSTEM MAP RELATING TO GRAYTON BEACH UNIT FL–95P IN WALTON COUNTY, FLORIDA.

(a) IN GENERAL.—The map described in subsection (b) relating to the Coastal Barrier Resources System unit Grayton Beach Unit FL–95P, located in Walton County, Florida, as included in the set of maps entitled "Coastal Barrier Resources System" referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)), is hereby replaced by another map relating to that unit entitled "Grayton Beach Unit FL–95P and Draper Lake Unit FL–96" and dated "July 24, 2006".

(b) REPLACED MAP DESCRIBED.—The map replaced under subsection (a) is subtitled "COASTAL BARRIER RESOURCES SYSTEM GRAYTON BEACH UNIT FL–95P DRAPER LAKE UNIT FL–96" and dated October 24, 1990.

(c) AVAILABILITY.—The Secretary of the Interior shall keep the maps referred to in subsections (a) on file and available for inspection in accordance with the provisions of section 4(b) of the Coastal Barrier Resources Act (16 U.S.C. 3503(b)).

49–006

PURPOSE OF THE BILL

The purpose of H.R. 479 is to replace a Coastal Barrier Resources System map relating to Coastal Barrier Resources System Grayton Beach Unit FL–95P in Walton County, Florida.

BACKGROUND AND NEED FOR LEGISLATION

The John H. Chafee Coastal Barrier Resources System is made up of coastal barrier units which are delineated on maps adopted by Congress. These units consist of undeveloped sections of coastal barrier islands and the associated aquatic habitat which lies behind these barriers. The System was created by the Coastal Barrier Resources Act of 1982 (CBRA) and was expanded in the Coastal Barrier Improvement Act of 1990. The System is administered by the U.S. Fish and Wildlife Service of the Department of the Interior. Lands included within the System are not eligible for any federal development assistance, the most notable of which is federal flood insurance.

The Coastal Barrier Resources System was initially comprised of 186 units totaling 666 miles of shoreline and 452,834 acres of undeveloped, unprotected coastal barriers on the Atlantic and Gulf of Mexico coasts. Except for very minor technical changes to account for natural accretion and erosion, boundaries cannot be adjusted and units cannot be added or deleted from the System unless Congress passes a law adopting revised maps. Today, the entire Coastal Barrier Resources System has 856 units and more than 3 million acres of fastland and associated aquatic habitat.

The 1990 Coastal Barrier Improvement Act added an important new category of units to the System called "Otherwise Protected Areas" (OPAs). These include undeveloped conservation areas such as national wildlife refuges, national parks and seashores, State parks, military bases and conservation lands owned by private organizations. While OPAs remain eligible for a variety of federal financial assistance programs, they are ineligible for participation in the Federal Flood Insurance Program. The 1990 Act created 271 OPAs, comprised of approximately 1,786,000 acres, which more than doubled the amount of undeveloped coastal barrier lands covered under CBRA. When OPAs were included in the System, they were delineated with rudimentary mapping tools based upon preexisting boundary data. As a result of technological advancements in geographic information systems, databases and digital mapping techniques, OPA boundaries have been shown to have embedded flaws and inaccuracies.

Specifically, the Grayton Beach Unit FL–95P would be modified to exclude four homes and six undeveloped lots from the prohibitions on federal flood insurance. When this unit was established as an "otherwise protected area" in 1990, each of the four homes were already fully constructed by 1983, there were hard packed roads within the community and all ten lots were plotted three years earlier. In fact, the Grayton Beach State Park was not created until 1985. While these four homeowners obtained federal flood insurance prior to 1990, they were advised that "If your building is ever substantially damaged or substantially improved, the property will become ineligible for federal flood insurance, and your policy will have to be non-renewed".

These property owners believe they were mistakenly included within the Coastal Barrier Resources System because it was incorrectly assumed that their property was contained within the boundaries of the Grayton Beach State Park. H.R. 479 would allow them to retain federal flood insurance in the future by removing their ten lots, which comprise six acres of land from the system. In addition, the new map would remove forty additional private lots representing twenty acres in the Towns of Grayton Beach and Gulf Trace that should not have been included within the system. These are genuine mapping errors. These lands were not held for recreation or conservation purposes, they are not inholdings and their exclusion is supported by the Fish and Wildlife Service. At the same time, the bill would add some 1,582 acres of state park land that was inadvertently left out of the unit when it was created in 1990. The net effect of this "technical change" would be to expand the size of this CBRA unit by 1,562 acres of land.

COMMITTEE ACTION

H.R. 479 was introduced on February 1, 2005 by Congressman Jeff Miller (R–FL). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries and Oceans. On April 6, 2006, the Subcommittee held a hearing on the bill. On July 19, 2006, the Full Resources Committee met to consider the bill. The Subcommittee on Fisheries and Oceans was discharged from further consideration of the bill by unanimous consent. Chairman Pombo offered an amendment in the nature of a substitute that identified that the proper map reference for these changes is entitled "Grayton Beach Unit FL–95P and Draper Lake Unit FL–96" and dated July 24, 2006. The amendment was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8, clause 3 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section

308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of H.R. 479 could affect direct spending, but any net change would be "negligible."

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 479—A bill to replace a Coastal Barrier Resources System map relating to Coastal Barrier Resources System Grayton Beach Unit FL–95P in Walton County, Florida

H.R. 479 would update a map of the Coastal Barrier Resources System (CBRS) in Walton County, Florida. CBO estimates that enacting H.R. 479 would have no significant impact on the federal budget. The bill could affect direct spending, but we expect that any net change would be negligible. Enacting the bill would not affect revenues.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

H.R. 479 would revise the CBRS map for the Grayton Beach Unit to exclude 26 acres of private land and to include 1,562 acres of state park land. Excluding the private acreage would enable owners of about 50 home lots to retain or purchase federal flood insurance. CBO estimates that, relative to current law, implementing H.R. 479 would increase premium collections of the national flood insurance fund by less than $500,000 annually. Such collections would be partially offset each year by new mandatory spending for underwriting and administrative expenses. In addition, premium collections might be offset in some years by new flood insurance claims.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

ADDITIONAL VIEWS OF HON. WAYNE T. GILCHREST AND HON. FRANK PALLONE, JR.

Mr. Chairman, thank you for the opportunity to comment on H.R. 479, amending the Coastal Barrier Resources Act (CBRA) system unit FL–95P. As you know, the Resources Subcommittee on Fisheries and Oceans held a hearing on April 6, 2006, in which this bill and others were reviewed. We received excellent testimony from the USFWS and all sides of this particular issue. We understand the matter is complex, and there is dispute over the circumstances involved in the original inclusion of this property within an Otherwise Protected Area (OPA) in the CBRA system. We strongly support increases to the system, and we understand that H.R. 479 brings 1,500 fast land acres into the Coastal Barrier Resources system. However, we must point out our long-standing support for maintaining the integrity of the CBRA system and must stress that this bill cannot set a precedent for removing an inholding from an OPA or full unit under the system.

Coastal barriers are islands and similar natural landforms that buffer the U.S. coastline from storms and provide important habitat for fish and wildlife. The geological composition of coastal barriers makes them highly unstable areas on which to build, yet many of these areas have undergone increased development. Some of this development has been encouraged by the availability of national flood insurance and other types of federal financial assistance.

As the New York Times reported on July 25, 2006, climate experts are unified over their concern about what they term is a "lemming-like march to the sea." They are describing the intensifying pressure of development on our coasts, including the fragile geological features, like coastal barrier islands. They say, regardless of what we may believe about the relationship between climate change and the frequency or intensity of hurricanes, homes should not be built in the path of hurricanes. Specifically, 10 climate scientists, in a statement released during the week of the hearing, said that federal assistance programs encourage development in areas vulnerable to damage from strong storms. They stress that human lives and property are increasingly put at risk by these policies.

In light of intense damage done to the Gulf Coast, communities, and human lives and the significantly protective role played by coast barriers in Hurricanes Rita and Katrina, Chairman Gilchrest has asked the Government Accountability Office to conduct an updated study on how well the CBRA system is protecting these areas from development. We plan to hold a hearing in the fall of 2006 to review preliminary results of the study, which will review the federal role in encouraging coastal development within the system. This study will help Congress strengthen, when necessary, the

market-based approach of the CBRA system to minimize risks to human lives and property along our coasts.

As a strong supporter of the Coastal Barrier Resources system, Mr. Gilchrest was pleased to introduce H.R. 3552, Coastal Barrier Resources Reauthorization Act of 2005, which will not only extend this valuable program but will require the completion of the digital mapping pilot project, authorize the digital mapping of all 856 CBRA units in the system and establish a grant program to identify, assess and recommend new coastal barriers for inclusion within the system. Digital mapping, when completed, will help all coastal areas respond effectively to disputes about the inclusion or exclusion of CBRA units, and will increase the effective USFWS's oversight of this program. We anticipate that the digital mapping product will help reduce the costs to the USFWS of reviewing constituent concerns about their inclusion in the system and that it will help inform more coastal property owners of their rights and responsibilities under the system.

H.R. 479 removes approximately 20 acres from the CBRA system, including 6.4 acres of inholding, called "The Old Miller Place." There are 10 lots on the site, and 6 are undeveloped. The USFWS opposes this bill because the inholding did not meet the criteria for exclusion from CBRA in 1990. To be part of an OPA under CBRA, the site cannot be developed and has to be held for conservation purposes. The issue over this area is whether or not it had paved roads—if the roads were paved, the area would have been excluded. The circumstances are sufficiently unclear to make a determination at this time.

Thank you again, Mr. Chairman, for your leadership and continued support of the CBRA system. Our Committee has consistently supported the integrity of the Coastal Barrier Resources System, and we have established a high threshold that must be satisfied before we will advocate for corrections to the system. During the past six years, we supported several technical correction bills when it became clear that relief was warranted because of honest mistakes and mapping errors. Although the record is not entirely clear in this case, we must stress that, as a federal policy matter, removing inholdings from existing CBRA units threatens the integrity of the system.

WAYNE T. GILCHREST.
FRANK PALLONE, Jr.

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