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HEARING ON: H.R. 2541, A BILL TO ADJUST THE BOUNDARIES OF THE GULF ISLANDS NATIONAL SEASHORE TO INCLUDE CAT ISLAND, MS; H.R. 1864, (HANSEN) A BILL TO STANDARDIZE THE PROCESS FOR CONDUCTING PUBLIC HEARINGS FOR FEDERAL AGENCIES WITHIN THE DEPARTMENT OF THE INTERIOR; AND H.R. 1866, A BILL TO PROVIDE A PROCESS FOR THE PUBLIC TO APPEAL CERTAIN DECISIONS MADE BY THE NPS AND BY THE U.S. FISH AND WILDLIFE SERVICE

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS

OF THE

COMMITTEE ON RESOURCES
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

SEPTEMBER 30, 1999, WASHINGTON, DC

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HEARING ON: H.R. 2541, A BILL TO ADJUST THE BOUNDARIES OF THE GULF ISLANDS NATIONAL SEASHORE TO INCLUDE CAT ISLAND, MISSISSIPPI; H.R. 1864, (HANSEN) A BILL TO STANDARDIZE THE PROCESS FOR CONDUCTING PUBLIC HEARINGS FOR FEDERAL AGENCIES WITHIN THE DEPARTMENT OF THE INTERIOR; AND H.R. 1866, A BILL TO PROVIDE A PROCESS FOR THE PUBLIC TO APPEAL CERTAIN DECISIONS MADE BY THE NATIONAL PARK SERVICE AND BY THE UNITED STATES FISH AND WILDLIFE SERVICE

THURSDAY, SEPTEMBER 30, 1999

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL
PARKS AND PUBLIC LANDS,
COMMITTEE ON RESOURCES,
Washington, DC.

The Subcommittee met, pursuant to call, at 10 a.m. in Room 1324, Longworth House Office Building, Hon. James V. Hansen [chairman of the Subcommittee] presiding.

Mr. HANSEN. The meeting will come to order.

STATEMENT OF HON. JAMES V. HANSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. HANSEN. Good morning and welcome to the hearing.

The Subcommittee on National Parks and Public Lands will hear testimony on three bills, H.R. 2541, H.R. 1864, and H.R. 1866.

H.R. 2541 was introduced by Congressman Gene Taylor of Mississippi. This bill would adjust the boundaries of the Gulf Islands National Seashore to include an area of land known as Cat Island, Mississippi. Gulf Islands National Seashore is administered by the National Park Service and consists of a number of coastal barrier islands stretching along the coast of Mississippi and the panhandle of Florida.

H.R. 2541 would modify the boundaries of the national seashore to include Cat Island. The island is approximately 2,145 acres in size and offers around 21 miles of shoreline. Most of Cat Island, ap-

proximately 90 percent, is currently owned by one family. The other 10 percent is owned by nearly 15 other individuals who retain smaller land holdings.

I understand there are a few problems with this bill that need to be ironed out before the bill moves forward. These include excluding some of the private land area from the boundaries, agreements as to what will become of the land when it becomes part of the seashore, and establishing clear language as to fishing rights around the island.

The second bill is H.R. 1864, a bill that I introduced to address the problem that citizens have conveyed to me over a number of years concerning the Department of the Interior. This bill directs the Secretary of the Interior to standardize a process for conducting public hearings for Federal agencies within the Department to help ensure that the public understands and can fully participate in public hearings.

Presently, public hearings held by Federal agencies do not have any standard way that they are conducted. As a result, these agencies hold hearings any way they see fit. This has led to numerous complaints and confusion by the general public when appearing at these public hearings.

For example, no established regulation requires Federal agencies to respond to legitimate questions asked by the public. People walk away from these hearings confused and many times irate that the government did not attempt to address their concerns.

H.R. 1864 would help alleviate this problem by standardizing the procedures used by Federal agencies for public hearings. This would give the public an understanding as to what is expected from Federal agencies, along with what is expected from them, when they conduct a public hearing. Standardizing these procedures would also provide a process for the public to ask relevant questions and receive informed and timely answers from the Federal agencies.

I want to note that nothing in this bill limits or interferes with other opportunities for the public to comment on or participate in agency decisions pursuant to NEPA or the Administrative Procedures Act. Nor does H.R. 1864 replace any existing law or policy which provides for public involvement in hearings held by Federal agencies.

The third bill is H.R. 1866, another bill that I introduced. This bill requires the Secretary of the Interior to establish a process for the public to administratively appeal certain decisions made pursuant to NEPA by the National Park Service and the U.S. Fish and Wildlife Service. These regulations would establish what types of agency decisions are appealable, who may appeal such decisions, the responsibilities and procedures of the appellant or other party, and also establish a process the Federal agencies would follow for notifying the public for their appeal process.

Obviously, decisions made by Federal officials are an important function for Federal land management agencies. These decisions, of course, have direct effects on the methods used and the result of the land management activities. Frequently, however, members of the public disagree with the decisions made by these Federal agencies. Two Federal land management agencies, the Forest Service

and the BLM, currently have an administrative process whereby the public can appeal certain decisions in regard to the land management. However, at present, the only recourse the public has if disagreeing with decisions made by the Park Service or the Fish and Wildlife Service is to take the issue to court. I believe a similar administrative appeal process for NEPA decisions made by the Park Service and the Fish and Wildlife Service should be made available to the public so that decisions made by these two agencies could be reviewed and modified, if appropriate.

Before we begin the testimony, I would like to mention a few things related to the two bills that I have introduced. I believe that both of these bills are good ideas, and it is time we took a look at what they are trying to accomplish. However, I realize that these bills, especially H.R. 1866, only represents a starting point. I am very open to ideas and discussion with interested parties and the minority so that the bill can be crafted to meet the needs of the public and the agencies while at the same time avoiding creating a bureaucratic mess which bogs the system down rather than improves it.

All of that said, I want to thank our witnesses for being here today and those that are going to testify on the bills.

[The prepard statement of Mr. Hansen follows:]

STATEMENT OF HON. JAMES V. HANSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Good morning everyone and welcome to the hearing today. The Subcommittee on National Parks and Public Lands will hear testimony on three bills, H.R. 2541, 1864, and 1866.

H.R. 2541 was introduced Congressman Gene Taylor of Mississippi. This bill would adjust the boundaries of the Gulf Islands National Seashore to include an area of land known as Cat Island, Mississippi. Gulf Islands National Seashore is administered by the National Park Service and consists of a number of coastal barrier islands stretching along the coasts of Mississippi and the panhandle of Florida.

H.R. 2541 would modify the boundaries of the National Seashore to include Cat Island. The island is approximately 2145 acres in size and offers around 21 miles of shoreline. Most of Cat Island (approximately 90 percent) is currently owned by one family. The other 10 percent is owned by nearly 15 other individuals who retain smaller land holdings.

I understand there are a few problems with this bill that need to ironed out before this bill moves forward. These include excluding some of the private land area from the boundaries, agreements as to what will become of this land when it becomes part of the seashore, and establishing clear language as to fishing rights around the island.

The second bill is H.R. 1864, a bill that I introduced to address a problem that citizens have conveyed to me over a number of years concerning the Department of the Interior. This bill directs the Secretary of the Interior to standardize a process for conducting public hearings for Federal agencies within the Department to help ensure that the public understands and can fully participate in public hearings.

Presently, public hearings held by Federal agencies do not have any standard way they are conducted. As a result, these agencies hold hearings any way they see fit. This has led to numerous complaints from and confusion by the general public when appearing at these public hearings. For example, no established regulation requires Federal agencies to respond to legitimate questions asked by the public. People walk away from these hearings confused and many times irate that the government did not even attempt to address their concerns. H.R. 1864 would help alleviate this problem by standardizing the procedures used by Federal agencies for public hearings. This would give the public an understanding as to what is expected from Federal agencies, along with what is expected from them, when conducting public hearings. Standardizing these procedures would also provide a process for the public to ask relevant questions and receive informed and timely answers from the Federal agencies. I want to note that nothing in this bill limits or interferes with other opportunities for the public to comment on or participate in agency decisions pursuant

to NEPA or the Administrative Procedures Act. Nor does H.R. 1864 replace any existing law or policy which provides for public involvement in hearings held by Federal agencies.

The third bill is H.R. 1866, another bill that I introduced. This bill requires the Secretary of the Interior to establish a process for the public to administratively appeal certain decisions made pursuant to NEPA by the National Park Service and the U.S. Fish and Wildlife Service. These regulations would establish what types of agency decisions are appealable, who may appeal such decisions, the responsibilities and procedures of the appellant or other party, and also establish a process the Federal agencies would follow for notifying the public of their appeal procedures.

Obviously, decisions made by Federal officials are an important function for Federal land management agencies. These decisions, of course, have direct effects on the methods used and the results of the land management activities. Frequently, however, members of the public disagree with the decisions made these Federal agencies. Two Federal land management agencies, the Forest Service and the BLM, currently have an administrative process whereby the public can appeal certain decisions in regard to their land management. However, at present, the only recourse the public has if disagreeing with decisions made by the Park Service or the Fish and Wildlife Service is to take the issue to court. I believe a similar administrative appeal process for NEPA decisions made by the Park Service and Fish & Wildlife Service should be made available to the public so that decisions made by these two agencies can be reviewed and modified, if appropriate.

Before we begin the testimony I'd like to like to mention a few things related to the two bills I introduced. I believe that both these bills are good ideas and its time we took a look at what they are trying to accomplish. However, I realize that these bills, especially H.R. 1866 represent a starting point. I am very open to ideas and discussion with interested parties and the Minority so that a bill can be crafted to meet the needs of the public and the agencies, while at the same time, avoid creating a bureaucratic mess which bogs the system down rather than improve it.

With that said, I want to thank all of our witnesses for being here today to testify on all the bills and now turn the time over to the Ranking Member Mr. Romeo-Barceló.

I

106TH CONGRESS
1ST SESSION

H. R. 2541

To adjust the boundaries of the Gulf Islands National Seashore to include Cat Island, Mississippi.

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 1999

Mr. TAYLOR of Mississippi introduced the following bill; which was referred to the Committee on Resources

---

A BILL

To adjust the boundaries of the Gulf Islands National Seashore to include Cat Island, Mississippi.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARY ADJUSTED TO INCLUDE CAT ISLAND.

The first section of Public Law 91–660 (16 U.S.C. 459h; 84 Stat. 1967) is amended—

(1) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F);

1 (2) by striking "shall comprise the following
2 gulf coast" and inserting the following: "shall com-
3 prise the following:
4 "(1) The gulf coast"; and
5 (3) by adding at the end the following new
6 paragraph:
7 "(2) Cat Island, Mississippi, and the water area
8 adjacent to the shoreline of Cat Island that is not
9 owned by the State of Mississippi on the date of the
10 enactment of this paragraph.".

I

106TH CONGRESS
1ST SESSION

H. R. 1864

To standardize the process for conducting public hearings for Federal agencies within the Department of the Interior.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 1999

Mr. HANSEN introduced the following bill; which was referred to the Committee on Resources

---

A BILL

To standardize the process for conducting public hearings for Federal agencies within the Department of the Interior.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Hearing Standardization Act of 1999".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Public hearings are a significant part of the process used by Federal agencies to obtain public input.

(2) Public hearings are important to the public and should allow their comments to become part of the official record of agency actions, provide a forum for the public to ask questions of the Federal agencies, and allow the public to receive from the Federal agencies meaningful responses to questions as part of the official record of agency actions.

(3) Federal agencies do not have a standard procedure in accordance with which their public hearings are conducted. As a result, Federal agencies have total discretion in setting rules for public hearings. These rules frequently do not require the Federal agencies to respond to legitimate questions asked by the public.

(4) Standardizing the procedure in accordance with which Federal agencies conduct public hearings is necessary to help ensure that the public understands the public hearing process and can participate appropriately in that process.

SEC. 3. REGULATIONS ESTABLISHING REQUIREMENTS FOR CONDUCTING PUBLIC HEARINGS.

(a) REGULATIONS REQUIRED.—The Secretary of the Interior shall establish by regulation general requirements for conducting public hearings on certain agency actions.

1 (b) CONTENT OF REGULATIONS.—Regulations issued
2 pursuant to subsection (a) shall be designed to help ensure
3 that the public understands and can fully participate in
4 public hearings held pursuant to such regulations and
5 shall, at a minimum, establish the following:
6 (1) Agency actions regarding which a public
7 hearing is required or appropriate.
8 (2) A process whereby the public shall be given
9 timely notice of public hearings.
10 (3) A process in accordance with which public
11 hearings shall be conducted. Such a process shall in-
12 clude an opportunity during the hearings for mem-
13 bers of the public to ask the Federal agency con-
14 ducting the hearings questions regarding the subject
15 matter of the hearings.
16 (4) A process to ensure that the public shall
17 have a reasonable expectation of meaningful and
18 timely answers to questions posed at public hearings.
19 (5) The proceedings of a public hearing shall
20 become part of the official record of the agency ac-
21 tion in regard to which the hearing is held.
22 **SEC. 4. EFFECT OF OTHER LAWS.**
23 Nothing in this Act shall be construed to limit, re-
24 place, or interfere with other opportunities for public com-
25 ment on, participation in, or influence on agency decision-

1 making pursuant to the National Environmental Policy
2 Act of 1969, the Administrative Procedure Act, or any
3 other law or policy which provides for such opportunities.

I

106TH CONGRESS
1ST SESSION

H. R. 1866

To provide a process for the public to appeal certain decisions made by the National Park Service and by the United States Fish and Wildlife Service.

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 1999

Mr. HANSEN introduced the following bill; which was referred to the Committee on Resources

---

A BILL

To provide a process for the public to appeal certain decisions made by the National Park Service and by the United States Fish and Wildlife Service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Appeals Parity Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The American public has an inalienable and legitimate interest in Federal lands and decisions

1 made by Federal agencies in regard to the manage-
2 ment of such lands.
3 (2) Decisionmaking by appropriate officials is
4 an important and necessary function for Federal
5 land management agencies.
6 (3) Two primary Federal land management
7 agencies, the United States Forest Service and the
8 Bureau of Land Management, currently have an in-
9 ternal administrative process whereby the public can
10 appeal certain land management decisions made by
11 these agencies pursuant to the National Environ-
12 mental Policy Act of 1969.
13 (4) A similar administrative appeal process
14 whereby the public can appeal certain land manage-
15 ment decisions made by the National Park Service
16 and the United States Fish and Wildlife Service is
17 proper and equitable.

18 **SEC. 3. ESTABLISHMENT OF APPEAL PROCESS.**

19 (a) REGULATIONS REQUIRED.—The Secretary of the
20 Interior shall establish by regulation procedures for an ad-
21 ministrative appeals process for decisions made pursuant
22 to the National Environmental Policy Act of 1969 by the
23 National Park Service or the United States Fish and
24 Wildlife Service.

1 (b) CONTENT OF REGULATIONS.—Regulations devel-
2 oped by the Secretary pursuant to this section shall, at
3 a minimum, include the following:
4 (1) The type of agency decisions that may be
5 appealed.
6 (2) Who may appeal such agency decisions.
7 (3) The responsibilities of the parties in an ap-
8 peal.
9 (4) Procedures that apply to appealing the deci-
10 sion. Such procedures shall afford the public an op-
11 portunity to appeal the decision prior to the imple-
12 mentation of that decision.
13 (5) A process whereby the public is given timely
14 notification of a decision which the public has a
15 right to appeal.
16 **SEC. 4. EFFECT ON OTHER LAWS.**
17 Nothing in this Act shall be construed to limit, re-
18 place, or interfere with other opportunities for public com-
19 ment on, or participation in, or influence on agency deci-
20 sionmaking pursuant to the Administrative Procedure Act
21 or any other law or policy which provides for such opportu-
22 nities.

Mr. HANSEN. Now I turn the time over to the Ranking Member, the gentleman from Puerto Rico.

STATEMENT OF HON. CARLOS A. ROMERO-BARCELÓ, A RESIDENT COMMISSIONER IN CONGRESS FROM THE COMMONWEALTH OF PUERTO RICO

Mr. ROMERO-BARCELÓ. Thank you, Mr. Chairman.

First of all, I would like to welcome the two fellow members, one of the fellow members from this Committee, from Guam, Mr. Underwood, and Mr. Taylor, one of the sponsors of one of these bills.

Today, the Subcommittee will hear testimony of the two bills relating to the hearing and the appeals process of the agencies within the Department of the Interior as well as an unrelated measure dealing with the Gulf Islands National Seashore.

H.R. 2541, which is the Gulf Islands National Seashore Bill, is about the islands which stretch for 150 miles along the Gulf Coast from Mississippi to Florida. The seashore is more than 135,000 acres in size and includes portions of both the mainland and a chain of barrier islands.

Apparently, when the seashore was first conceived, it was hoped that Cat Island, one of the islands in this chain, would be included. However, the family which owned most of the island did not wish to be included at that time. As a result, despite the fact that Cat Island was thought to be the crown jewel of the area, the seashore did not include this originally, and it is our understanding that the family is now willing to have their land included in the seashore.

H.R. 2541, sponsored by my colleague, Representative Taylor, would alter the boundary that encompasses this addition. We understand there are several issues which may need to be resolved regarding this legislation, including the exemption of a portion of the island from the legislation and a question regarding the ownership of the water surrounding the island. I look forward to hearing from the family and the Park Service on this issue as well as our colleague.

H.R. 1864 and H.R. 1866 would require the Secretary of the Interior to develop new regulations concerning the public hearing process of agencies within the Department of the Interior as well as the appeals process for National Park Service and Fish and Wildlife Service decisions. Both bills contain specific requirements that would have to be part of any such regulations. We don't know the extent or exact nature of the problems these two bills seek to rectify nor do we know the consequences of the proposed solutions. Hopefully, the testimony we will receive today will shed some light on these issues. We would like to welcome each of our witnesses here today, and we look forward to their testimony.

Mr. HANSEN. I thank the gentleman.

We are honored to have two of our colleagues with us, Mr. Gene Taylor of Mississippi and Bob Underwood from Guam. We appreciate these gentlemen being with us.

Mr. Taylor, we will start with you, sir.

Hold just a minute, I apologize. The gentleman from Colorado. I am sorry, I didn't see you. Do you have an opening statement you would like to make?

STATEMENT OF HON. MARK UDALL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. MARK UDALL. Thank you, Mr. Chairman.

I just want to the echo the comments of both the Ranking Member and the chairman, and I look forward working with you, particularly on this issue of public input that is heard and that leads us to the kind of outcomes that we all want. I am open to working with the chairman and the Ranking Member and look forward to the testimony.

Mr. HANSEN. I appreciate your comments.

STATEMENT OF HON. GENE TAYLOR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. HANSEN. Mr. Taylor, we will turn to you now; and the time is yours, sir.

Mr. TAYLOR. Thank you, Mr. Hansen, Mr. Romero-Barceló. It is pretty ironic that we are now in a position where an island in the other guy's backyard is subject to each of our jurisdictions.

Mr. ROMERO-BARCELÓ. You better hide it from the Navy. They like the pretty islands.

Mr. TAYLOR. I am looking forward to traveling to Puerto Rico once we adjourn to see if we can't do a better job for the sake of the people of Puerto Rico.

Good morning, Mr. Chairman and members of the Committee. I am pleased to be before the Committee today, testifying on behalf of H.R. 2541. I introduced this bill to adjust the boundary of the Gulf Islands National Seashore to include Cat Island, which is the island you see in the photo taken from space by the NASA remote sensing lab. I have submitted a copy of this testimony to the Committee and ask this document be part of the record.

I have been a life-long resident of the Mississippi Gulf Coast. As many residents of the area, I have had the incredible good fortune of enjoying the natural beauty, physical resources and wildlife of this pristine island. I would add that the present owners of the island have been incredibly generous to allow people to go on their private property which is how so many of us have had the opportunity to enjoy it.

I come here today to urge adoption and the inclusion of a portion of Cat Island that the Boddie family offers, as willing sellers, to be included in the Gulf Island National Seashore.

The Gulf Island National Seashore was established by Public Law 91-660 on January 8, 1971, to preserve Petit Bois, Horn and East and West Ship Islands for public use and enjoyment because of their natural beauty and recreational values. At that time, Cat Island was also considered for inclusion within this boundary. In fact, in a hearing held in June of 1970 regarding establishment of the seashore, the Assistant Secretary of Fish and Wildlife, Parks, and Marine Resources testified before the Committee on Interior and Insular Affairs, Subcommittee on National Parks and Recreation, that Cat Island offers an—now I am quoting—"ecological array of conditions which cannot be located anywhere else."

The total uniqueness Cat Island offers makes it a key addition to the Gulf Island National Seashore. Cat Island is the last of the

Gulf Islands to be publicly protected. I would like to see a majority of this island preserved for future generations to enjoy.

Therefore, I come before the Committee today, Mr. Chairman and Ranking Member, to urge adoption of H.R. 2541 with two exceptions.

The first exception is to remove the Boddie family parcel and the existing privately owned subdivided lots on Cat Island from the proposed boundary of the Gulf Island National Seashore. In the early 1970s or late 1960s, the family sold off several lots on the island. The family would also like to keep a small portion of the island, and the total of this adds up to about 160 acres. I insist on leaving these parcels out of the seashore boundary simply because this designated acreage is not being willingly offered for inclusion. The rest of the island is. I value the importance of this and have promised the owners that I would never do anything to forcibly take their land from them with or without compensation.

Secondly, I would like to bring to the Committee's attention that in July of 1986, subsequent to the Gulf Island National Seashore being established, the Supreme Court of the State of Mississippi ruled on a case entitled Cinque Bambini Partnership versus the State of Mississippi. In this case, the claimants brought action against the State of Mississippi to clarify title resulting from oil leases granted by the State. The Supreme Court held that fee simple title to all lands naturally subject to tidal influence inland to the current mean high water mark is held by the State of Mississippi in trust; and lands bought within the ebb and flow of tide by avulsion or by artificial or non-natural means are owned by the record titleholders.

All of that being said, basically means that that land up to the high water mark belongs to the State, since our laws are based on English law and that was the English common law prior to the United States becoming a separate entity. Since this case has happened, since the inclusion of the other islands clarified that as far as we would recognize, the State of Mississippi owns everything up to the high water mark, everything above the high water mark would be included in the Gulf Island National Seashore.

With this said, I ask that the bill include clarifying language that ensures that the State boundary of this island is determined by the current mean high tide line of the Mississippi Sound and the Gulf of Mexico and any tidally affected streams emptying into those bodies of water. Again, this is Mississippi State law. Everything below this line is to remain under the jurisdiction of the Secretary of State. Furthermore, it is intended that the agency currently referred to as the Mississippi Department of Marine Resources retain responsibility for determining fishing regulations around Cat Island.

In conclusion, I wish to remind you of the opportunity before us today to preserve a major portion of this island in its natural state for public enjoyment and use. I respectfully request the Committee to do all it can do to expedite this legislation.

I will go on in my remaining time to say that the major impetus for this is just the phenomenal growth of not just coastal America but coastal Mississippi. About 10 years ago, I was one of three sponsors of a bill that legalized gaming in Mississippi. We were in

the throes of a recession. We thought that we could create 8,000 jobs by doing it. To date, that has led to the creation of about 50,000 jobs. It is now a $2 billion business. People that we never dreamed would come to Mississippi and spend hundreds of thousands of dollars are now coming to Mississippi and spending $2 billion a year.

When I was a high school teenager, about half of my graduating class had to move away in order to find jobs. That has changed. Instead of people moving away, we have a job for anybody who wants one. We have an incredible influx of people, incredible demands on our resources and, quite frankly, I would like to see this resource preserved in its natural state so that future generations could have the great benefit that I have had and my kids have had.

To take it a step further, we are often asked—our constituents throw us a ringer in our town meetings, which you and I have been around for a while. We have had every tough question we could think of thrown at us. But one of the tougher questions I have had recently is what have you done to bring your folks closer to God. And I have got to admit that I was taken aback. I tried to come back with the lame excuse that I voted for the 10 Commandments being posted in public buildings, which tried to set a good example.

But the bottom line is, if you look at what happened in Colorado and in most of those places, this happened in fairly urban areas. I think that a lot of this has to do with the fact that, in the urbanized areas, folks have gotten so far away from nature that they have lost the ability to see the hand of God. When I look at Cat Island, I see the hand of God. Whether it is a porpoise and her child or an osprey or something as strange looking as a horseshoe crab or an alligator, they are all out there.

And I really think we could do the people of this Nation, in particular the people of Mississippi, a tremendous favor by taking one of the last remaining parcels in its true natural state and preserving it for perpetuity. This would include about 21,000 acres and leave the remaining 160 acres for the private property owners. I would certainly appreciate your assistance on this.

Mr. HANSEN. We thank our colleague from Mississippi for his testimony.

[The prepared statement of Mr. Taylor follows:]

STATEMENT OF HON. GENE TAYLOR, A REPRESENTATIVE IN CONGRESS FRO THE STATE OF MISSIPPII

Good morning, Mr. Chaitrman and Members of the Committee. I am pleased to be before the Committee today, testifying on behalf of H.R. 254. I introduced this bill to adjust the boundary of the Gulf Islands National Seashore to include Cat Island. I have submitted a copy of this testimony to the Committee. I ask this document to be made part of the hearing record.

I have been a life-long resident of the Gulf Coast, and as many residents of this area, I have had the good fortune of enjoying the natural beauty, physical resources and wildlife of this pristine island. I come here today to urge adoption of the portion of Cat Island the Boddie family offers, as willing sellers, to be included in the Gulf Islands National Seashore.

The Gulf Island National Seashore was established by Public Law 91–660 on January 8, 1971 to preserve Petit Bois, Horn and East and West Ship Islands for public use and enjoyment because of their natural and recreational values. At that time, Cat Island was also considered for inclusion within this boundary. In fact, during a hearing held in June of 1970 regarding the establishment of this seashore, the Assistant Secretary for Fish and Wildlife, Parks, and Marine Resources testified before the Committee on Interior and Insular Affairs, Subcommittee on National

Parks and Recreation that Cat Island offers an "ecological array of conditions which cannot be located anywhere else." The total uniqueness Cat Island offers makes it a key addition to the Gulf Island National Seashore. Cat Island is the last of the Gulf Islands to be publicly protected. I would like to see the majority of this island preserved for future generations to enjoy.

Therefore, I come before the Committee today, Mr. Chairman, to urge adoption of H.R. 2541, with two exceptions. The first exception is to remove the Boddie family parcel and the existing privately owned subdivided lots on Cat Island from the proposed boundary of the Gulf Islands National Seashore. I *insist* on leaving these parcels out of the seashore boundary simply because this designated acreage is not being willingly offered for inclusion. I value the importance of this land to these owners.

Secondly, I would like to bring to the Committee's attention that in July 1986, subsequent to the Gulf Islands National Seashore being established, the Supreme Court of Mississippi ruled on a case entitled Cinque Barmbini Partnership versus the State. In this case, the claimants brought action against the State of Mississippi to clarify title resulting from oil leases granted by the state. "The supreme court held that (1) fee slimle title to all lands naturally subject to tidal influence inland to the current mean high water-mark is held by the State of Mississippi in trust, and (2) lands brought within the ebb and flow of tide by avulsion or by artificial or nonnatural means are owned by the record titleholders." With this said, I ask that this bill include clarifying language which ensures that the state boundary of this island is determined by the current mean high tide line of the Mississippi Sound and the Gulf of Mexico and any tidally affected streams emptying into those water bodies. Everything below this line is to remain under the jurisdiction of the Secretary of State. Furthermore, it is intended that the agency currently referred to as the Mississippi Department of Marine Resources retain responsibility for determining fishing regulations around Cat Island.

In conclusion, I wish to remind you of the opportunity we have before us to preserve the major portion of this island in its natural state for public use and enjoyment. I respectfully request of this Committee on Merchant Marine and Fisheries Committee to do all it can to expedite this legislation through the Committee. I wish to thank the chairman and the Committee for the opportunity of appearing before you. This concludes my statement. I am prepared to respond to any questions you may have.

Mr. HANSEN. We will turn to our colleague from Guam, Mr. Robert Underwood, who is also a member of the full Resources Committee.

Mr. TAYLOR. Mr. Chairman, if I may, one last request is we have a number of letters of support for this, including an editorial from the Mississippi Gulf Coast's largest newspaper just yesterday, in favor of the proposal that I would like to include for the record.

Mr. HANSEN. Thank you. Without objection, it will be entered into the record.

[The information follows:]

Mr. HANSEN. Mr. Underwood.

STATEMENT OF HON. ROBERT UNDERWOOD, A DELEGATE IN CONGRESS FROM THE TERRITORY OF GUAM

Mr. UNDERWOOD. I thank you for the opportunity to provide testimony on H.R. 1866, which encourages and allows for public participation to appeal of land management decisions made by the National Park Service and the United States Fish and Wildlife Service.

As you are well aware, Mr. Chairman and other members of the Committee, the government of Guam, like other State and local governments and private citizens, are subject to land acquisition methods employed by the U.S. Fish and Wildlife Service. In March, 1994, the Fish and Wildlife Service declared more than 20 percent of Guam a national wildlife refuge overlay or approximately 24,500 acres island-wide. Eighty-three percent of the refuge had been in

the possession of the U.S. military, 14 percent owned by the government of Guam, and by the remaining 3 percent by private landowners. The majority of the acreage is located in the northern end of the island. The refuge was established under the guise of protecting Guam's endangered bird populations from extinction.

Since the establishment of that refuge, Guam has received a considerable amount of attention and publicity about the decline of the island's bird populations. Books, documentaries, magazine articles, academic papers and even websites have been published or produced to inform the American public about the decimation of Guam's bird population and its effects on the wildlife ecosystem. I believe that it has been accepted by not only the scientific community but by the American public in general that the extinction of many of Guam's indigenous bird species is a direct result of the introduction of the brown tree snake which is an invasive species introduced to Guam in the 1950s along with military cargo.

The designation of a wildlife refuge which "roped off" land for the Fish and Wildlife Service essentially preempted many opportunities for Guam to regain title to these properties which the military had been considering as declaring as excess property. The land was originally taken in the immediate post-World War II era to ensure national security.

The island of Guam would have been better served if the Fish and Wildlife Service did everything necessary to eradicate the brown tree snake rather than acquiring precious lands that are needed by the people of Guam. It doesn't take a scientific community and, in fact, many biologists working for the Department of the Interior acknowledge that it is the abundance of the brown tree snake and not land preservation efforts which were needed to reverse the decline of Guam's native birds. So, in short, this was a problem of an invasive species rather than a lack of critical habitat.

Mr. Chairman, I believe Fish and Wildlife Service has too much land acquisition authority and, in particular, there are very few opportunities to challenge the manner in which they establish the refuge in Guam. Indeed, I am working on legislation to find a way to balance the approach to this wildlife refuge.

I am not adverse to more extreme measures if they are necessary. However, I believe that your approach, Mr. Chairman, H.R. 1866, is a reasonable and fair beginning to ensure that all interested parties are taken into account before private or public land is taken in the name of preservation. This legislation asks no more than what is required by the U.S. Forest Service or the Bureau of Land Management. This legislation is a fair proposal, and I give it my full support. I promise that I will work with the chairman and other members of the Subcommittee to make the legislation workable.

Had this process been in place for Guam rather than a couple of perfunctory public hearings on it, we would have had—the local community would have had a fair chance at explaining its perspective on this manner.

So, with that, I appreciate the opportunity to share this particular story. I wish that this legislation would be retroactive, but it has fallen on my watch to attempt to deal with this very tragic situation regarding public lands in Guam. Thank you.

Mr. HANSEN. Thank you. I appreciate the gentleman's support and his comments.

[The prepard statement of Mr. Underwood follows:]

STATEMENT OF HON. ROBERT A. UNDERWOOD, A DELEGATE IN CONGRESS FROM THE TERRITORY OF GUAM

Mr. Chairman:

Thank you for the opportunity to provide testimony on H.R. 1866, which encourages and allows for public participation to appeal land management decisions made by the National Park Service and the United States Fish and Wildlife Service.

As you are well aware Mr, Chairman, the Government of Guam like other state and local governments and private citizens are subject to land acquisition methods by the U.S. Fish and Wildlife Service. In March 1994, The Fish and Wildlife Service declared more than 20 percent of Guam a national wildlife refuge overlay or approximately 24,562 acres island wide, 83 percent of the refuge had been in the possession of the U.S. Military, 14 percent ovined by the Government of Guam and the remaining 3 percent by private landowners The majoriry of the acreage is located in, the northern end of the island. The refuge was established under the guise of protecting Guam's endangered bird populations from extinction.

Since the establishment of the refuge, Guam has received a considerable amount of attention from the decline of the island's bird populations. Books, documentaries, magazine articles, academic papers, and even websites have been published or produced to inform the American public of the decimation of Guam's wildlife eco-system. I believe it has been accepted by not only the scientific community but the American public that the extinction of many of Guam's indigenous bird species is a result of the introduction of the brown tree snake which is an invasive species introduced to Guam in the 1950's. The designation of a Wildlife Refuge which "roped off" land for the Fish and Wildlife Service, essentially preempting any opportunity for Guam to regain title to these properties wbich had been taken to ensure national security in the post war era, was unnecessary.

The island of Guam would be better served if the Fish and Wildlife Service did everything necessary to eradicate the brown tree snake rather than acquiring precious lands which are needed by the people of Guam. It doesn'ttake a scientific community to figure out it's the abundance of the brown tree snakes and not only land preservation efforts which are needed to reverse the decline of Guam's native birds.

Mr. Chairman, I believe Fish and Wildlife Service has too much land acquisition authority and the manner in which they established the refuge in Guam was wrong. Indeed I am working on legislation to find an equitable solution to this problem but I am not averse to more extreme measures—if necessary. However, I believe that H.R. 1866 is a reasonable and fair approach to ensure that all interested parties are taken into account before private or public land is taken in the name of preservation. This legislation asks no more than what is required by the U.S. Forest Service or the Bureau of Land Management. This legislation is a fair proposal and I give it my full support.

Mr. HANSEN. Questions for our colleagues?

The gentleman from Puerto Rico.

Mr. ROMERO-BARCELÓ. I have one for my colleague from Guam. Are there any objections that you know of from the Department of the Interior to this legislation, and, if so, what are their objections? Do you know?

Mr. UNDERWOOD. I can't speak for what their objections would be, but I would assume that anything that reduces their authority or extends the time line for appeals would certainly be objected to. In this particular instance, I think they were fully aware of the level of objection to this particular effort in Guam. As a consequence, they did it in a very rapid manner with as little public input as possible.

Mr. ROMERO-BARCELÓ. We have had the same experience at home. I think once in a while we look at this very, very carefully, and we appreciate your testimony and your support of this.

Mr. UNDERWOOD. If I could just add to that, the frustrating part of it for us was the science behind it was clearly on the side of dealing with the invasive species which is the brown tree snake, which is almost legendary now in light of—I think when you do an article search on Guam, some 30 or 40 percent of the articles are on the brown tree snake. That was clearly the problem.

Fish and Wildlife took control of some 300 acres for a headquarters, declared this wildlife refuge, and then refuses to spend money on eliminating the brown tree snake, leaves it to special appropriations to fight the brown tree snake but continues to spend money on its own to work on perfecting this refuge. So the net result is we see many more Fish and Wildlife personnel than we see birds now, not as many as snakes.

Mr. ROMERO-BARCELÓ. Do local authorities have free access to these lands to deal with the problem of the brown tree snake or not?

Mr. UNDERWOOD. There are other Federal programs to deal with the brown tree snake, but they were done by special appropriations as add-ons. I have consistently argued that those funds that are used to fight the brown tree snake should come from Fish and Wildlife because their objective was to deal with the issue of the endangered species.

Mr. ROMERO-BARCELÓ. Thank you.

Mr. HANSEN. The gentleman from Nevada, Mr. Gibbons.

Mr. GIBBONS. Thank you very much, Mr. Chairman. I appreciate your leadership in having this hearing today, and I appreciate our colleagues and their testimony this morning.

I would ask the gentleman from Guam and our friend, Mr. Underwood, whether he thinks the territory of Guam could better handle the decision-making with regard to the control of the brown tree snake versus the Federal Government's intervention in this issue.

Mr. UNDERWOOD. I think a collaborative effort is necessary because it involves Customs. It involves moving—the potential of the brown tree snake moving on to Hawaii and other places.

But in this particular instance it has been most frustrating that the agency designed to deal with the endangered species has not come to the table with the resources to confront it. What we are left with is we are now left to advocate on our own through other—including some Department of Defense money—to help fight the brown tree snake.

Mr. GIBBONS. Thank you.

Mr. Chairman, I have no further questions.

Mr. HANSEN. The gentleman from Colorado, Mr. Udall.

Mr. MARK UDALL. Thank you, Mr. Chairman. I have no questions at this time.

Mr. HANSEN. The gentleman from Washington, Mr. Inslee.

Mr. INSLEE. Mr. Taylor, I am reading a comment from George Shloegel in our file. He is extolling the virtues of Cat Island. It says here, quote, Just last month our own Congressman, Gene Taylor, and his daughter Emily landed a monster red fish and played a hand-over-hand line much like the Old Man and the Sea and presented a delicious meal to their entire family, close quote.

Now, I realize that you are not under oath, but how big was that fish? Could you just show us?

Mr. TAYLOR. It was indeed the biggest fish I ever caught. It was my daughter Sarah.

Mr. INSLEE. I don't have a question. I just have a comment for Mr. Taylor.

Your comments about the importance of seeing the hand of God in nature—I have been in Congress for 3 years, off and on. That is was the most eloquent statement I have heard on environmental issues since I have been here. I appreciate your comments. I think that we should share it with other Members.

Mr. TAYLOR. I am rarely accused of being eloquent.

Mr. INSLEE. That is why I noted it. I appreciate what you had to say.

Mr. Underwood, you are getting some help because last night on the Learning Channel they had a story on the brown tree snake on your island, so you are getting a little help. Thank you.

Mr. UNDERWOOD. I am not sure that I like that kind of help.

Mr. HANSEN. Mr. Taylor, what is it that you envision for Cat Island?

Mr. TAYLOR. Mr. Chairman, as I mentioned before, and I really don't know who was behind it back then, my hunch would be then Congressman Colmer, who was a very influential member of the Rules Committee, Senator Eastland and Senator Stennis, I don't know who was smart enough to do it. I guess all of them. But they took several approaches to the islands that were purchased in the Gulf Island Seashore.

One of them has a Civil War fort that was used as a prison during the Civil War. That island is Ship Island. It has a regular passenger service to it, and I would presume probably over 100,000 people a year go out there and swim on the beaches, tour the fort. They have some beautiful boardwalks out among the marshes so people can see the alligators, the egrets, get an idea of what nature was like.

Another island, Horn Island, was kept primarily in a primitive state. They allow for primitive camping out there. They allow folks to sail out there, anchor off and swim off the beaches, basically do everything short of hunting out there, if I am not mistaken. I would leave that up to the Park Service as to what they think the market is for the best use of this island. Either one would be wonderful, as far as I am concerned. It is not very far from Ship Island where the vast majority of tours go by way of the regular passenger service.

But I think with the incredible growth of the Mississippi Gulf Coast—and again, no one anticipated it. I was one of the sponsors of the bill, and it is 50 times bigger than anyone guessed it could have been. I think we should leave it to the Park Service, the flexibility to do one or the other depending on what they think the market is. If they find that Ship Island has gotten so crowded that people are tripping over each other, much like the Jersey Shore, I am sure they would want the option of doing with Cat Island what they did with Ship Island.

Mr. HANSEN. Do people go over there in their private boats on those islands that are close to the mainland for recreation purposes?

Mr. TAYLOR. I was out at Ship Island in July when they have an annual get-together as a fund raiser for the island. I would estimate that at least 50,000 people were out there. Most of them got out there in their private boats.

We have a really great thing about the Mississippi Gulf Coast, is that we have these barrier islands that range anywhere from about 7 to 10 miles off shore that protect us from the big waves of the Gulf of Mexico. So even people with fairly small boats, 14-, 15-, 16-foot boats, can access them knowing they are not going to encounter too great a sea.

We have a very good presence of the United States Coast Guard. We have an excellent National Weather Service. It is something that truly the average Joes of south Mississippi can use.

Again, to the compliment of the Boddie family—I have only recently gotten to meet them—I have been going out there since I was a kid. They have been very good about saying if you stay on the beach and don't come in where our things are, they kind of just let people do it.

Mr. HANSEN. You say 7 to 10 miles from the mainland?

Mr. TAYLOR. Yes, sir. But, again, it is in a place where the seas rarely get as high as this desk top.

Mr. HANSEN. So small boats can go through there unless inclement weather? They can make it all right?

Mr. TAYLOR. Yes. And the beauty of it is it is accessible so that almost anyone who can afford a boat or has a friend who has a boat can get to Ship Island. Again, in the case of Ship Island, which I am going to guess is 5 miles to the east, there is a regular passenger service available through a charter to the——

Mr. HANSEN. Your bill does not dictate to the Park Service or any other entity what they should do with it. You are leaving it up to them. So if they decided that the Marriott Corporation should put three hotels you would go along with that?

Mr. TAYLOR. That is prohibited, if I am not mistaken, from the 1970s law.

Mr. HANSEN. If they decided to put it in wilderness, would you feel okay with that?

Mr. TAYLOR. Again, that is they have done with Horn Island and allowed for primitive camping. I would think that, as far as the Park Service is concerned, that would be the low-cost option for them, the easiest for them to maintain. I would love to give them that option.

Again, since our tourism industry has just exploded, they may find that they need additional beaches made available to the public. They may want to establish a passenger service to that island they way they have at Ship Island. That is their call. I would like to see it included. I would like to make those opportunities available to them.

Mr. HANSEN. From the map it appears that it has quite a nice beach along that one side; is that correct?

Mr. TAYLOR. It is a phenomenal beach. I have seen everything from manta rays, dolphins. I really did catch the largest red drum

of my life just a couple of weeks ago. It is where most of the crabs from the Mississippi Sound go there during the summer to lay their eggs. You literally will go out there on a day where you can hardly take a step for fear of stepping on crabs. The only horseshoe crabs that you see anymore in the Gulf Coast are out there. The white albino crabs that you see on the sand, you normally think of as down in the Bahamas, you see out there. Whitetail deer, osprey—the Boddies have been incredible stewards of this resource.

Mr. HANSEN. What is your estimation of cost? Do you have one yet?

Mr. TAYLOR. Yes. The rough estimate—the Gulf Island National Seashore is in the process of having a survey done. If I am not mistaken, they are going to have two surveys done, just to comply with the law. The estimate is somewhere in the $28 million range. But if I may say, that is not out of line.

Mr. Gibbons is here. A lot of the folks that have casinos, some of those casinos are paying in rents from people $5 million a year for the equivalent of half a city block on the waterfront. So $28 billion dollar compared to that, those are the folks who really can afford to buy this island.

The Boddie family contacted me this summer and said, we have heard some of their proposals, and we have decided that the best long-term use for this island is to preserve it, and we would like to sell it. They could sell it either way. They can get a lot of money for it either way. It is their wishes that it be preserved as it is. I would—I think it is a great opportunity for the people of this country, and I would like to honor their wishes.

Mr. HANSEN. Where does it get the name Cat Island?

Mr. TAYLOR. I am told that when Bienville and D'Iberville, the French explorers that first explored the Mississippi Gulf Coast around 1699, were working their way from Florida to what they hoped would be the mouth of the Mississippi River—it is fairly shallow around here, so a lot of it had to be done kind of touchy-feely to keep from running aground. When they passed the island, from a distance they saw a large number of raccoons which are still on the island. From a distance, they mistook them for cats. Hence the name Cat Island.

Mr. HANSEN. Always a story on those names, isn't there?

Mr. Underwood, you are of the opinion that the Fish and Wildlife is spending the money that they should have been using to take care of the birds and for the brown tree snake, and the people of Hawaii are really kind of ticked off for you folks for transporting the tree snake in the undercarriage of the airplanes. Your comment regarding where the money is going.

Mr. UNDERWOOD. Actually, let me clarify that. The Fish and Wildlife Service doesn't really put any funding into fighting the brown tree snake. It is done by special appropriations. The leader on that has been Senator Inouye who has appropriated some money from the Department of Defense to help in controlling the brown tree snake.

My—I think the people of Guam could be ticked off for a lot of things. One, they could be ticked for the military planes that brought in the brown tree snakes to begin with. That is the first issue. But secondly is the fact that, under the guise of trying to

help protect the endangered species, the birds, there has been more effort given by Fish and Wildlife towards dealing with property issues and land issues than the actual invasive species which have led to the decline of the birds.

Obviously, one of the—I have always kidded both Senator Inouye and Senator Akaka, the fastest way for us to get attention is to take a dead snake and throw it on the tarmac over in Honolulu. That gets everyone excited.

In reality, it is a serious problem, a serious public relations problem; and people of Guam are very much in favor of bringing back the bird species.

I have recently gone to a little cleared-off area in the north of Guam trying to bring back what is known as the koko or the Guam rail. The Guam rail existed only in Guam. It is the only place in the word that it existed, and this flightless bird had been wiped out by the brown tree snake.

Mr. HANSEN. Always a problem.

The way the 1973 bill reads, if you are very successful in eliminating the brown tree snake down to a certain extent it will then become endangered and we will have to appropriate millions of dollars to save it. I don't know whether we ever get the balance worked out, but someone around this place ought to be smart enough to figure out how to change the Endangered Species Act. In some people's opinion, it came from Mount Sinai and the hand of God wrote it, but it really has lot of flaws in it.

With that frustration out of my way, let me say this. We appreciate the testimony of our two colleagues. We would welcome you to the dais if you would like to. And we will turn to the gentleman from Puerto Rico.

Mr. ROMERO-BARCELÓ. Mr. Taylor, what if the Navy decided that one of the islands in the Gulf Coast of Mississippi was indispensable for national defense and they started using it for bombarding and maneuvers? How would the people around Mississippi feel about that?

Mr. TAYLOR. Mr. Romero-Barceló, I am of the understanding that during World War II portions of both this island and Horn Island were used to train dogs for the military. There is actually some chemical weapons testing out there, either on this island or Horn Island.

I certainly understand where you are coming from. I have a very large Army tank range that I help to make better in my district where they do drop bombs in my district.

As I have said before, we value our bases as great neighbors. I hope to go to Puerto Rico when we adjourn and see if I can't do a job of convincing the United States Navy to be better neighbors on Vieques.

Mr. ROMERO-BARCELÓ. The difference there—we are getting into another subject, but the difference there is the community is involved in the base, and they get jobs in the base different from the situation in Vieques where the Navy is completely estranged from the people in Vieques.

Mr. TAYLOR. I am going to do the very best I can, in my very best mumble, to——

Mr. ROMERO-BARCELÓ. I know that. You have been very helpful. Thank you very much on that. You can be sure that we will also be very helpful to you in this, whatever we can do.

Mr. HANSEN. The gentleman from Nevada.

Mr. GIBBONS. Thank you, Mr. Chairman. I have just one question for Mr. Taylor.

I noticed that the owners of Cat Island have requested the retention of a retained right for an in-holding within the island itself. Are you in support of their request for retention of an in-holding that would be within the area of the island but not included within the park boundaries?

Mr. TAYLOR. Mr. Gibbons, let's remember, they have a number of people who have a lot of money who have offered to buy this island. Those people can do, since it is privately owned, anything they want with it all the way from razing it—they can do anything they want with it right now.

They have offered to make about 2,100 acres available to the public. They have asked that they can keep for their children, since this has been in their family for almost a century, about 150 acres. About another 8 or 10 acres are owned by other individuals in smaller lots.

You and I, I think, are very much alike in that we don't want to take anyone's land. They are willing sellers. They have told me that they would like to retain that 150 acres for their children and children's children, but also with the knowledge and working with the Gulf Island National Seashore to possibly one day construct a small lodge, 8 to 15 rooms, where folks could come out and have eco-tours. I see that as a great idea.

We both have districts where a lot of people come for the purposes of gambling. But they also come to do a lot of other things. In the case of your district, to play golf, see the mountains, see the desert. In the case of south Mississippi, we have the great resource of the Gulf of Mexico. I think that the more assets that already exist in south Mississippi that we can make available to the public the better.

So if they want to give the opportunity to folks that don't have a boat to go out to Cat Island and spend a few days and see the deer and the alligators, the ospreys and the horseshoe crabs, the dolphins, I think it is a wonderful idea.

Mr. GIBBONS. Thank you, Mr. Taylor.

Mr. Chairman, I know that we have had discussions in this Committee in the past about in-holdings in the park and other areas and some of the problems that has been raised by the park commission over such things. I would hope that we can make it clear that the wishes of the owners in this regard to their property making this a public island more or less would be recognized down the road. I am afraid what we will see is an erosion of that support for private ownership within that island after a number of years.

Mr. TAYLOR. Mr. Gibbons, to the point, if I may, only yesterday I received a letter from someone who owns about 80 acres on one of the islands previously purchased back in the late 1960s, early 1970s. Obviously, it has not been a problem for them, that they have retained title to that for these many years.

We are—I would hope that you would ask the same question of the Boddie family. They have asked for very specific language that would allow them to do just what we talked about. I hope the bill would spell that out so they don't have to keep going to the expense of coming back and forth to Washington, that we could get this straight and have it as part of the proposal that your Committee votes on.

Mr. HANSEN. Further questions for our colleagues? If not, we will excuse you. Actually, if you would like to join us on the dais, we will turn to the first panel.

Our first panel is William Shaddox, Acting Associate Director for Professional Services, National Park Service; Cala Boddie-Colbert, Cat Island, Mississippi; and George Schloegel, Friends of the Gulf Island National Seashore.

If these three folk would like to come up, we would appreciate it.

Thank you.

STATEMENT OF WILLIAM SHADDOX, ACTING ASSOCIATE DIRECTOR FOR PROFESSIONAL SERVICES, NATIONAL PARK SERVICE

Mr. HANSEN. Mr. Shaddox, we appreciate you being with us, and we will turn to you first.

You folks notice this little machine in front of you. It is a new idea that they have come up with around here. It has on it: Talk, sum up, and stop. There is the time just ticking away. We appreciate it if you would try to stay within your time. We realize that maybe you have got to go over for a few minutes, and that is all right. We now fine you for $10 a minute for every minute you go over. Maybe we would waive that in this hearing.

The floor is yours, sir.

Mr. SHADDOX. Thank you, Mr. Chairman and members of the Committee, for allowing us to appear and testify on H.R. 2541 today to adjust boundaries of Gulf Island National Seashore to include Cat Island, Mississippi.

Mr. Chairman, I would like to submit my statement for the record, if you please. Then I could summarize.

Mr. HANSEN. Without objection, your entire testimony will be in the record, as it will for all of our witnesses today. If you would like to summarize, that is perfectly all right. We understand.

Mr. SHADDOX. Thank you, Mr. Chairman.

First, Mr. Chairman, I would like to thank Congressman Taylor for all of his hard work to bring this bill to the attention of the Congress. I would like to thank Trust Republic Lands for all of the hard work that they have done in this measure. I would certainly love to thank the Boddie family for their willingness to step forward to help preserve this wonderful resource, this beautiful island.

The Department supports this legislation, Mr. Chairman, with the amendments described later in this testimony. The significant natural resources of the island and its great potential for visitor use make this island a highly desirable addition to the national seashore.

The landowners prefer to have the island added to the national seashore, and to that end we have been discussing terms of conveyance with the Trust for Public Lands and the National Park Service. Meanwhile, because development pressures along the coast of Mississippi are intensifying, the owner is likely to get very attractive competing offers from land developers. We hope that Congress would seize what could turn out to be a short-lived opportunity to obtain this magnificent resource for the benefit of the public by passing this legislation enabling the National Park Service to acquire the island. Land acquisitions, however, would be subject to National Park Service priorities and the availability of appropriations.

While we agree with the intent of H.R. 2541, we recommend two changes to the legislation as follows. If you will bear with me, Mr. Chairman, this is somewhat lengthy, but I will get through it as quickly as possible.

First, section 1, subsection 3, would add to Gulf Islands and the water area adjacent to the shoreline that is not owned by the State of Mississippi. Because the State actually has title to all submerged lands below the mean high tide line, the boundary would end at the high tide line. The beach area below the high tide line and the submerged lands, which are owned by the State, would be excluded.

This proposed boundary is different from the boundaries around the other islands within the seashore, which include the adjacent submerged lands for one mile from the shoreline or to the south edge of the Intercoastal Waterway, whichever is closer.

We recommend that section 1, subsection 3, be amended to establish a seaward boundary for Cat Island that is consistent with those of the other national seashore islands. We are concerned that if the boundary stops at the high tide line, it may pose management problems. For example, the Park Service would not be able to establish and enforce rules for recreational watercraft immediately offshore, as it does for other national seashore islands.

We understand that State officials oppose including State submerged lands in the boundary. However, including this area in the boundary would not change the ownership of the submerged lands. The State would retain ownership. Section 2(a)(6) of Public Law 91–660, the original Gulf islands legislation, makes clear that the National Park Service may acquire only with the consent of the State. The State did in fact convey to the Park Service ownership of the submerged land surrounding the other Gulf Islands nearly 30 years ago.

If Mississippi wishes to retain title to the submerged lands adjacent to the island, establishing a boundary one mile out to see would make it possible for the State to enter into an agreement for concurrent jurisdiction of the area with the National Park Service. That could be a real advantage to both the State and the Park Service. Under such an agreement, it would be possible for the State to be relieved of the burden it would otherwise continue to bear for management of the water surrounding the island, while the Park Service would have a greater ability to protect the island's resources and the visiting public. But unless the boundary is ex-

tended beyond the high tide line, the option of entering into such a management agreement would not be available.

Furthermore, should the State ever decide that it wanted to transfer ownership of the water within the one mile boundary to the Park Service, there would be no need for new legislation to adjust the boundary.

Two alternative maps depicting the island as part of Gulf Islands National Seashore are being prepared by the Park Service's Regional Office. One depicts the island with a boundary one mile seaward, as we are recommending, the other with a boundary at the high tide line, as described in H.R. 2541 as introduced, and we will submit both to the Subcommittee.

Secondly, H.R. 2541 anticipates the purchase of the island but does not include an increase in the authorization of appropriations for land acquisition. The last authorization for the acquisition at Gulf Islands, enacted in 1976, raised the ceiling to $22,162,000. Over the years, Congress has actually appropriated more than that amount for land purchases in the islands. Because we do not yet have a cost estimate for the approximately 2,200 acres that would be purchased if this legislation is approved, we recommend that the legislation authorize the appropriation of such sums as necessary for land acquisition. Furthermore, the language should be clear that the submerged land, as well as land and water, are eligible for acquisition, as that would help avoid confusion over the status of submerged lands.

In summary, we believe that Cat Island would be a very valuable addition to the Gulf Island National Seashore, and we urge the Subcommittee to act on this legislation as quickly as possible before we lose the opportunity to add this wonderful property to the National Park Service.

Mr. Chairman, this concludes my remarks; and I would like to answer any questions that you or the Subcommittee may have.

[The prepared statement of Mr. Shaddox follows:]

STATEMENT OF WILLIAM SHADDOX, ACTING ASSOCIATE DIRECTOR FOR PROFESSIONAL SERVICES, NATIONAL PARK SERVICE

Mr. Chairman, thank you for the opportunity to testify on H.R. 2541, to adjust the boundaries of the Gulf Islands National Seashore to include Cat Island, Mississippi.

The Department supports this legislation, with the amendments described later in the testimony.

H.R. 2541 would revise the boundary of Gulf Islands National Seashore established in 1971, by Public Law 91–660, to add Cat Island to the series of barrier islands and onshore units in Mississippi and Florida that comprise the national seashore. Cat Island, which lies about eight miles south of Gulfport, is the westernmost barrier island of the group of five islands off the eastern half of the Mississippi coast. This almost entirely undeveloped, 2,350-acre, T-shaped island has more than 21 miles of shoreline varying from sea-level beaches to 40-foot high sand ridges.

Cat Island contains a greater diversity of vegetation and wildlife than any of the islands currently within the national seashore. Habitats include saltwater marsh, ephemeral saltwater marsh, freshwater marsh, palmetto-slash pine forest, and live oak stands. The only development on the entire island consists of three frame dwellings, some man-made canals, and relics of military use during World War II. The significant natural resources of the island, and its great potential for visitor use, make this island a highly desirable addition to the national seashore.

When plans were under way to establish Gulf Islands National Seashore three decades ago, the Administration proposed to include Cat Island in the boundary. However, due to opposition to its inclusion by the owner, Congress omitted the is-

land from the final legislation. The island's principal owner now wishes to sell all but 150 acres of the island.

The owner prefers to have the land added to the national seashore and, to that end, has been discussing terms of conveyance with the Trust for Public Land and the National Park Service. Meanwhile, because development pressures along the coast of Mississippi are intensifying, the owner is likely to get very attractive competing offers from land developers. We hope that Congress will seize what could turn out to be a short-lived opportunity to obtain this magnificent resource for the benefit of the public by passing this legislation, enabling the National Park Service to acquire the island. Land acquisitions, however, would be subject to National Park Service priorities and the availability of appropriations.

While we agree with the intent of H.R. 2541, we recommend two changes to the legislation, as follows:

First, Section 1(3) would add to Gulf-Islands National Seashore Cat Island and the water area adjacent to the shoreline that is not owned by the State of Mississippi. Because the State actually has title to all submerged lands below the mean high-tide line, the boundary would end at the high-tide line. The beach area below the high-tide line and the submerged lands, which are owned by the state, would be excluded.

This proposed boundary is different from the boundaries around the other islands within Gulf Islands National Seashore, which include the adjacent submerged lands for one mile from the shoreline or to the south edge of the Intercoastal Waterway, whichever is closer.

We recommend that Section 1(3) be amended to establish a seaward boundary for Cat Island that is consistent with those of the other national seashore islands. We are concerned that if the boundary stops at the high-tide line, it may pose management problems. For example, the National Park Service would not be able to establish and enforce rules for recreational watercraft immediately off shore, as it does for the other national seashore islands.

We understand that State officials oppose including State submerged lands in the boundary. However, including this area in the boundary would not change the ownership of the submerged lands. Section 2(a) of Public Law 91–660, the original Gulf Islands legislation, makes clear that the National Park Service may acquire State property only with the consent of the State. The State did in fact convey to the Park Service ownership of the submerged lands surrounding the other gulf islands nearly 30 years ago.

If Mississippi wishes to retain title to the submerged lands adjacent to Cat Island, establishing a boundary one mile out to sea would make it possible for the State to enter into an agreement for concurrent jurisdiction of the area with the National Park Service. That could be a real advantage both to the State and the National Park Service. Under such an agreement, it is possible that the State could be relieved of the burden it would otherwise continue to bear for management of the water surrounding the island, while the Park Service would have a greater ability to protect the island's resources and the visiting public. But unless the boundary is extended beyond the high-tide line, the option of entering such a management agreement will not be available.

Furthermore, should the State ever decide it wanted to transfer ownership of the water within the one-mile boundary to the National Park Service, there would be no need for new legislation adjusting the boundary.

Two alternative maps depicting Cat Island as part of Gulf Islands National Seashore are being prepared by the Park Service's Southeast Regional Office. One depicts Cat Island with a boundary one-mile seaward, as we are recommending, the other with a boundary at the high-tide line, as described in H.R. 2541 as introduced. We shall submit both to the Subcommittee.

Second, H.R. 2541 anticipates the purchase of Cat Island, but does not include an increase in the authorization of appropriations for land acquisition. The last authorization for land acquisition at Gulf Islands, enacted in 1976, raised the ceiling to $22,162,000. Over the years, Congress has actually appropriated more than that amount for land purchases there. Because we do not yet have a cost estimate for the approximately 2,200 acres that could be purchased if this legislation is approved, we recommend that the legislation authorize the appropriation of "such sums as necessary" for land acquisition. Furthermore, the language should be clear that submerged lands, as well as land and water, are eligible for acquisition, as that will help avoid confusion over the status of submerged lands.

In summary, we believe that Cat Island would be a very valuable addition to Gulf Islands National Seashore, and we urge the Subcommittee to act on this legislation as quickly as possible before we lose the opportunity to add this wonderful property to the National Park System.

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

Mr. HANSEN. We have, apparently, a couple of votes on right now. We will have to see what they are and determine whether we would want this kind of recess for just a moment.

There is just one on the rule and just a general vote. Possibly it would be better if we recessed for just a few minutes. We will run over and come right back. I would urge the members of the Committee to come right back, and we will get right back to the next testimony.

We will stand in recess.

[Recess.]

Mr. HANSEN. The meeting will come to order.

We have no control over things such as votes going on. We just have to go. That vote ended. I am sure the members will be coming back.

We will now turn to Cala Boddie-Colbert as our next witness.

STATEMENT OF CALA BODDIE-COLBERT, CAT ISLAND, MISSIPPII

Ms. BODDIE-COLBERT. I am Cala Boddie-Colbert. I am here together with my brother and sister. Together with our cousin and our nine children, we own all but six acres of Cat Island.

As you can see from the map over there, it is a T-shaped island approximately 7 miles south of Gulfport, Mississippi. The island has been in my family for almost 90 years. It has 21 miles of shoreline and it has pristine views and over three miles of totally undeveloped white gulf sand beach.

The incredible economic growth on the Gulf Coast in recent years has put us under intense pressure to decide between preserving the island and developing it. We have come to the conclusion that, if we are compensated fairly, we would greatly prefer to see the majority of the island preserved in its natural state. We think that the National Park Service has done an excellent job of managing the Mississippi barrier islands that are currently in the Gulf Islands National Seashore. For that reason, we believe that the seashore is the logical entity to preserve and manage the majority of Cat Island.

But our children are the fifth generation of our family to love Cat Island, and it is very important to us that this relationship should continue. Therefore, since we were first approached by the National Park Service in May, 1998, about the possibility of including Cat Island in the seashore, our discussions with the Park Service and with the Trust for Public Lands concerning an option which it could exercise on behalf of the Park Service, it has always been based on the premise that our family would retain approximately 6 percent of Cat Island in fee simple ownership. We have voluntarily agreed that we will place substantial government restrictions on this family land once the remainder of the island has been transferred to the Park Service. However, we did not contemplate and we have not agreed to the inclusion of this family land within the boundaries of the Gulf Island National Seashore.

We completely support the intent of H.R. 2541, but we ask that the Subcommittee modify the bill, as Congressman Taylor asked, to

remove our family land and to remove the existing privately owned subdivided lots from the proposed boundary amendment to the Gulf Island National Seashore. If the bill is amended to that effect, my family will wholeheartedly support it.

The reserved rights that we have negotiated with the Park Service will allow us to build houses for ourselves and our children and construct a small ecologically-oriented lodge on the acreage we will retain. The Park Service has agreed that this type of responsible and limited development is consistent with its management plans for Cat Island. A copy of the proposed reserved rights and restrictions that we have negotiated with the Park Service, a map showing the location of our family parcel, and a plat of the existing subdivided lots on the island are included with our written statement. A legal description of the family parcel is being submitted for the record.

We think that the preservation of 94 percent of Cat Island in its natural state for public use by future generations is in everyone's best interests. But because we want to keep a small part of Cat Island for ourselves, our children, and we hope for their children, and we also want to ensure the rights of the existing lot owners, I do ask you to amend H.R. 2541 to exclude our family's retained land and the existing other privately owned property on the island from the proposed boundary of the Gulf Island National Seashore.

Thank you.

Mr. HANSEN. We thank you.

[The prepared statement of Ms. Boddie-Colbert follows:]

TESTIMONY CONCERNING H.R. 2541

CALA BODDIE COLBERT

REPRESENTING THE BODDIE AND BUFFINGTON FAMILIES

OWNERS OF CAT ISLAND, MS.

Testimony Concerning H.R. 2541

My name is Cala Boddie Colbert. I am here today with my brother and sister. Together with our cousin and our children, we own all but six acres of Cat Island, a T-shaped island of over 2000 acres located 7 miles south of Gulfport, Mississippi. The island has been in my family for almost 90 years. It has 21 miles of shoreline, including pristine dunes and over three miles of undeveloped white sand gulf beach.

The incredible economic growth on the Mississippi Gulf Coast in recent years has placed us under pressure to choose between preserving the island and developing it. We have come to the conclusion that, if compensated fairly, we would prefer to see the majority of the island preserved in its natural state. The National Park Service has done an excellent job of managing the Mississippi barrier islands presently in the Gulf Islands National Seashore. For that reason, we believe that the Seashore is the logical entity to preserve and manage the majority of Cat Island.

Our children are the 5th generation of our family to love Cat Island, and it is very important to us that this legacy continue. For this reason, our negotiations with the National Park Service, and with the Trust for Public Lands concerning an option which it could exercise on behalf of the Park Service, have from the beginning been based on the premise that our family will

retain approximately 6% of Cat Island in fee simple ownership. We have voluntarily agreed to place substantial development restrictions on this parcel once the remainder of the island has been transferred to the Park Service. However, we did not contemplate, and we do not agree to, the inclusion of this family land within the boundaries of the Gulf Islands National Seashore.

While we completely support the intent of H.R. 2541, we ask that the subcommittee modify the bill to remove our family parcel and the existing privately owned subdivided lots on Cat Island from the
boundary of the Gulf Islands National Seashore. If the bill is amended to that effect, my family will wholeheartedly support it.

The reserved rights we have negotiated with the Park Service will allow us to build houses for ourselves and our children and to construct a small ecologically-oriented lodge on the acreage we will retain. The Park Service has agreed that this type of responsible and limited development is consistent with its management plans for Cat Island. A copy of the proposed reserved rights and restrictions that we have negotiated with the Park Service, a map showing the location of our family parcel, and a plat of the existing subdivided lots are included with my written statement. A legal description of the family parcel will be submitted for the record.

We believe that the preservation of 94% of Cat Island in its

natural state for public use by future generations is in everyone's best interest, but because we want to keep a small part of Cat Island for our children and, we hope, for their children, and to ensure the rights of the existing lot owners, I ask you to amend H.R. 2541 to exclude our family's retained parcel and the existing privately owned lots from the proposed boundary of the Gulf Islands National Seashore.

Thank you.

DRAFT OF PROPOSED RIGHTS AND RESTRICTIONS
BODDIE FAMILY PARCEL, CAT ISLAND, MS.

Sellers hereby reserve to themselves and to any Seller Party the specific limited rights in the Property set forth herein and Buyer acknowledges Sellers' rights set forth herein with respect to the Property and the Family Parcel. Sellers agree to certain limitations and restrictions on the Family Parcel, subject to the terms and conditions set forth below. Unless otherwise specified herein, each limitation on Sellers or property right reserved by them shall be deemed a covenant running with the land in perpetuity.

1. Sellers hereby reserve the right of any Seller Party to use and to maintain safe and navigable depths in the channel (generally known as the Bayou Marie Ridge Channel) which provides access to the Family Parcel. This right does not include the right to widen the channel beyond the width existing on the date hereof without the consent of the Buyer Party.

2. Sellers hereby reserve all riparian rights appurtenant to the Family Parcel to which they are or may become entitled under either Mississippi or federal law, including but not limited to the right to construct, maintain, or reconstruct bulkheads, docks, piers, and boat slips on or adjacent to the Family Parcel. Dock or pier construction shall not unreasonably obstruct navigation in the channel or canal. Construction and maintenance of docks and piers shall be subject to the reasonable regulation of the Mississippi Department of Marine Resources.

3. Sellers hereby reserve the right of any Seller Party to use all available integrated pest management ("IPM") methods that are, or may become, acceptable in residential areas on the Gulf Coast. This method utilizes regular pest monitoring, physical, cultural, and

biological control methods, resident education, and the judicious use of pesticides to prevent and suppress pests in a cost-effective manner that poses the least hazard to people, property, and the environment.

4. Buyer hereby acknowledges right the right of any Seller Party, subject to the permit requirements of Harrison County and the State of Mississippi, to dig wells and install septic/treatment systems and systems for generating electrical power on the Family Parcel as necessary to support the development described in Section 7 of this exhibit.

5. Buyer hereby acknowledges the right of any Seller Party to store on the Family Parcel reasonable amounts of fuel for the purpose of generating electricity and powering vehicles.

6. Buyer hereby acknowledges that there shall be no restriction on the use of vehicles or construction equipment on the Family Parc

7. If Buyer acquires all of the Property under this Agreement, Sellers hereby covenant and restrict the Family Parcel as follows, effective as of the final Closing Date under the Agreement. These restrictions will remain in effect in perpetuity or such shorter period of time as all of the Property is maintained by the Buyer Party for conservation, park, marine or biological research or nature conservation purposes. If Buyer does not acquire all of the Property under this Agreement, the restrictive covenants on the Family Parcel set forth in this Section 7 shall not take effect and shall be null and void.

a. Except as provided in Section 12 of this Exhibit with respect to a marine research station, the Family Parcel may be divided into no more than 11 separate legal lots ("**Subdivided Lots**"), each of which shall have an easement to the Bayou Marie Ridge

Channel;

b. Ten of the 11 Subdivided Lots may be used for agricultural or residential purposes;

c. The eleventh Subdivided Lot, to be selected by the Seller Parties at their sole election, may be utilized to build a private inn or resort consisting of a restaurant and not more than twenty-eight (28) clustered or detached units for guest accommodations, together with guest support services, recreational and meeting facilities, amenities, utility structures, and employee housing (the "Inn Parcel"). No structure may exceed 50 feet above the surrounding ground surface level. All construction and land use shall be according to the building and land use laws and regulations of the State Mississippi and Harrison County.

d. Seller Parties may lease the Inn Parcel to outside companies or partnerships for the development and operation of an inn and related facilities, subject to the restrictions, reserved rights, and covenants included in this Agreement.

8. Buyer acknowledges that certain roads exist between the U.S.G.S. Benchmark West Point and U.S.G.S. Benchmark Brush (as shown on the U.S.G.S. 1994 quad map Isle au Pitre and Cat Island). Such roads are shown on the map attached as Exhibit __.

9. Sellers hereby reserve the following right: During the natural lifetimes of (a) the individuals whose names are shown as Sellers on Exhibit B hereto, (b) the individual beneficiaries of the trusts shown as Sellers on Exhibit B, and (c) John W. Colbert and Corinne Whitfield Colbert, all of those individuals shall have, with respect to any portion of the Property acquired by Buyer, the right to use the roads on the Property shown on Exhibit __ as the roads currently exist or as they may come to be relocated. All road use shall be for

personal, non-commercial purposes, and such uses shall be as pedestrians, or by non-motorized bicycle, or light motor vehicle of limited speed and horsepower, such as a Kawasaki Mule 2510 or similar vehicle. Motorized vehicles will be battery, gasoline or diesel powered and be governed to a maximum speed of 25 miles per hour. Vehicles may be modified to seat six people and may be 4-wheel drive. Passenger cars or all-terrain vehicles commonly referred to as three-wheelers or four-wheelers may not be used on the roads of the Property at any time. Permitted road uses do not include the transportation of guests of any inn, resort, hotel or rental unit on the Family Parcel, but do include the transportation of relatives and personal non-paying guests.

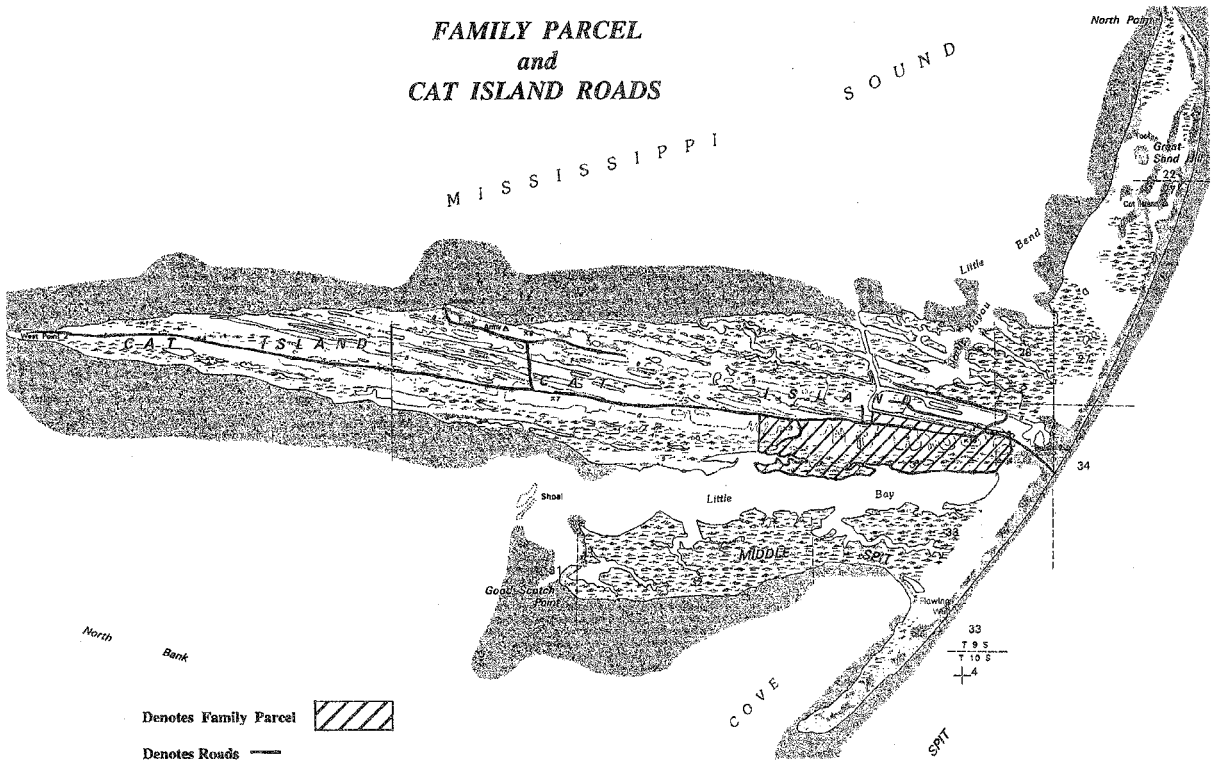
10. Sellers hereby reserve to themselves, their heirs, successors and assigns, in perpetuity, all rights to minerals, oil, gas, sulfur and other hydrocarbons on the Property not previously conveyed, subject however to the limitation that this reserved right shall not include the right to enter the Property to explore for such minerals, oil or gas, but shall include the right to pool and/or unitize said lands with adjacent lands for exploration and production thereof.

11. Buyer and Sellers agree that should the Boddie Family decide in the future to provide funding for a marine research station to be located on Cat Island and administered by an educational or charitable organization, the station may be placed either: (a) on a twelfth subdivided lot located on the Family Parcel; (b) on one or more of the existing subdivided lots outside the Family Parcel; or (c) with the Buyer Party's consent, at a location on the Property acceptable to the Buyer Party and the Seller Parties.

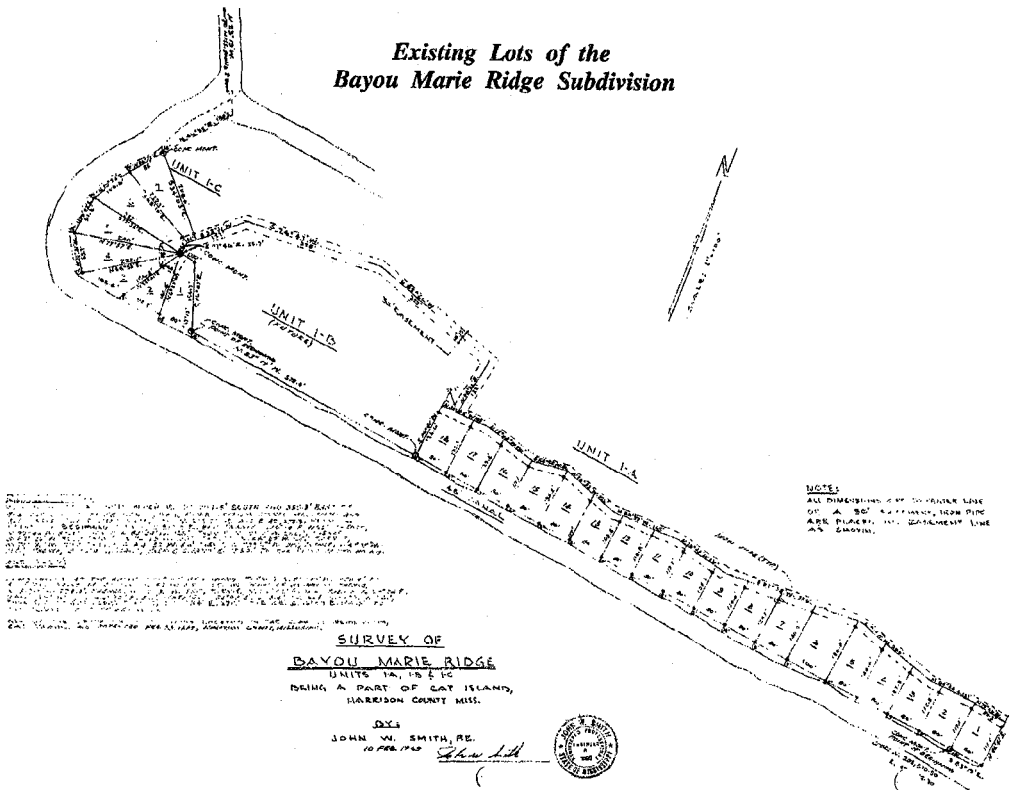
12. Each of the Seller Parties and the Buyer Party shall be obligated on the request of the other to execute such estoppel letters and similar documents to indicate whether there is any violation then in existence of the Family Parcel Restrictions or the Seller Reservations or

whether a proposed action would violate the Family Parcel Restrictions or the Seller Reservations. If a party does not respond within 30 days to a written request for such an estoppel letter, then the other party, and any prospective purchaser, lender or title insurer, shall have the right to presume that there is no such violation.

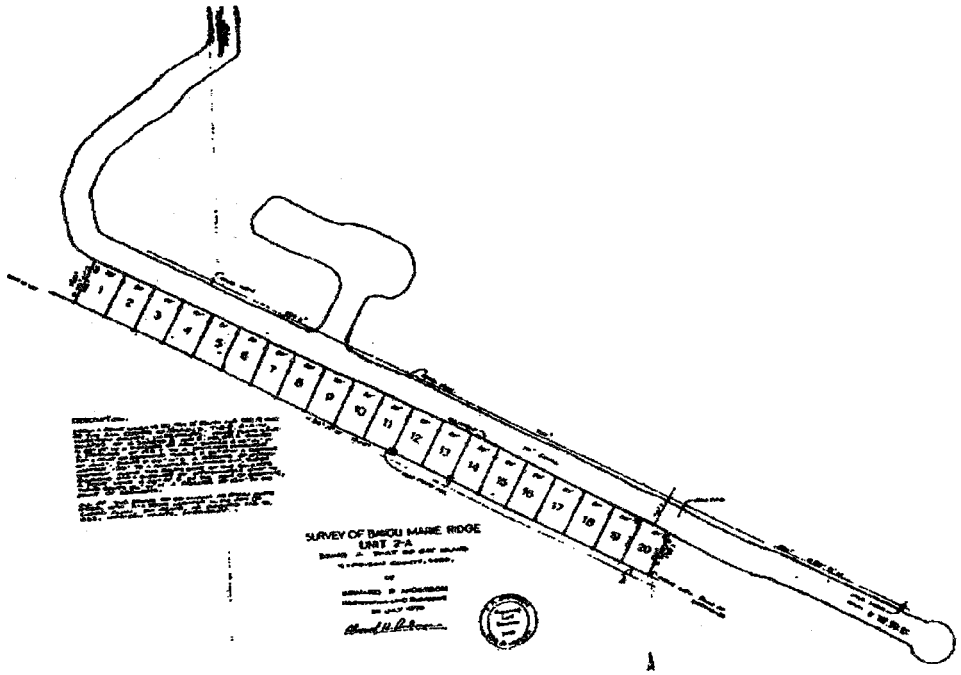
FAMILY PARCEL and CAT ISLAND ROADS



Existing Lots of the Bayou Marie Ridge Subdivision



Existing Lots of the
Bayou Marie Ridge Subdivision



Mr. HANSEN. Mr. George Schloegel, I hope.

STATEMENT OF GEORGE SCHLOEGEL, FRIENDS OF THE GULF ISLANDS NATIONAL SEASHORE

Mr. SCHLOEGEL. Thank you, Mr. Chairman.

Mr. Chairman, members of the Committee, my name is George Schloegel. I am 43 year employee of the Hancock Bank, headquartered in Gulfport. I represent the Friends of the Gulf Islands National Seashore, a broad-based volunteer nonprofit organization dedicated to the preservation and enhancement and operation of the barrier islands that are owned by the Federal Government located in the Mississippi Sound and the Gulf of Mexico and visited by approximately 4½ million people annually.

By way of background, my experience with the Gulf Islands goes back several generations. My father, Joseph A. Schloegel, Sr., personally led the effort to keep Fort Massachusetts from being destroyed by the encroaching sea in the early 1930s. I was a part of the effort from 1965 to 1971 to have the islands transferred from private to public ownership. I am cofounder and chairman emeritus of the Friends of the Gulf Island National Seashore. I serve as chairman of the reconstruction of Ship Island lighthouse which was originally built in 1853, destroyed in 1861 during the Civil War, and rebuilt in 1886 and accidentally burned in 1972. We rebuilt the lighthouse on October 9, 1998. A model that I have in front of me is of that lighthouse. It is nearing completion as we speak.

Now, to the island itself. The beauty and history of Cat Island is augmented by the inexpensive accessibility to sports fishing by fishermen who do not need costly boats to enjoy these waters. Families have access to gigging flounders at night or wade fishing along the sandy beaches with only a pole and a line. My grandsons fish off of Cat Island as did their great, great, great grandfather. Cat Island is a profound part of our lives, the lives of many people who live along the Gulf Coast of Mississippi. Just last month, as we read in the record a while ago, our own Congressmen Gene Taylor and his daughter Emily landed a monster redfish employing a hand-over-hand line, much like the Old Man and the Sea, and he presented to his family a delicious meal. That is common among the people who live on the Gulf Coast.

Today's appearance is "deja vous" for me. Under the able leadership of M. James Stevens, a New Jersey native who migrated to the Mississippi Gulf Coast and became our most beloved historian and civil leader, H.R. 10874 was introduced May 5, 1969. Sponsors of that bill included Congressman Sikes of Florida, Congressman Dickinson of Alabama, Congressman Hebert of Louisiana and Congressman William Colmer of Mississippi. Congressman Colmer at the time was chairman of the House Rules Committee.

H.R. 10874 created the Gulf Islands National Seashore to preserve one of America's most historic and scenic chain of barrier islands.

Included in the original bill was Mississippi's Petit Bois Island, Ship Island, Horn Island, and Cat Island. My good friend and the owner of Cat Island, the late Nathan Boddie, and his family did not want to sell Cat Island at that time. Mr. Bill Colmer in his infinite wisdom did not want to invoke eminent domain. I remember the

stately chairman putting his hand on my shoulders here in Washington and saying, "George, Nathan does not want to sell Cat Island and I feel we should accommodate him and take Cat Island out of the bill. At a later date perhaps we can purchase Cat Island, but condemnation simply is not an alternative I can live with."

Naturally, I agreed with Mr. Colmer, and H.R. 10874 passed the 91st Congress on January 8, 1971. Mr. Calmer's prophesy that one day Cat Island could be purchased is the subject of today's hearing. The Friends of the Gulf Islands National Seashore are grateful to Mr. George Boddie, to his sisters, and to all members of the Boddie family for their concurrence of the preservation of this national landmark.

By way of a little additional history, in 1513 Spanish explorer claimed the area of Cat Island 94 years before Jamestown and 110 years before the Mayflower landed at Plymouth Rock.

Three hundred years ago this year, on February 10, 1699, the French established a beachhead on the island and sailed through the pass between Cat Island and Ship Island and built Fort Maurepas on the mainland in Ocean Springs.

President Thomas Jefferson declared the control of New Orleans the focal point to the western expansion of our young Nation in 1801. New Orleans controlled the Mississippi River which drains 41 percent of the continental United States, including all or part of 31 States from New York to North Carolina and Idaho to New Mexico. This territory located just west of Cat Island prompted the Louisiana Purchase, America's greatest real estate transaction at 4 cents an acre, tripling the size of the United States in 1803.

The islands in question at today's hearing were pivotal in the Battle of New Orleans won by Andrew Jackson in 1815. The Treaty of Ghent on Christmas Eve, December 24, 1814, ended the war of 1812, but the terms of the armistice claimed the British did not recognize the Louisiana Purchase and therefore the coastal land and islands from Pensacola to Baton Rouge remained British. Andy Jackson's decisive defeat of the British at Mobile, Pensacola and finally at New Orleans on January 8, 1815, 2 weeks after the war was officially over, drove the British out of America once and for all.

Admiral David G. Farragut used the Gulf Islands as his launch spot for the siege of New Orleans, Baton Rouge and Natchez. The USS Constitution, among other transport vessels, deposited 18,000 troops on the islands in the midst of the Civil War. Those were the troops that General Benjamin Butler of Massachusetts used to occupy the City of New Orleans.

Admiral Farragut again used the islands to stage the Battle of Mobile against Admiral Franklin Buchanan, First Superintendent of the U.S. Naval Academy and former Commander of the C.S.A. Merimac-Virginia. In that battle, Farragut climbed the mainsail to view the fight and coined the phrase, "Damn the torpedoes, full speed ahead."

Others before you in these hallowed halls have preserved pieces of American history dating back to Francis Scott Key, Betsy Ross, Patrick Henry, and Nathan Hale. Today you have the opportunity to do the same by preserving another vital piece of American his-

tory where Andrew Jackson, David Farragut, and Zachary Taylor made their marks.

Today's testimony is not only about buying an island, it is also about preserving a piece of American history.

Thank you.

Mr. HANSEN. I thank the gentleman.

[The prepared statement of Mr. Schloegel follows:]

STATEMENT OF GEORGE A. SCHLOEGEL, GULFPORT, MISSISSIPPI

My name is George Schloegel. I am a 43 year employee of Hancock Bank located at 2510 14th Street, Gulfport, Mississippi 39501. My telephone number is (228) 868-4706. My degree is from Louisiana State University in New Orleans in Business Administration with a minor in History. I represent the Friends of the Guf Islands National Seashore, a broad based, volunteer non-profit organization dedicated to the preservation, enhancement and operation of the barrier islands owned by the Federal Government located in the Mississippi Sound and Gulf of Mexico and visited by 4 1/2 million people annually.

My experience with the Islands goes back several generations. My father, Joseph A. Schloegel, Sr., personally led the effort to keep Fort Massachusetts from being destroyed by the encroaching sea in the early 1930's. I was a part of the effort, from 1965 to 1971, to have the Islands transferred from private to public ownership. I am a co-founder and Chairman Emeritus of the Friends of the Gulf Island National Seashore. I serve as Chairman of the reconstruction of the Ship Island Lighthouse originally built in 1853, destroyed in 1861 during the Civil War, rebuilt in 1886, accidently burned in 1972 and rebuilt beginning on October 9, 1998.

The beauty of Cat Island is also augmented by inexpensive accessibility to sports fishing. Fishermen do not need costly boats to enjoy these waters. Families have access to gigging flounders at night or wade fishing along the sandy beaches with only a pole and line. My grandsons fish off of Cat Island as did their great, great, great grandfather. Cat Island is a profound part of our lives. Just last month our own Congressman, Gene Taylor, and his daughter, Emily, landed a monster redfish employing a hand-over-hand line, much like *The Old Man and the Sea*, AND PRESENTED A DELICIOUS MEAL TO THEIR ENTIRE FAMILY.

Today's appearance is "deja vous" for me. Under the able leadership of M. James Stevens, a New Jersey native who migrated to the Mississippi Gulf Coast and became our most beloved historian and civic leader, H.R. 10874 was introduced May 5, 1969. Sponsors of that bill included Congressman Sikes of Florida, Congressman Dickinson of Alabama, Congressman Hebert of Louisiana and Congressman William Colmer of Mississippi, Chairman of the House Rules Committee.

H.R. 10874 created the Gulf Islands National Seashore to preserve one of America's most historic and scenic chains of barrier islands.

Included in the original bill was Mississippi's Petit Bois Island, Ship Island, Horn Island, and Cat Island. My good friend and owner of Cat Island, the late Nathan Boddie and his family, did not want to sell Cat Island at the time and Mr. Bill Colmer in his infinite wisdom did not want to invoke eminent domain. I remember the stately chairman putting his hand on my shoulder and saying, "George, Nathan does not want to sell Cat Island and I feel we should accommodate him and take Cat Island out of the bill. At a later date perhaps we can purchase Cat Island but condemnation is simply not an alternative I can live with."

Naturally, I agreed with Mr. Colmer and H.R. 10874 passed the 91st Congress on January 8, 1971. Mr. Colmer's prophecy that one day Cat Island could be purchased is the subject of today's hearing, and the Friends of the Gulf Islands National Seashore are grateful to Mr. George Boddie and the members of the Boddie family for their concurrence in the preservation of this national landmark.

In 1513, Spanish Explorers claimed the area 94 years before Jamestown and 107 years before the Mayflower landed at Plymouth Rock.

Three hundred years ago this year, on February 10, 1699, the French established a beachhead on the islands when they sailed through the pass between Cat Island and Ship Island and built Fort Maurepas on the mainland in Ocean Springs.

President Thomas Jefferson declared the control of New Orleans as the focal point to the western expansion of our young nation in 1801. New Orleans controlled the Mississippi River which drains 41 percent of the continental United States, including all or part of 31 states from New York to North Carolina and from Idaho to New Mexico. This territory located just west of Cat Island prompted the Louisiana

Purchase, America's greatest real estate transaction at 4 cents per acre, tripling the size of the United States in 1803.

The islands in question at today's meeting were pivotal in the Battle of New Orleans won by General Andrew Jackson in 1815. The treaty of Ghent on Christmas Eve, December 24, 1814, ended the War of 1812 but the terms of the armistice claimed the British did not recognize the Louisiana Purchase; therefore, the coastal land and islands from Pensacola to Baton Rouge remained British. Andy Jackson's decisive defeat of the British at Mobile, Pensacola and finally at New Orleans on January 8, 1815, two weeks after the war was over, drove the British out of America once and for all.

Admiral David G. Farragut used the Gulf Islands as his launch spot for the Seige of New Orleans, Baton Rouge and Natchez. The U.S.S. Constitution, among other transport vessels, deposited 18,000 troops on the Islands in the midst of the Civil War. These were the troops General Benjamin Butler of Massachusetts used to occupy the city of New Orleans.

Admiral Farragut again used Ship Island to stage the Battle of Mobile against Admiral Franklin Buchanan, First Superintendent of the U.S. Naval Academy and former Commander of the C.S.A. Merrimac-Virginia. In that battle, Farragut climbed the mainsail to view the fight and coined the phrase, "Damn the torpedoes, full speed ahead."

Others before you in these hallowed halls have preserved pieces of American history dating back to Frances Scott Key, Betsy Ross, Patrick Henry and Nathan Hale. Today you have the chance to do the same by preserving another vital piece of American history where Andrew Jackson, David Farragut and Zachary Taylor made their marks.

Today's testimony is not only about buying an island, it is also about preserving a piece of American history.

Thank you for allowing me to make this presentation.

Mr. HANSEN. The gentleman from Nevada, a question for our witnesses?

Mr. GIBBONS. Thank you, Mr. Chairman.

Let me address my first question to Ms. Colbert, if I may.

Welcome and thank you for your testimony. I know your family is in support of this acquisition. What is the will, if you might say that, of the other landholders on the island? What do they see with all of this?

Ms. BODDIE-COLBERT. I don't speak formally for them, but there are approximately 27 quarter acre lots that my father sold in the 1960s and early 1970s. Those are probably owned by, I would think, 10 to 12 different persons, because several people owned more than one lot. We have not talked to each of them.

I think that the overwhelming sentiment is that they would like to be outside the seashore, if for no other reason so they could drink a Coors longneck on the porch of their house. The seashore, for very good reasons, prevents any glass on the island's seashore, and that is obviously necessary. But I think these people would like to have a little less regulation and be able to go into their camps and continue life as usual.

Mr. GIBBONS. So they want to continue their private property ownership on the island while still permitting the public ownership of the majority of the island that you plan——

Ms. BODDIE-COLBERT. We own all but six acres of the island. I don't know that other landowners really have a say as to whether—into our decision to sell to the Park Service. But it is my understanding and it has been my understanding that the land that we kept and also the existing privately owned lots would not be included within the boundaries of the seashore. They would simply be outside the seashore, not in hold.

Mr. GIBBONS. Mr. Shaddox, what is the projected cost of the island?

Mr. SHADDOX. We have no estimates at this time. We are conducting an appraisal, but we don't know what the costs are going to be at this time.

Mr. GIBBONS. Would you be willing to submit for the record your determination of the appraisal value prior to the acquisition?

Mr. SHADDOX. We would be willing to do that after we share it with the landowner, yes.

Mr. GIBBONS. With an included boundary of your suggestion for the barrier, the boundary around this island to be included as part of the title, would there be any restrictions on the access to this island generated by your service for these private property inholders?

Mr. SHADDOX. If I may, Representative Gibbons, ask the chairman if I could please call Jerry Eubanks, the Superintendent of Gulf Islands, to the table and Dan Brown, Deputy Regional Director of Atlanta, to help answer some of these questions. They are infinitely more familiar with the island and its regulations than I am.

Mr. HANSEN. The gentleman from Colorado, Mr. Udall.

Mr. GIBBONS. I noticed that it was still green, Mr. Chairman. When it turns red, I would stop. I have acceded to your wishes.

Mr. HANSEN. The floor is still yours.

Mr. TAYLOR. Mr. Gibbons, I believe that I can help answer that question.

Mr. HANSEN. You can answer from there.

Mr. TAYLOR. I want to show you. I think it is easier. It is my understanding that the track of lands the family and the other property owners would like to retain is right up around here.

Mr. GIBBONS. Yes, I have seen the map in the back. I have heard testimony.

Mr. TAYLOR. So, as you can clearly see, that land would continue to be accessible by water.

Mr. GIBBONS. But the land behind it, which is the other 10 or 12 property owners, would have also some restrictions, and that is the reason why I went to the question.

Ms. BODDIE-COLBERT. Sir, do you want me to respond?

Mr. GIBBONS. Sure.

Ms. BODDIE-COLBERT. Those privately owned lots are on the northern channels that are shown on the map. So they would have—they should have waterfront access right to their lot.

Mr. GIBBONS. That would be my question back to the Park Service, Ms. Colbert. That is why I wanted to ask the Park Service that question. Because if they include a greater boundary around the island as their territory, then they would end up controlling and making the decisions about access over the property for you.

Ms. BODDIE-COLBERT. That is a subject of great concern to my family.

Mr. GIBBONS. Mr. Chairman, if one of the gentlemen that have come to the table could provide an answer, I notice my questioning time has lapsed.

Mr. HANSEN. The gentleman from Nevada, I apologize for not paying attention. Do you want additional time to pursue this line of questioning?

Mr. GIBBONS. I would ask one of the gentlemen, if they understood my question, if they could respond to it.

Mr. EUBANKS. The private property is on the canal that comes on there, so there would be access.

Mr. GIBBONS. I guess my question is, if you include the boundary around there extending out into the submerged lands as included as part of the acquisition description, then do you have the ability to control access? Would that exclude access for these individuals or the public?

Mr. EUBANKS. No, sir, not in my opinion, it would not.

Mr. GIBBONS. Thank you, Mr. Chairman.

Mr. HANSEN. The gentleman from Colorado, Mr. Udall.

Mr. MARK UDALL. Thank you, Mr. Chairman. I would be happy to yield to my colleague from Nevada if he had additional questions——

Mr. GIBBONS. I do, but you are certainly welcome to take up your own time.

Mr. MARK UDALL. Let me ask one or two questions. I don't think they will take very long.

I am interested in clarifying the record as well. I am looking at this plat here. It looks like there are 18 lots along a certain access and the there is some more on this point here. Your family still owns some of those lots. Some of them are owned privately. You used the word "camp." It also sounds like in large part, that these are fairly primitive places where people come to spend the weekend to fish.

Ms. BODDIE-COLBERT. There are three buildings currently on these lots. The latest one, my brother's, for use of a better word, is certainly not primitive. It is modelled on the replica of the Horn Island lighthouse, which was built in the early part of this century. It is cypress. It is beautifully constructed. I would love for you to come out and see it.

The other two buildings out there are probably more correctly described as fishing camps, but I can tell you that one of them was built prior to Camille and went through the eye of Camille without any major damage. So there has been a—it is possible to build out there to withstand the forces of nature. It is a beautiful place.

Mr. MARK UDALL. If I could get permission, if your Congressman would invite me out there, I would love to have a chance to visit. You have to understand a lot of us on this Committee are from the mountain West. We sometimes have to take a little adjustment to the seashore. But it sounds like a phenomenal resource. He has invited me for the weekend.

So you feel confident that—I think my colleague from Nevada is concerned about access regulation. I think I am concerned about the private property owners who are there getting crosswise with the management policies of the Park Service and the general public perhaps having their experience impacted by private landowners who have a different point of view. But I hear you saying you think the two are compatible and you have examples of this and the other islands in this seashore area.

Ms. BODDIE-COLBERT. Well, now, I can't speak for the other lot owners. There are only currently two houses on the island that are not under my family's control. The development that we have negotiated with the Park Service would allow the members of our family to build houses on the land that we retain and to put in the small ecologically oriented lodge. We certainly expect to be good neighbors with the Park Service. We don't have any desire to, I think, undertake any activities that would disturb the beauty of the place. We want to enjoy it and keep it like it is, if possible.

Mr. MARK UDALL. That is clear from the way that you have managed it for 100 years, it sounds like. Do you expect other private landowners would expand and develop their parcels over time or do you think that it would probably only be a few more dwellings and your ecolodge that you are talking about?

Ms. BODDIE-COLBERT. I think there could be only a few more dwellings. The possibility of additional dwellings would be limited to maybe four on those existing lots. I don't think there could ever be any significant development out there.

Mr. MARK UDALL. I would be happy to yield whatever time I have left to my colleague from Nevada.

Mr. GIBBONS. Thank you, Mr. Udall. I appreciate that.

I would presume your purpose would be to have a commercial ecotourism base on that island?

Ms. BODDIE-COLBERT. We think that it would be something that we would enjoy doing.

Mr. GIBBONS. The purpose, is that commercial or it would be a private, not-for-profit operation?

Ms. BODDIE-COLBERT. I don't think that we could do it if it were not for profit. It would be a commercial operation, but I think it would be a very small-scale, limited operation.

Mr. GIBBONS. Mr. Shaddox, is that within the park's purview to acquire public land for the use of commercial operations within it?

Mr. SHADDOX. Normally when we buy lands inside the parks or if the park is established and has private lands inside the park, we respect those private individuals' rights to do with their land what they will. In this case, it doesn't appear that there is going to be any inflection against the park. At this time, the Boddie's plans are very straightforward, and we wouldn't have that much difficulty with it. Our concern is more what happens in the future with lands that are not in that ownership.

Mr. GIBBONS. Mr. Chairman, may I just take an additional moment here to follow up that question? Because what I am hearing from the owner of the property today is they want to establish a permanent commercial ecotourism operation on the island. But then again, if you are a private individual wanting to visit the island, I am not sure whether the park is going to provide public access to the island outside of this commercial operation that is proposed. I would wonder if that was the intent of the Park Service and if they could answer that to provide access to the island that would be private without having to go through the public commercial operation that Ms. Colbert is offering.

Mr. SHADDOX. If I could defer to the superintendent on that to find out what his plans are.

Mr. EUBANKS. Mr. Chairman, if I understand the question correctly, the private owned property would be accessible without having to come through the park because of those canals. It would through the other rough boundary——

Mr. GIBBONS. That would be true for those accessing private property unless they made a private access easement across their private property. So if there is that intent for the Park Service to create a landing facility, public visitors center access to the land, that would be my question to you. Because it seems to me it would be very restrictive to have a commercial operation which said you can only come to my island and tour it if you go to our commercial, paid for for-profit tourism.

Mr. EUBANKS. No, sir. I would visualize this being just like the others. People are free to go their in their private boats, and this one is much closer to the other islands and is much more accessible by privately owned boats. The only island that we have public access to by concession boat is West Ship Island that was referred to earlier. At this point, I don't know that we would have any plans for that. That hasn't been determined yet, but I would visualize it.

Mr. TAYLOR. Mr. Gibbons, the cove that would be on the bottom left-hand side is on the Spit Cove, as it is commonly referred to locally Smuggler's Cove, because the rum runners used it during Prohibition as a stopping-off station as they were bringing liquor up from Cuba and other places.

I have been there. This is a privately owned island, almost all of which is owned by the Boddie family. I have been there when over 100 boats were in that cove right now. If the question is somehow slanted that would this prohibit the public from using the island if the family retained a small portion, absolutely not. The family has been incredibly generous to allow on a regular basis folks to just show up and dock off their island.

Mr. GIBBONS. That was not my intent, to say that the family has not been generous with their current access. But the problem comes is when the Park Service takes over control of the majority of the island, they begin to have the ability to restrict use and activities. We see it all in the west a lot of times where day use or day visitor use gets down to numbers. Where they say in a certain area there is too many people coming here so we are going to restrict it to "X" thousand days of use per year and each individual counts for one of those day use.

Mr. TAYLOR. Mr. Gibbons, to that point, as I mentioned before and it may have been before you entered the room, the Park Service presently has several islands over in the Gulf Coast. One of them is called Horn Island where they allow primitive camping right now. Anyone can go there for a day trip in unlimited numbers and anyone can camp on the island in unlimited numbers.

They have another island called Ship Island, which has a commercial operation that you can pay to go out to the island or you can take your own boat out to the island. In parts of Ship Island there is unlimited camping. On parts of the island where the fort that Mr. Schloegel described, in order to prevent vandalism to the fort they limited camping on that portion of the island mostly to prevent vandalism to the fort that has occurred in the past and the

lighthouse that Mr. Schloegel and his group have worked so hard to restore.

Mr. GIBBONS. I am sure Mr. Taylor is quite aware of Stiltsville in Florida where it was privately constructed residences in this bay. When it was turned over to the Park Service for a protected status it then became the objective of the Park Service to remove the private ownership and the owners out there in that bay. What worries me is when we do this, we are going to end up at some point down the road developing restrictions on these private owners at that point.

Mr. TAYLOR. Again, Mr. Gibbons, on that point, I appreciate you asking this question, and I can assure that the property owners appreciate you asking this question. One of the things that we hope to make abundantly clear today, so they don't have to keep coming back to Washington and explaining their position, is that they would like to retain fee simple title to what they retain, which means they can do what they want and the Park Service cannot interfere.

Mr. HANSEN. Let's move along. If you need another round, we would be happy to.

The gentleman from Pennsylvania, Mr. Sherwood.

The gentleman from Mississippi, do you have anything that you would like to——

Mr. TAYLOR. Again, I would like to thank our panelists for coming. I know it is a fairly expensive trip up from Mississippi and other parts of the country.

Mr. Schloegel very modestly did not mention that he is not only the employee of Hancock Bank but he is the president of the Hancock Bank, which is the largest banking institution in the State of Mississippi. Again, I am really pleased to see all of you here, but in particular I think Mr. Schloegel not only brings, as he mentioned, the concern of his family over decades for the Gulf Islands, but I think he also speaks for the business community of south Mississippi when he says this would be a good thing for South Mississippi and for our Nation. That is all. I thank you all for being here.

Mr. HANSEN. Thank you.

Ms. Colbert, let me get this in perspective, could I? Apparently your family has owned it for many years; is that right?

Ms. BODDIE-COLBERT. Since 1911.

Mr. HANSEN. Your father was the titleholder with the family?

Ms. BODDIE-COLBERT. My father and his sister inherited it from their grandmother, I think, in 1935. They each owned a half interest in it.

Mr. HANSEN. Now, they are the heirs to your father who I assume has passed away?

Ms. BODDIE-COLBERT. My father died in 1985. My aunt, who is still alive, has given all of her interest in the island to my siblings and our children and her daughter.

Mr. HANSEN. So you are all co-owners.

Ms. BODDIE-COLBERT. Yes.

Mr. HANSEN. Has it been divided up?

Ms. BODDIE-COLBERT. No.

Mr. HANSEN. Like you have a piece and your children have a piece?

Ms. BODDIE-COLBERT. No, we own it indivisible.

Mr. HANSEN. You are the ones that would be negotiating with the Park Service to determine if you want to sell this property to the Park Service or some other entity; is that right?

Ms. BODDIE-COLBERT. The Park Service approached my brother in May of 1998. I think he agreed to take Mr. Eubanks out to the island, and they discussed the possibility that we would begin negotiations to consider the possibility of putting Cat Island into—a portion of Cat Island into the Gulf Island National Seashore.

Mr. HANSEN. And your father divided up—I don't know if we got this straight, but there looks like a number of lots in here. I think that you previously said quarter acre lots?

Ms. BODDIE-COLBERT. Yes, sir.

Mr. HANSEN. These are owned by private individuals that were sold to these individuals from your family or your father or whoever?

Ms. BODDIE-COLBERT. Yes, sir. Basically my father did that in an attempt to establish property values to keep Cat Island out of the Gulf Island National Seashore.

Mr. HANSEN. Is there a family dwelling that your family has owned somewhere in this area?

Ms. BODDIE-COLBERT. My brother has a house that is on that—well, on one of the canals.

Mr. HANSEN. But there hasn't been a family dwelling where the family live? You don't consider this your residence?

Ms. BODDIE-COLBERT. No, we don't live out there. My family had a camp that was built on ground level that washed away when the eye of Hurricane Camille passed over Cat Island. Until my brother built the house a few years ago, we have not had a vacation home out there.

Mr. HANSEN. Mr. Gibbons, following what he is saying correctly here, there is always a question. I think Mr. Taylor raised a question. The Park Service would possibly have to evaluate it very carefully to determine what they want, if primitive camping or whatever. Do you envision commercial property there or retaining some of the property to sell to a commercial entity?

Ms. BODDIE-COLBERT. No, sir. We are confident that we would like to see this preserved for public ownership. It is a very beautiful place. It is a special place to my family. We would like to see it preserved. We are confident if that can't be done that it could be developed in a low density residential development, somewhat like Dewees Island in South Carolina. That is not the preferable alternative, but if we are not able to come to terms with the Park Service, that would be our preferred second course. It is not our desire but I think a viable alternative.

What we have negotiated with the Park Service would allow us to keep approximately 150 acres outside the boundaries of the seashore, is our understanding of the negotiations, so that family land would not be subject to directed regulation by the Park Service because it would not be within the boundaries of the park. We have agreed that we would put substantial development restrictions on that parcel.

Basically what we asked them for was we wanted the right to build houses. It is 11 dwelling units, one for each, my brother, sister, me, my cousin and our children. And we wanted the right—I don't know that we would do this, but we would like to retain the right, if we wished, to build an ecologically-oriented lodge or inn up to 28 units that would simply be a very small-scale, environmentally sensitive development that could easily be contained on the part of Cat Island that we would retain. We would hope that our people could visit the seashore——

Mr. HANSEN. You have cleared it up for me. I was just curious what part you were going to keep, what you were going to sell, what the Park Service would do with it.

The one point that I am sure this Committee would like to know and I don't think they will for a while is what kind of money we are looking at between these two entities. That is always a problem. We have to authorize it. If we authorize this, then after you folks come up with agreement, which would be kind of nice to know before we authorize it, then we have to turn it over to Ralph Regula who does the appropriating. Everything has to be authorized because this is an authorizing Committee and they are an appropriating committee. They cannot legislate; we can't appropriate. We have each other between a rock and a hard spot, so we have to work together.

So I guess the last thing in my mind that hasn't been resolved is the most important thing called money. Maybe, Mr. Taylor, we will just kind of move ahead slowly and see if this is resolved some way so that we now what we are looking at. Do you want to comment on that?

Mr. TAYLOR. If I may, sir. As you know, in Mississippi we have the great distinction, great privilege of having not only the Senate majority leader but also the second to senior most member of the Senate Appropriations Committee——

Mr. HANSEN. That is very helpful.

Mr. TAYLOR. [continuing] Senator Cochran. He has either already included language in an Interior appropriations asking that the Interior Department work with the Park Service to acquire this land with existing funds or he has stated his intention to do so. That is why I am a little fuzzy. That is a public statement coming from the Senator's office. And so I feel very good with the really across-the-board support on this all of the way from the environmental groups, commercial fishermen and recreational fishermen, the business community with the across-the-board support for this project. And with the help of those two incredibly influential Senators that this would happen and I would hope this Committee would help us expedite it on our side of the Capitol.

Mr. HANSEN. I appreciate your comment.

I am working with the appropriators now on what I am going to strike a point of order on. As you know, if they legislate on appropriation bill, all we have to do is make a point of order and it goes down the tubes. Both houses have to work this thing out, regardless of the clout that they have got which we, of course, appreciate.

I don't want to be an obstacle. I would hope that it could come to pass. But still, on the other hand, those of us from the West are a little sensitive. We notice those from the South and the East have

a way of skipping over NEPA and EIS and EIA and all of those things. Those of us in the West always get hammered. So we are paranoid, if I may respectfully say so.

Mr. TAYLOR. Again, to the point, I think the real key here is trying to look at it from your shoes, if I may, is we are talking with willing sellers.

The family approached me this summer. For years as I have visited this island I have dreamed that one day we would get this opportunity. Because I never would approach them because, quite frankly, it is their island. It has been their island for almost a 100 years. I would never do anything to take it from them, whether we compensated them or not.

It is the wishes of the Boddie family to try to preserve it. I hope that I am not going to betray their trust, but it is worth saying when I recount the conversation with one of the family members and they had mentioned the different groups that had approached them to purchase the island, and it really caught my attention. At one point one of the family members said, you know, after looking at some of the proposals of what they would do to the island, we didn't know whether to laugh or cry.

They are trying to preserve it. They are willing sellers, and I would sure hope that this Committee would honor their wishes. And I certainly understand where you are coming from, but I know it to be in the best interests of Mississippi and our Nation.

Mr. HANSEN. I appreciate the gentleman's comments. We sure don't want to be detrimental to what probably is a pretty good idea, just certain hoops that we have to go through around here.

With that said, anybody have any further questions they want to bring up? If not, we will excuse this panel and thank you for your testimony.

Our remaining panel is Juliette Falkner, Director, Office of Regulatory Affairs, Department of the Interior; Fred Bieti, Isle Royale Boaters Association; Jim Matson, President, Vermillion Services; and Bob Monahan, Chairman of the Monahan Group.

As you can see by looking behind you, two more lights are on. Let's just find out what we have got.

We have one more vote to do, final passage on something. So if you don't mind, I apologize to all of you, we will be right back. We will stand in recess.

[Recess.]

Mr. HANSEN. The Committee will come to order.

We hope that we have about an hour. We have a rule coming up; and, hopefully, everyone will talk for the full hour so that we can hear this testimony, which is very important, in my mind.

STATEMENT OF JULIETTE FALKNER, DIRECTOR, OFFICE OF REGULATORY AFFAIRS, DEPARTMENT OF INTERIOR

Mr. HANSEN. Juliette Falkner, Director, Office of Regulatory Affairs, Department of the Interior. You are on.

Ms. FALKNER. Thank you, Mr. Chairman. I have statements for both H.R. 1864 and H.R. 1866, and I can read both of them at this time if you would prefer.

The Department believes that it is unnecessary to establish standard requirements for conducting public hearings on its var-

ious actions as provided for in H.R. 1864. The Department's public hearing procedures are guided by requirements under the Administrative Procedure Act, NEPA, the Federal Advisory Committee Act, and other statutes.

In addition, all of the Department's agencies must comply with chapter 455 of the departmental manual which describes procedures for public hearings. This chapter includes guidelines and noticing the meeting in the Federal Register, methods for receiving public comments, time frames and procedures for witness testimony.

A significant percentage of the Department's public hearings occur in the context of informal remaking under the APA and are used as part of the process for obtaining public comment on proposed rules. Under the APA, the determination of how the final rule will appear must be based on a rule-making record developed over the course of an entire comment period. However, requirements in H.R. 1864 that would ensure that the public have a reasonable expectation of meaningful and timely answers to questions posed at public hearings could conflict with the APA. It is not appropriate to answer questions which in any way appear to prejudge the outcome of the rule-making process prior to consideration of all timely submitted comments.

Requiring the Department to ensure that the public have a reasonable expectation of meaningful and timely answers to questions posed at public hearings, there is a strong possibility that opponents to the action could use that requirement to make the bureau spend time and money by asking questions that are irrelevant to the subject being heard, require a great deal of research or for any other reason could not be answered close to the time they were asked.

In addition, H.R. 1864 provides no guidance on what, if any, rights an individual has to litigate these issues. If H.R. 1864 permits such litigation, the Department's ability to finalize its decision in a timely manner would be compromised. As a general rule, our bureau has tried to answer relevant questions asked by the public at hearings. Our concern is about the potential unforeseen consequences of mandating that any questions asked at a public hearing be answered.

In closing, findings of H.R. 1864 suggests that a lack of standard procedures for conducting public hearings by Federal agencies is a government-wide problem, yet the requirements of the bill apply only to the Department of the Interior. If the intent of this legislation is to establish a framework to standardize the procedures for hearings throughout the executive branch, other Federal agencies should be included in the bill's requirements and have the opportunity to comment. If, however, this legislation was prompted by specific concerns in the way the Interior bureaus are conducting public hearings, we would welcome the opportunity to work with you to identify and resolve such problems.

[The prepared statement of Ms. Falkner follows:]

STATEMENT OF JULIETTE FALKNER, DIRECTOR, OFFICE OF EXECUTIVE SECRETARIAT AND REGULATORY AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to testify on H.R. 1864, to standardize the process for conducting public hearings for Federal bureaus within the Department of the Interior.

The Department does not support H.R. 1864. We believe that the bill is unnecessary to establish standard requirements for conducting public hearings on its bureau's actions, as provided for in H.R. 1864. Although it is not clear what the bill would require, the result under any interpretation would be increased bureaucracy and costs to taxpayers, delays in decisions impacting the public, and probable increases in litigation. There is a very real risk of unintended consequences from such broad legislation.

The findings of H.R. 1864 suggest that a lack of standard procedures for conducting public hearings by Federal agencies is a government-wide problem. Yet the requirements of the bill apply only to the Department of the Interior. If the intent of this legislation is to establish a framework to standardize the procedure for hearings throughout the executive branch, other Federal agencies should be included in the bill's requirements, and should have the opportunity to comment. If, however, this legislation was prompted by specific concerns in the way Interior bureaus are conducting public hearings, we would welcome the opportunity to work with you to identify and resolve such problems.

H.R. 1864 would increase the costs to the taxpayers of making decisions on matters on which we hold public hearings. The additional costs would result largely from the requirement in Section 3(b)(4) that the hearing process "ensure that the public shall have a reasonable expectation of meaningful and timely answers to questions posed at public hearings." We think there is a strong possibility that opponents of an action could use that requirement to make bureaus spend time and money by asking questions that are irrelevant to the subject being heard, or that require a great deal of research, or that for any other reason cannot be answered close to the time they are asked.

The Department holds numerous public hearings to solicit public comments. Most of these hearings were held in the context of a rulemaking or National Environmental Policy Act (NEPA) decision. In addition to public hearings, the Department solicits public comments by utilizing the Internet, town hall meetings and surveys. H.R. 1864 would duplicate many of these existing requirements and guidelines. We believe that the processes we have at the present time for soliciting public comment work well.

The Department's public hearing processes are guided by requirements under the Administrative Procedure Act (APA), NEPA, the Federal Advisory Committee Act, and other statutes. In addition, all of the Department's agencies must comply with Chapter 455 of the Departmental Manual, which describes procedures for public hearings. This Chapter includes guidelines on noticing the meeting in the Federal Register at least 30 days prior to the meeting, methods for receiving public comments, timeframes and procedures for witness testimony.

A significant percentage of the Department's public hearings occur in the context of informal rulemaking under the APA, and are used as part of the process of obtaining public comment on proposed rules. Under the APA, the determination of how the final rule will appear must be based on the rulemaking record developed over the course of the entire comment period. The requirement to ensure that the public shall have a reasonable expectation of meaningful and timely answers to questions posed at public hearings could conflict with the APA, as it is not appropriate to answer questions posed at a public hearing that focus on decisions which in any way appear to pre-judge the outcome of the rulemaking process prior to receipt and consideration of all timely submitted comments.

The requirement for timely and meaningful responses could also pose other problems, in addition to increased costs and the potential conflict with the APA. H.R. 1864 provides no guidance and is silent on an individual's right to litigate these issues. For example, does someone who thinks he is not receiving a "timely" or "meaningful" response have the right to sue a bureau? Could someone sue for lack of a timely or meaningful response even if the question asked was irrelevant to the subject of the hearing? If so, such litigation could cause significant delays in the Department's ability to finalize its decisions—and, of course, result in greater costs to the taxpayers.

As a general rule, our bureaus try to answer relevant questions asked by the public at hearings, if the question can be answered. Our concern is about the potential unforeseen consequences of mandating that any questions asked at a public hearing be answered.

For all of these reasons, the Department does not support H.R. 1864. However, to repeat what I said at the beginning of my remarks, we would be pleased to work with the Subcommittee to identify and resolve any specific concerns you have about our existing hearing processes.

Mr. Chairman, that concludes my remarks. I will be pleased to answer any questions you or other members of the Subcommittee may have.

Mr. HANSEN. Do you want to comment on the other bill?

Ms. FALKNER. Thank you.

The Department also does not support enactment of H.R. 1866. The result of this bill would be increased bureaucracy, cost to the taxpayers, delays in decisions impacting the public, and probable increases in litigation. Section 3 of H.R. 1866 requires the Secretary to establish an administrative appeals process for decisions by the Fish and Wildlife Service and the National Park Service made pursuant to NEPA. However, the only agency made pursuant to NEPA are whether agency actions requiring environmental assessment or environmental impact statements are categorically excluded from the compliance.

The only other interpretation of section 3 is that it requires an appeals process for decisions that the two agencies make involving NEPA clients. This could then open the door to appeals of far more than land use decisions and could, for example, include appeals regarding the migratory bird hunting regulation. Allowing such decisions to be appealed would essentially end migratory bird hunting. There is virtually no chance that the appeals could be resolved between the time the data needed to set the season and bag limits becomes available and the end of the hunting season.

Most importantly, there is a fundamental difference between the lands managed by the Bureau of Land Management and Forest Service proprietary national parks and national wildlife refuges. The BLM and Forest Service plans for multiple use lands provide that a variety of valid but competing interests may exist. The extension of the appeal process for the decisions regarding the management and use of these lands impacts the situation.

In contrast, national parks and national wildlife refuges are established to protect the resources found in the parks and to conserve our Nation's wildlife resources. No use of a national wildlife refuge is permitted unless a written determination is made after public comment that the use is compatible for the purposes for which the refuge was established. Similarly, no activity or use may occur on national park lands unless the Park Service determines it is consistent with the National Park Service Organic Act which requires that park resources be left unimpaired for enjoyment.

Existing decision-making procedures for land management by the Fish and Wildlife Service and the Park Service appear to work well and have general acceptance by the public. Both the Fish and Wildlife Service and the Park Service have appeals procedures. Requiring the duplication of the BLM or Forest Service appeals process for the very different land use decisions of the Fish and Wildlife Service and the Park Service would certainly lead to increased bureaucracy, costs and delays. In addition, there is a very real risk of unintended consequences.

We accordingly urge this Subcommittee not to take further action on the bill.

Mr. HANSEN. We thank you.

Mr. Bieti, you are recognized for five minutes.

STATEMENT OF FRED BIETI, ISLE ROYALE BOATERS ASSOCIATION

Mr. BIETI. Thank you, Mr. Chairman, for the opportunity to come here and discuss H.R. 1864, the hearings process.

There can be no doubt that you do need a formal hearings process. One of the pieces of background information that I received was asking what areas this hearing process might cover. I would suggest that you should have a hearing whenever there is a decision circulating in the agency that, number one, would alter or restrict traditional visitor use; two, any action that would result in the removal or failure to maintain public facilities. You should have a hearing if the removal of these existing facilities may adversely affect the ability of the disabled to access this park or wilderness.

The second item was a process where the public can be made informed in a timely fashion. There isn't a lot that I can say about that except that the public certainly should be informed, and there are websites, there is newspapers, there is a number of ways to inform the public.

I would be concerned that the public have an increased amount of time, for example, two season cycles, if the decision or a plan like a general management plan would be removing facilities from a park. I don't think that you should allow the removal of facilities for 2 years after a record of decision is made. I give thought to the agency cooperating with groups like the Isle Royale Boaters Association who disseminate this information. A lot of us would be happy to include this information on widely read websites. I am sure concessionaires would like to pass out information relative to a plan being considered. I don't think getting the message out is a problem.

A third area was the method by which these hearings should be conducted. These hearings can be very beneficial to an agency or I think they can be rather harmful. These hearings should be held in a public forum where the speakers are addressing the entire assemblage of public listeners. They should not be held in small group sessions where, one, the government officials speaking may not necessarily be held up to task for his thoughts that might be predisposed nor his comments. This divided session group seems to result in small groups and the public doesn't have a chance to really bring to bear its interest as a group.

A fourth item that you discussed was a process to ensure that the public have a reasonable and timely answer to a question. I can tell you that does not occur and without a formal hearing process I can see no way for that to occur.

In addition, they have in this process—I question what it is the hearing process is going to yield. If, in fact, the public opinion is ignored, as it has been in cases I am familiar with, then why have it? But I do think you should have the hearing process formalized. Maybe the problems that we saw could be taken care of.

There were newsletters—if I may, let me talk about the process to develop a general management plan for Isle Royale national park. Your briefing paper said that people come away from some

of these public comment sessions, one, confused and, two, filled with complaints. I would certainly agree. I am surprised to hear that the Park Service isn't aware that there is some problems going on. I have books that agree.

Newsletter two came out relative to the Isle Royale plan and summarized the public opinion this way. It said, generally speaking, we find that the public thinks things are fine just the way they are. Questions come up and say why would we spend $6 million to develop a new plan when we could stay with the plan that we have?

Newsletter three came up. Another newsletter came out. They changed the number of issues from 25 to 18. They had five alternative concepts. The response form gave us two issues to answer. One was, did we eliminate enough areas or did we eliminate just the right number of areas? I am paraphrasing, but that is how I felt the answer to be. They didn't give us the opportunity to speak to the big picture. If I was doing a survey and said, do you like a red Chevrolet or do you like a black Chevrolet and the person said, yes, I would like a red Chevrolet, that doesn't mean they don't like Fords.

Newsletter five came out. Incidentally, I would point out that when we had discussions prior to newsletter five, the public was not allowed to comment or ask questions. The crowd actually got a little bit upset and said, we came here to learn, we came here to interact. The Park Service said, I am sorry, we only booked this room for 30 minutes. The public volunteered to get up and move their chairs to adjacent areas so they could ask questions.

At the end of the session, this newsletter five pointed out that the public generally preferred the plan that said keep the status quo. I will summarize here. They said that in 350 written comments, alternatives A and B were the most popular. The March meetings said, in summary, in the public meetings where 300 people attended the meetings, even more people expressed support for alternative A.

So much for the public input. I came to Washington last November in what we tried as an appeals process. We met with the Deputy Secretary; and the comment was made to us, well, why would we spend all of this money on a plan and then decide to keep the direction we had before? We have got to change something. I kind of feel if it ain't broke, don't fix it.

Item number five, you are talking about making the hearings a part of the official record. I guess I use some language in here that was strange to my friend, the attorney sitting behind me. He assumed that these things are assumed to be a fact. I said, if you have a hearings process or communications, one, do it in plain English, and, two, make the people tell the truth. If you did those two things, you would have far less confusion, far fewer complaints, I would say.

If I might, I will go on to the appeals section. If you are going to run these together, I certainly think that if you don't have an appeals process this is all going to stay within a black box and none of these public comments have a chance to come out.

Mr. HANSEN. We will give you a couple of minutes on that, okay?

Mr. BIETI. On the appeal process?

Mr. HANSEN. These gentlemen are testifying on two bills, so we gave them more time than normally.

Mr. BIETI. I thought it was 5 minutes each.

Mr. HANSEN. We have given you 10 so far. But we will give you another two.

Mr. BIETI. Oh, you have? I'm sorry.

The type of decision that can be appealed, I would say anything that applies to the traditional visitor use of an area like a park.

I am a little confused here. I am an engineer by trade and a businessperson, but when you have a Committee meeting like this, I am of the opinion that this meeting constitutes some degree of import. Back in 1976, the wilderness legislation that was written for Isle Royale, and I quote, "The Senate committee understands that no significant expansion of boat docks will be made, but the continued maintenance of these facilities is essential."

Where I come from in the business and engineering world, if it is essential, it means that it is essential. That is plain English. Yet today's National Park Service interpretation of that is, well, it is really an allowance to do whatever we really think we need to do to maintain this. An allowance versus essential doesn't seem to cut in the area of truth in plain English.

If these bills are passed, I think that you should be able to appeal it if you find that these decisions do not even follow NPS management guidelines. I have a long list of examples of management guidelines that are ignored daily.

Public use limits require scientific research. Ensure that recreational uses are consistent with the authorizing legislation. Well, it seems to me that the decisions to authorize Isle Royale in 1931 have been redefined along the way so that the authorizing legislation is not recognizable.

I can see the red light. I will stop and answer any questions that you might have.

Mr. HANSEN. Thank you, Mr. Bieti. I appreciate your comments.

[The prepared statement of Mr. Bieti follow:]

ISLE ROYALE
BOATERS ASSOCIATION
P.O. Box 97 Houghton, MI 49931 www.isleroyale.org

- MEMO -

To: The Subcommittee on National Parks and Public Lands

From: Frederick G. Bieti

Date: September 30, 1999

Subject: Request to testify re: **H.R. 1864** - to standardize the process for conducting public hearings within the Department of the Interior.

Members of the Subcommittee:

My name is Fred Bieti.

I would like to thank Chairman Hansen, and the other members of the sub-committee for affording me an opportunity to testify at this legislative hearing, addressing the public input process which is intended to facilitate the public's participation in the development of management plans for their national parks. Participation implies a partnership and any partnership needs mutual trust to be successful.

I am the President of Z&R Electric Service, Inc. an electrical apparatus sales, service and engineering company in Iron Mountain, Michigan, serving industry throughout Michigan and Wisconsin. I have a bachelor of science degree in electrical engineering, from Michigan Tech University, am a registered professional engineer in Michigan and Wisconsin, a member of the Michigan Tech Presidents Club and was recently inducted into the Michigan Tech Electrical Engineering Academy.

Following graduation from Michigan Tech, I joined General Motors and spent several years in various engineering and supervisory positions in the Warren, Michigan area before returning to the U.P. to join Systems Control Corp., a division of M.J. Electric in Iron Mountain, Mich.

In 1972 I started the consulting firm of F.G. Bieti & Associates and in 1976 purchased Z&R Electric Service located in Iron Mountain. In 1981 I was recognized by Michigan Governor William Milliken for activities with the Michigan Conference on Small Business.

I have been a member of the National Society of Professional Engineers, IEEE, and various other professional organizations. I am a Director as well as the Secretary/Treasurer of the Agate Harbor Land Pool, Inc. located in Keweenaw County and have served on various Boards of Directors, including the First of America Bank, and currently serve as a Trustee on the Calumet High School C-L-K Foundation.

My wife Betty and I are regular visitors to Isle Royale National Park. I made my first visit as a boy in 1952.

I am the Legislative Liaison and COO of the Isle Royale Boaters Association Inc., a non-profit corporation comprised of civic minded citizens whose mission is to educate, represent and promote the interests of power and sail boaters, canoeists, sport fishermen, kayakers, backpackers and all visitors of Isle Royale National Park.

Many members of the association, including myself, have been active participants in the public hearing process that was held relative to the recently completed GMP for Isle Royale National Park. I would be pleased to share some of those experiences with your committee today.

My recent experience deals with the more than three years of public hearings and interactions with the NPS relative to the development of a new General Management Plan for Isle Royale National Park. As Isle Royale is this nation's only Maritime National Park.

H.R. 1864 - Observations and Comments

The Congress should be clear in its committee report that public hearings mean hearing from interested citizens at a "public forum" where the speakers are addressing the entire assemblage not, as we experienced in the first round of public hearings on the Isle Royale GMP, small group sessions where the public is divided up to meet separately with different NPS staff members. These small meetings are not hearings because everybody does not hear what is being said by both the public and staff. Further, this small group procedure deprives participants from marshalling public opinion by appealing to the whole group present for the session.

This divided session format also allows the public officials to avoid public exposure of their preconceived notions, attitudes and reasoning, or lack thereof, regarding the regulation under discussion.

The H.R. 1864 Briefing Paper background information indicates that the current guidelines for conducting public meetings have led to numerous complaints from and confusion by the general public when appearing at public hearings.

I believe improvement on the confusion issue will automatically result in improvement on the complaint issue.

First, let me suggest that the hearings, as well as all other "issue related" communications be conducted using "plain English" and "straight talk".

Second, take appropriate steps to insure that the hearings, as well as all other issue related communications, including official newspaper releases, magazine articles, etc., be "truthful".

Third, clearly identify who the beneficiaries of the process are intended to be. For example, if the project is a new GMP for a National Park, I strongly suggest the beneficiaries be identified as the owners of the National Park - the public. I can assure you, this is a very serious issue with the public.

Fourth, let me suggest that you prohibit the re-definition of the English language, i.e., words like "wilderness", thus keeping the meaning of the word as it was intended in the enabling legislation.

I refer to a quote taken from a recent court decision in a case involving the U.S. Forest Service, "..courts must presume that a legislature says in a statute what it means and means in a statute what it says there.

I would say that while the suggestion of focusing on issues such as "plain English", "truth", "re-definition", and "ownershiip" may seem like so much trivia here in this city, I assure you these are the hot-button issues with most of the thousands of Americans our association has listened to. Here are just a few of the more egregious "real life" examples of abuses that relate directly to these issues and might have been be prevented, if these suggestions had been in place.

1. **"Plain English"**

a) "Protect the resource" ... from what?

b) The 1976 Wilderness Legislation, making perfectly clear the will of the 94 th Congress as it pertains specifically to Isle Royale, states .....

"The (Senate) Committee understands that no significant expansion of boat docks numbers is anticipated, but that continued maintenance of these facilities is essential to the continued ease of access as well as the health and safety of the visitors.

NPS interpretation is that this language is "merely an allowance".

c) "Quiet" means "not running"?

d) Following the implementation of the Proposed GMP, boating families visiting Isle Royale will have lost, over recent years, access to 1/3 of all previously available boating campground space - 788 feet out of 2603 feet of docks ..... lost access to over 45 shelters ..... and 3 beaches and numerous hiking trails -- all according to data taken directly from the NPS publication on Boating Campgrounds.

NPS indicates they are "removing 20 campsites but adding 22 for a net gain of 2..."

2. **"Truth"**

a) NPS claims the number of private boaters was up 6% yet the NPS data shows the number to be down over 30% and questions regarding this claim go unanswered.

b) ...substantive comment letters written by persons questioning aspects of the proposed GMP, fail to show up in the NPS files of comment letters after these files are paid for and obtained through the Freedom of Information Act.

c) ...planning team member misrepresents an engineering study to support a claim that $3.5 million is required to comply with codes and regulations. Acknowledged, but not publicly disseminated for proper consideration.

d) ... planning team members misrepresent source of the expenditures on facility repairs by stating " .... dollars were spent on docks and the public then finds out the concessioner was "encouraged" to spend the money from the "special account.

3. **"Who owns the Park.."**

a) Both should be informed so as to, hopefully, prevent a reoccurrence of a Chief Ranger, a planning team member, from telling a group from the Michigan Outdoor Writers Association, who were visiting Isle Royale, "We don't want you here. We wish you wouldn't be here. We don't want you writing about this place ..."
b) When perfectly good lodge facilities are to be demolished and replaced with "rustic cabins" with no running water, utilizing a common separate bathroom, and questions are raised regarding the need for senior citizens, to get dressed to go to that separate bathroom several times a night, only results in the change in the description of the cabins from "rustic cabins for the youth groups", doubts about the sincerity of the plans promises begin to grow. Seniors who incidentally have paid for these facilities with hard earned tax dollars.

c) The overriding theme of the plan became obvious with phrases like.... "remove docks"....."would be eliminated"....."would be limited"....."structures to decay"....."wait as long as a year".....used over 94 times.

d) "enforcement" in this Nation's only Maritime National Park includes the use of UNDERCOVER NPS "agents" in campgrounds, stopping boats and issuing citations the next day for washing dishes in the lake- the day before??

4. **"Re-definition"**

a) The 1931 enabling Legislation for Isle Royale National Park - a Maritime Park

" ... It is this very unusualness which will also present unusual problems for development, ... Complete protection, of course, is the prime object aimed at. The island appears peculiarly adapted for the building of a simple system of horse and hiking trails from one end of the island to the other .....without disturbing the wilderness character of the area, or the wild life. Such development of the inner section of the park would be paralleled by the boat routes through the channels surrounding the island. ..."

NOW MEANS -

"..We must keep man's hand off the Wilderness.."

"modify visitor behavior or curtail use...." and make the Park "less appealing" to those who they feel, do not properly appreciate wilderness.

".....A large part of the unique Wilderness experience that could be provided by Isle Royale, as an island Wilderness, could include the Wilderness shoreline looking out on waters also in Wilderness condition. ...provide a shoreline that looks out on Lake Superior open waters without motorized boats..."

- - a possible misuse of EPA authority ??

b) Both the 1916 Organic Act establishing the National Park Service, and the Congressional Enabling Act establishing Isle Royale as a National Park stress that National Parks are for the enjoyment of the people. Both statutes also provide that use and enjoyment and protection of the resource are of equal importance as goals for the management of the park.

NOW MEANS -

"...recreational use of the park would be secondary to the maintenance of the natural order---.

"..We must keep man's hand off the Wilderness.."

In addition, the Code of Federal Regulations for wilderness areas administered by the National Park Service requires these areas to be preserved for the use and enjoyment of the American people.

Re: Management Guidelines - NPS

Both the 1916 Organic Act establishing the National Park Service, and the Congressional Enabling Act establishing Isle Royale as a National Park stress that National Parks are for the enjoyment of the people. Both statutes also provide that use and enjoyment and protection of the resource are of equal importance as goals for the management of the park.

I feel the public should be better informed as to what the authorities and responsibilities of the agency actually are so as to more clearly understand what the boundaries of discussions might be

and what, practically, might be expected of the agency. The samples of informational excerpts I present here are available on the internet and would certainly be very helpful in formulating meaningful questions and reasonable expectations.

Recreation Use

1. "...ensure that recreational uses and activities within the park are consistent with its authorizing legislation..."

2. "...public use limits established by the National Park Service will be based on the results of scientific research and other available support data."

3. "....The Park Service will seek consistency in recreation management policies."

4. "...because of differences in individual park enabling legislation and resources and differences in the missions of the National Park Service and other federal agencies, an activity that is entirely appropriate when conducted in one location may be inappropriate if conducted in another ..."

5. "...the Park Service will not allow a recreational activity ...in certain locations within a park if it would ... result in inconsistency with the park's enabling legislation..."

Visitor Use

In the area of Visitor Use, both the public and the agency should be better informed.
As an example I point to such phrases as:

1. "...To the extent practicable, the National Park Service will encourage people to come to the parks, and to pursue inspirational, educational, and recreational activities..."

2. "...The National Park Service will encourage recreational activities..."

Both should be informed so as to, hopefully, prevent a reoccurrence of a Chief Ranger, a planning team member, from telling a group from the Michigan Outdoor Writers Association, who were visiting Isle Royale, "We don't want you here. We wish you wouldn't be here. We don't want you writing about this place ..."

(This ill advised comment hardly comports with the NPS planning guide statement.)

3. "...The saving of human life will take precedence over all other management actions.

4. "... The NPS will strive to identify recognizable threats to the safety and health of persons and to the protection of property, by applying nationally accepted codes, standards, engineering principles, ..

Accessibility for Disabled Persons

1. Every reasonable effort will be made to make the facilities, programs, and services of the National Park Service accessible to and usable by all people, including those who are disabled.

Emphasis in this area would make sure not another single 12 year old girl like my new friend Michelle, afflicted with a debilitating disease, who has parents kind enough to take her boating and hiking, will be asked by an unimaginably inconsiderate Ranger to leave the trail so as not to "set a precedent for trailbike use next week ..."

2. Special, separate, or alternative facilities, programs, or services will only be provided when existing ones cannot reasonably be made accessible. The determination of what is reasonable will be made after consultation with disabled persons or their representatives.

If the public and the agency (NPS) followed this guideline they would certainly reconsider the removal of structures (docks) that already exist and currently make a good portion of Isle Royale accessible to many disabled persons.

Thank you for taking the time to become involved in this issue and thank you for allowing me to contribute.

Sincerely,

Fred Bieti
Legislative Liaison, COO
Isle Royale Boaters Association

ISLE ROYALE
BOATERS ASSOCIATION
P.O. Box 97 Houghton, MI 49931 **www.isleroyale.org**

- MEMO -

To: The Subcommittee on National Parks and Public Lands

From: Frederick G. Bieti

Date: September 30, 1999

Subject: Request to testify re: **H.R. 1866** - To provide a process for the public to appeal certain decisions made by the National Park Service and the United States Fish and Wildlife Service

Members of the Subcommittee:

My name is Fred Bieti.

I would like to thank Chairman Hansen, and the other members of the sub-committee for affording me an opportunity to testify at this legislative hearing, addressing the public input process which is intended to facilitate the public's participation in the development of management plans for their national parks. Participation implies a partnership and any partnership needs mutual trust to be successful.

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H.R. 1866 - Observations and Comments

VISITOR USE AND MANAGEMENT OF RECREATIONAL USE AT ISLE ROYALE

In recent years Isle Royale National Park management has discouraged rather than encouraged people to come to the park to pursue inspirational, educational and recreational activities. Chief Ranger Pete Armington's statement to the outdoor news reporters has done real damage to the intent and spirit of this unique island park. That attitude has been harmful not only to Americans but to our neighbors to the immediate north--Canadians--who now ruefully refer to Isle Royale as "Isle Rule" and avoid visiting.
Rose Marie Renaud was forced to close her marine store when boat visits dropped from 157 to 35 since the attitude toward visitors at Isle Royale became one to "modify visitor behavior" per a 1995 letter. Canadians clearing customs at Isle Royale are required to pay a user fee for all aboard even if only taking five minutes to clear customs. Our Isle Royale "good neighbor" policy!

That derogatory terminology "Isle Rule" also stems from the Isle Royale National Park treatment of boaters during this entire general management plan process. The current park management has made access more difficult and demonstrated distinct unfriendliness towards boating visitors.

This attitude had contributed to the decline in boating and boaters interested in visiting the island over the past five years-a drop in boaters from 6,408 in 1994 to 2,790 in 1998. In addition, total island visitation has fallen from 18,725 in 1994 to 15,312 in 1998 and the decline has continued during 1999 according to preliminary figures.

What is wrong? The answer is the attitude of park management. Despite this evidence of declining use and visitation at Isle Royale, the park pushed ahead with a management plan rooted in the false perception that the island was facing overcrowding and excessive use. During the hearings participants were never given straight answers to questions along these lines, apparently because park management had already arrived at their own conclusions and were not about to be persuaded by comments from the interested public at the public meetings which they held. Not until the final round of these public meetings did the public have an opportunity to confront the park planners and participating management with questions in sessions involving everyone who showed up.

Nor has the Isle Royale Park administration shown anything close to a commitment to provide access to the widest cross section of the public in the GMP. Indeed, the demolition of four major docks, and the removal of four Adirondack shelters located near two of those four docks, shows the utter disregard of this current park administration for disabled persons.

Moreover, the restrictive actions of the General Management Plan are not based on scientific research or other available support data. They are instead indicative of management imposing its will rather than policies based on sound reason. Governmental action such as this causes widespread disdain for the bureaucracy. This is the mood of Isle Royale today, The Park Service, which used to be a friend of the user, is now the enemy! What a tragedy. Isle Royale used to be the nation's leading maritime and island park, but
no more.

When planning team sees fit to include, what appears to be, a misuse of EPA authority in the form of a letter stating:

> "....A large part of the unique Wilderness experience that could be provided by Isle Royale, as an island Wilderness, could include the Wilderness shoreline looking out on waters also in Wilderness condition. None of the alternatives described in the DEIS however, provide a shoreline that looks out on Lake Superior open waters without motorized boats...",

this planning effort certainly appears biased. After all Isle Royale will likely remain an island regardless of the planners attempts to erase the Maritime features of this park.

THE OPEN HOUSE HEARING PROCEDURES

Three "open houses" were held. The public was instructed to stand in line and write their opinions down on large paper pads hung on the walls of the conference room. While some NPS personnel were available for chats no substantive answers could be offered at this point. Many people seemed quite uncomfortable with the approach, especially seniors.

In December of 1995 Newsletter 2 was mailed. It included a response form that provided little room for the response. The NPS later indicated they had run out of newsletters to send out to interested parties.

In June of 1996 Newsletter 3 came out indicating that " ...the majority of comments focused on fixing existing docks rather than building new ones ..". and "...banning motorboats was not supported by most people."

It would appear that these majority comments were ignored in the final plan.

Newsletter 3 listed reduced the number of issues from 25 to 18 and discussed 5 alternative concepts. However the Response Form allowed only two responses.

In November, 1996, Newsletter 4 came out and said "... in general the respondents favored maintaining motorboat use at Isle Royale as it is. Also mentioned was separation of user groups. (This separation was probably mentioned because the new kayaker user group has not been accommodated at all, and they have few available camping sites.)

Again, all of the above "public input" appears to have been ignored.

In March of 1997 Newsletter 5 came out. It announced that public meetings would be held at three locations offering a chance to "interact" with members of the planning team and two NPS planners from Denver. I would point out that the public had to get very forceful in order to actually make the public question period occur. NPS indicated the room was only reserved for a limited time and it was not possible to take question from the public. The public got so upset they - the public - moved their own chairs to an adjoining room in order to facilitate the question period. The NPS refused to take any questions during the presentation portion of the "open house". This whole series of meeting could hardly be called a public input process.

In July of 1997 Newsletter 6 came out. It summarized "public input" thusly.

350 Written Comments:

All of the draft alternatives received some measure of public support, but Alternatives A and D were the most popular. The reason most often given for preferring alternative A (the no-action or status quo alternative) was that this alternative treated all user groups equally or fairly. Some of you think that the park works just fine the way it is and that there is no reason to change anything. The most frequently cited reason for preferring alternative D was separation of different user groups. Additionally many said that existing ranger stations, docks and trails should not be removed.

March Public Meetings

In summary - 300 people attended and in comparison to the written comments (even) more people attending the public meetings expressed support for alternative A and more were opposed to C and E.

Bearing in mind that Alternative A was not even considered seriously ??

So much for the "public input" process.

AN APPEALS PROCESS IS NEEDED

A formal procedure for appeals would be open and the public would know what kind of review is being conducted by higher officials if any. This would inevitably expose the Agency to more public scrutiny. At the present time once a decision is in tentative form, the only possible appeal is an informal one, which is what we went through to no avail. If there were an appeal above the Regional Director, who was the highest ranking official to sign off on the GMP for Isle Royale, the top ranking NPS officials in Washington, D.C. would know much more about what Superintendents of National Parks like Isle Royale are planning. More importantly, they would have an opportunity to overrule and modify the decisions of those Superintendents.

Finally, we urge you to provide that this formal appeal include both oral arguments and briefs before the top ranking Agency officials doing the review and handling the appeal. This will insure that the public will be heard at the highest levels and will maximize public exposure of the issues.

Reference material, including copies of Substantive comments, photos showing the poor state of visitor facilities, is provided for your information, in the attached Exhibit Brochure.

Thank you for taking the time to become involved in this issue and thank you for allowing me to contribute.

Sincerely,

Fred Bieti
Legislative Liaison, COO
Isle Royale Boaters Association

Welcome to the

Isle Royale Boaters Association

Our mission is to Educate, Represent and Promote the Interests of Power and Sail Boaters, Canoeists, Sport Fishermen, Kayakers, Backpackers and all Visitors of Isle Royale National Park.

ISLE ROYALE BOATER'S ASSOC.

- H.R. 1866 -

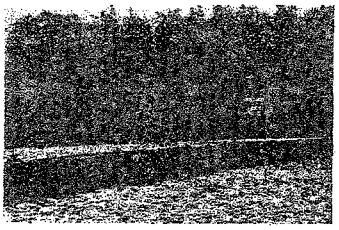
TESTIMONY EXHIBITS

The Isle Royale Boaters Association has prepared the following exhibits to be used in testimony to be given on September 30, 1999, regarding H.R. 1866 - a bill to provide a process for the public to appeal certain decisions made by the National Park Service and the United States Fish and Wildlife Service.

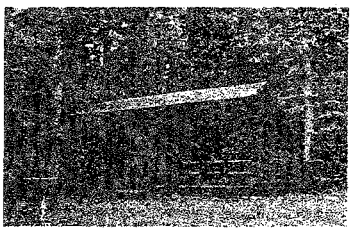
Prepared by F.G. Bieti
September 30, 1999

The Isle Royale Boaters Association has prepared "A Visitor Impact Statement" for the Isle Royale National Park new GMP.

Siskiwit Campground
NPS plans on destroying this dock



And these shelters!!



- **GMP Public Comment Process was/is flawed**

NPS management has been less than honest in their presentation of the "facts" to the public to support their Preferred Proposed Alternative. The public was led to believe, falsely, that $3.5 million were "required to keep the operation in compliance with Federal laws ...." Following a challenge to this assertion, the NPS "Summary of Capital Improvement Needs" was revised, and identifies "Minimum Capital Costs" of $2.1 million as opposed to the $3.5 million but the general public was not informed.

Management has also failed to support an excessive 20% tax on goods and services levied on Park visitors at Rock Harbor and upon challenge, has in fact, issued a credit, to NPCI, while overcharging the visitors. $50,000 was refunded to the consessioner but not passed on to the public. The NPS failed to answer this charge in a Michigan court.

- **GMP Preferred Alternative is .....Contrary to the intent of Congress and the Isle Royale NP enabling legislation**

The new Isle Royale GMP violates the intent of the enabling legislation of 1931 as well as the 1976 wilderness act legislation, as it pertains to IR, the spirit of NPS "Mission 66" and it certainly ignores the overwhelming desire of the public to follow a plan which calls for the NPS to stay the course -- do nothing, maintain what we have -- while saving $6,000,000 in destruction costs!!

The 1976 Wilderness Legislation also made perfectly clear the intent of the 94 th Congress as it pertains specifically to Isle Royale. It reads .....

> **"The (Senate) Committee understands that no significant expansion of boat docks numbers is anticipated, but that continued maintenance of these facilities is essentia to the continued ease of access as well as the health and safety of the visitors.**

We suspect very different Wilderness Legislation would have been passed if these violations were anticipated by the 94 th Congress.

Following implementation of this GMP, boating families visiting Isle Royale will have lost, over recent years, access to 1/3 of all previously available boating campground space - 788 feet out of 2603 feet of docks ..... lost access to over 45 shelters ..... and 3 beaches and numerous hiking trails -- all according to data taken directly from the NPS publication on Boating Campgrounds.

Exhibit Letter

ISLE ROYALE
BOATERS ASSOCIATION
P.O. Box 97 Houghton, MI 49931

April 6, 1999

Mr. Douglas A. Barnard, Superintendent
Isle Royale National Park
800 E. Lakeshore Drive
Houghton, MI 49931-1895

Re: Request for Substantive Comments/Objections to the Final GMP – Second notice

Dear Mr. Barnard:

It was recently announced that the NPS was reopening the thirty day "no action" period as required by NEPA regulations and comments would be accepted on the Final GMP/EIS until April 26, 1999.

Please consider this letter and the related attachments as official substantive comments put forth by the Isle Royale Boaters Association, et. al., to the Final Proposed GMP dated August 17, 1998 and signed by yourself and Mr. William Schenk.

These "Substantive" comments of the Isle Royale Boaters Association and it's supporters are selected examples of the egregious errors and faults of the GMP/EIS which by themselves are sufficient to warrant a rejection of the document. Furthermore, while these examples are provided for the benefit of the NPS, these examples are not intended nor should they be in any way construed to be a complete or comprehensive inventory of all the complaints and errors in the GMP/EIS noted and taken exception to by the Isle Royale Boater's Association, Inc. for and on behalf of its members."

It is our understanding that these comments are both timely and substantive. Should this not be the case, we ask that you notify us in writing, immediately.

Sincerely,

Mr. Fred Bieti
Legislative Liaison/COO
Isle Royale Boaters Association

****

Attachment to IRBA letter of April 6, Substantive Comments/Objections to GMP/EIS.

These "Substantive" comments of the Isle Royale Boaters Association (IRBA) and it's supporters are selected examples of the egregious errors and faults of the GMP/EIS which by themselves are sufficient to warrant a rejection of the document. Furthermore, while these examples are provided for the benefit of the NPS, these examples are not intended nor should they be in any way construed to be a complete or comprehensive inventory of all the complaints and errors in the GMP/EIS noted and taken exception to by the Isle Royale Boater's Association, Inc. for and on behalf of its members and supporters. Other substantive issues of concern have been submitted previously. We urge you to consider them seriously and reasonably.

This plan makes no realistic effort to remedy the deteriorated condition of visitor facilities, especially insofar as maintenance of docks and campground facilities is concerned. While monies are spent year after year on study after study, non-functional communication systems, refitting of obsolete military landing craft, NPS guest and VIP facilities, the Siskiwit Bay dock and others are allowed to deteriorate to conditions that make them unusable. With the low water conditions expected again this year, safe harbors in the Siskiwit Bay area will be non existent. These arbitrary and capricious management practices must be addressed.

Many visitors are also concerned that the entire focus of the proposed action plan has changed dramatically in scope and direction without the changes being presented to the public.

Originally - - The GMP/EIS drafts stated clearly that the proposed action would emphasize separation of uses and improvement of visitor experiences.

> Currently - - The final GMP/EIS focus has been quietly altered and the now emphasizes "natural quiet" instead of separation of user groups as in the earlier plans. It now states that "The proposed action is intended to meet the diverse expectations and needs of Isle Royale visitors while emphasizing the "natural quiet" that is fundamental to wilderness experiences."

In fact, the GMP is replete with erroneous assumptions and misrepresentations.

On page 5 of the GMP/EIS the NPS claims that changes in demographics and the popularity of motorboating (sic), motorboat use at the park has increased over the past 20 years, and this trend is likely to continue." No data is presented to support this conclusion. Data included in table 12 on page 100 shows exactly the opposite conclusion should be drawn because motor boat usage was 6,408, 5,539 and 4,859 for 1994, 1995 and 1996, respectively. This is a 14 and 12 percent decline in 1995 and 1996, respectively, and 24 percent decline overall since 1994!

To make matters worse, if private boaters data were included for 1997 they would report 4,190 private boaters, down 14 percent from 1996. In 1998 there were only 2,790 or a whopping 43 percent decline from 1996 and a huge 33 percent decline from 1997 alone. These declines, aside

from being appalling are based on NPS data. However, the GMP apparently has stood fast to include increases in its projections which is an assumption made entirely contradictory to the facts.

On Page 8 another NPS misrepresentations reads, "About 30% of visitors travel to the park in private boats", when in fact, data provided by the NPS in the GMP, indicates private boat visitor numbers have been declining every year since 1994 and have fallen drastically, 33%, in a single year, 1998!

It is incumbent upon the NPS to correct these erroneous assumptions and misrepresentations and make the public aware of the facts as well as the major changes in scope and direction through new public comment sessions with the public given all the information up front.

IRBA seeks **EQUIVALENCY** in the numbers of family boating campgrounds. IRBA objects to removal of dock and campsite availability without replacement docks - in any reasonable combination - of equivalent total dock space footage, structural integrity and accessible water depth and equivalent campsite facilities being put in place first. Following the proposed GMP the resultant decrease in usable dock space will be approximately 33 percent, from levels that existed when the '76 Wilderness legislation was enacted. It would be a waste of tax payer dollars to remove any existing docks which have served the visitors for many years.

This resultant decrease in usable dock space poses a serious hazard to human safety. It also endangers public health should emergencies occur in remote areas such as Siskiwit Campground. The proposed docking area, Fisherman's Home is certainly unsafe for use by the Park visitor. In fact, NPS Rangers patrolling the area have had numerous accidents there. This is an attractive nuisance - an accident waiting to happen!

Paragraph 2 of page 37- The GMP claims that the breakwater and dock at Siskiwit Bay interfere with the natural flow of sediment in the bay. The NPS has never presented a study by a qualified professional showing the breakwater dock interrupts natural flow of sediment in the bay. A few Ariel photos do not constitute a study and these unsubstantiated EIS conclusions deserve challenge.

Page 34 paragraph 3 and paragraph 5 page 37 under park management zoning states "Quiet/no-wake zones would be established to reduce noise and wake impacts etc ..." During the public hearings, the GMP representatives never brought up the stated issues with respect to quiet zones. The NPS retaliated against boaters who voiced their concerns about the GMP and altered the GMP eliminating the use of on-board generators at 52 % of the boating campsite docks. We object to the elimination of onboard generators use because there is no evidence that these types of boats have a negative impact on the harmony of the park. With respect to wake impacts, the NPS have never presented evidence to show that wakes caused by motorboats have an adverse effect on the environment. In fact, this will be difficult to prove considering that the major source of pollution on the island is due to atmospheric transport of toxins from the southern US and Canada.

Additionally, the last paragraph on page 37 of the GMP states; *if goals for quiet are not met in the quiet/no-wake zone, and substantial compliance with noise regulations cannot be achieved, creation of some nonmotorized areas would be considered through an amendment to the GMP.* With some minimal sound inevitable from powered boats, one can only conclude that the NPS's intent is to ban powered boats in the quiet/no-wake zones. It was never the intent of the Congress to restrict boaters at Isle Royale; in fact quite the opposite is the case. An excerpt from the House of Representative (H.R. 10075) forming Isle Royale National Park in 1931 states; "...without disturbing the wilderness character of the area, or the wild life. Such development of the inner section of the park would be paralleled by the boat routes through the channels surrounding the island." Clearly the intent of the legislation is being ignored.

Page 146 The figure of $400,000 required to subsidize the Concessionaire, and the related surtax, is falsely represented and will be challenged.

Paragraph 3 page 36 states that overnight accommodations at Rock Harbor would be more rustic. The GMP proposes common restroom facilities which are not reasonable for senior citizens and disabled/handicap visitors. This will violate the Americans With Disabilities Act because it will severely limit the visitation of the island by senior and disabled/handicap visitors.

Page 116 paragraph 1 – The GMP/EIS states that visitors disturb the wildlife on the island. They have never produced or showed any studies that show that visitor use of the island has been detrimental to the wildlife.

Page 116 paragraph 2 – The GMP/EIS lacks any supporting data for quiet/no-wake zones concerning the disturbance of loons. Uninformed canoeists and kayakers can disturb the loon nesting sites and impact their nesting habits. Loon researchers have substantiated this. The NPS fails to inform the visitors to stay away from the loon nesting habitats. These sites are usually on the back side of islands where motorboaters seldom go.

Page 117 paragraph 1 – The GMP says " the long term effect of establishing quiet/no-wake zones in Lake Superior Bays and harbors would be positive. Submerged and shoreline archeological resources would be protected from wake effect." The prevailing winds over the lake will cause a greater impact of wave action on the small bays and harbors then an occasional motorboat. The NPS has never produced a study that shows that wake action in these area causes damage to the wildlife or historical sites.

Page 117 – "Impact of Visitor Use – Visitor Use Levels" - The proposed reduction in available sites will lead to localized overcrowding. The park service is exacerbating this potential problem in their proposed plan.

Page 148 As for the validity of the "negative visual impact" statement relative to the Lodge facilities. The qualifications of those declaring the obtrusive nature of the facility will be challenged. This "negative visual impact" claim is unsubstantiated NPS doubletalk.

Page 161 Comments at public meetings indicate that alternative A(no action) was preferred. That alternate should be adopted for the dollar savings alone. - End -

Exhibit - ADOPT A FAMILY BOATING CAMPGROUND PROPOSAL

(NOTE: A copy of this document was handed to Mr. Doug Barnard on April 22, 1999, during a GMP discussion meeting with IRBA in Doug's office.)

** Still under consideration **

March 8, 1999 - -

IMPORTANT !!!! REPLY REQUESTED. Thank you.

To: Mr. Tod Hull; Subcommittee on Public Lands and Parks

THE ISLE ROYALE BOATERS ASSOCIATION(IRBA) WOULD LIKE TO MAKE AN OFFER TO SPONSOR an "adopt a family boating campground" initiative TO REBUILD EVERY SINGLE FAMILY BOATING CAMPGROUND ON ISLE ROYALE.

If you think this offer has merit, in your opinion, and your office would support it, would you consider running it by NPS Deputy Director, Dennis Galvin?

With your help, perhaps we can make this happen.

IRBA would sponsor AN "ADOPT A FAMILY BOATING CAMPGROUND" initiative to restore the family boating campgrounds, docks and shelters up to the status/level equivalent to that which existed during the mid 1980's and in accordance with the intent of the 1976 Wilderness legislation Senate committee report calling for the maintenance of these facilities. Logistical support from the NPS would obviously be required. THE NPS WOULD ALSO HAVE TO PROVIDE FUNDS TO ACCOMPLISH THE GOALS. CURRENTLY NO FUNDS ARE ALLOCATED FROM THE OPERATING BUDGET TO MAINTAIN THESE FACILITIES, ONLY TO REMOVE THEM. Time frame would be five or ten years.

During our meeting with Mr. Galvin last November 19th, he asked IRBA representatives, "What do you want?". While the procedure may be somewhat different, the objective remains the same. Simply to comply with the intent of that legislation.

As you know, from the copies of articles I have faxed to your office, the Isle Royale National Park situation has gained a lot of national attention lately.

Major magazines and newspapers are now getting on board and covering the issues.

They include:

Lake Superior Magazine - 100,000 (est.) Duluth, MN
BOAT/U.S. - 500,000 subscribers - A National group based in Alexandria VA
Lakeland Boating - Coming in April - 200,000 - Great Lakes
Detroit News
Etc., etc.

Isle Royale is this nation's ONLY maritime national park. The Associate editor of BOAT/U.S. is from Duluth, MN and I suspect he would be happy to help in this effort, as would other publishers I have spoken with.

Tod, with all the public attention being focused on this issue, I believe the timing will never be better for getting all parties involved to pull together to help get this done. IRBA has now raised the funds needed to begin a court battle if required, but wouldn't it be better for all concerned to put this same effort into rebuilding, rather that spend it in the courts? This "ADOPT A FAMILY BOATING CAMPGROUND" INITIATIVE would have the same results as our winning a court battle with at least one very important difference - everyone comes out a winner here, especially the park visitor!

We would very much appreciate your help.

I will try to contact you by phone for further discussion.

I can be reached at 906 289 4693 Through Tuesday, and at my office at 906 774 0468 following Tuesday. Naturally, I can always be reached via e.mail at <fbieti@compuserve.com>.

Hope to hear from you soon.

Fred Bieti
Legislative Liaison/COO
Isle Royale Boaters Association

****

At the February 17, 1998, meeting of the Isle Royale Boaters Association, attended by Mr. Douglas A. Barnard, Superintendent, Isle Royale National Park, the matter of boating campground and other facility elimination and destruction, was discussed. NPS takes the position that the number of docks being destroyed are replaced by docks that will be newly opened to the public for ....."no net difference". .....SEE THESE PHOTOS OF SISKIWIT CAMPGROUND, WRIGHT ISLAND, FISHERMAN'S HOME. They speak for themselves.

I suggest that closing a beautiful "family boating campground" with 400 feet of dock space, 6 shelters, hiking trails, a beach for the kids and "replacing" it with a dock being "opened" at "Fisherman's Home" that offers no campsite shelters, no trails, no beach, and whose harbor is described in Bonnie Dahl's cruising guide to Lake Superior, "The Superior Way", as too shallow for many boats (4 ft draft) and is further described as ...." a very difficult harbor to enter ....

should only be used in an emergency .... and then only when there is no sea running .....should not be entered without local knowledge..." is hardly a net gain as the NPS would have us believe! This seems like an accident waiting to happen -- an "attractive nuisance"

Additionally we would point out that the removal of the Siskiwit Bay campground removes the only remaining "safe harbor" serving that section of Isle Royale. Dr. David Gilbert, M.D., the Park physician also points out that the removal of the Siskiwit Bay dock and breakwater will hamper the evacuation of sick or injured persons from the area. It goes without saying that it also will make it impossible for many disabled persons to access a major portion of the "park".

When most vacationing families arrive at Isle Royale by boat, one of the first things they must seek is shelter. Most boaters do not have boats that are self contained. Without some shelter the family vacation is going to be less than memorable.
****
Also photographed is a typical shelter - in good shape I might add- even though the NPS claims they are ...."too difficult to maintain..." (a coat of paint every 5 years?....). I point this out to show what a sad thing it will be for visiting families to lose many of these shelters, as will be the case in Duncan Bay, Siskiwit Bay, McCargoe Cove, and elsewhere, where they are scheduled to be removed along with the docks!

For NPS Management ..... new housing- very expensive I might add - new boats, new satellite phone systems, to replace cellular? , new tractors, new VIP cabins etc., etc.

For the public – new restrictions and regulations!

****
NPS has rejected the IRBA's offer to help build a duplicate campsite, less dock, two miles north of the present Siskiwit Bay campground to facilitate the "segregation" of user groups NPS finds so "desirable".

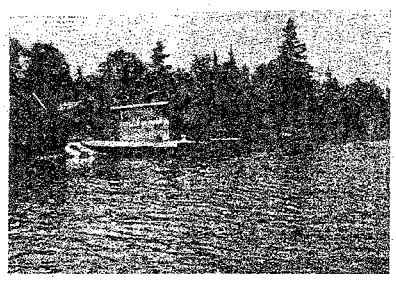
Fisherman's Home and Wright Island Campsites

The photos of "campsites" being "opened" to the public at "Fisherman's Home" and Wright Island speak volumes. Fisherman's Home offer no campsite shelters and is described in Bonnie Dahl's The Superior Way" as too shallow for many boats (4 ft draft) and is further described as ..."a very difficult harbor to enter ... should only be used in an emergency ... and then only when there is no sea running ... should not be entered without local knowledge...

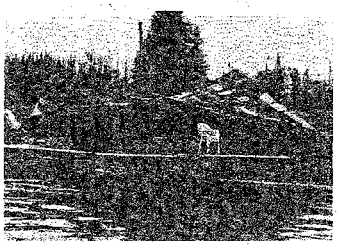
This sounds like an accident waiting to happen – an "attractive nuisance" !

Fisherman's Home and Wright Island (Continued)

Fisherman's Home Campground



Wright Island Campground

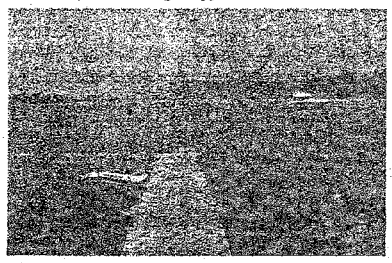


Hay Bay Campground

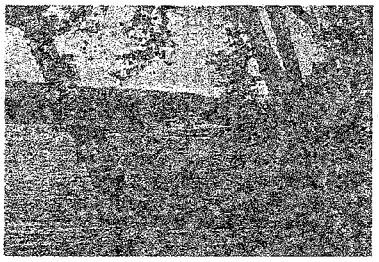
The Hay Bay Dock is back after 10 years! Well, not really ... This used to be a safe place to weather out a storm ! .. NOT ANYMORE !

The photo on the left shows the floating replacement being touted by the NPS. No more need be said about the floating dock except that the NPS has been notified that this will be unsafe in "heavy" weather.

Floating "Tupperware"



Two large boats at Hay Bay circa 1985



The photo on the right shows a solid, strong crib dock with two boats tied to it .... One 31 foot Chris Craft and a 33 foot Silverton ... The photo is circa 1985. This crib dock was never maintained by the park service and as a result of the neglect ... has been destroyed. Again, the NPS has failed in their duties to maintain docks.

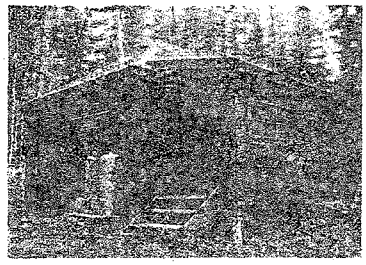
X

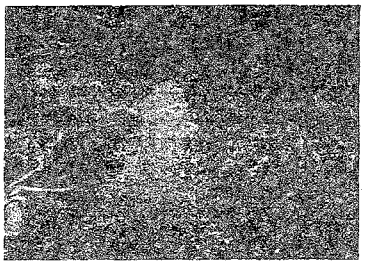
Belle Isle Campground

Note the money spent in 1997 and 1998 to renovate the campground guest host cabin. This cabin is used by "guest hosts" (retired rangers and VIP guests recently used it). It has been completely renovated with new paint, new kitchen facilities, leveled floor, new sanitary, new cleared out yard area, new gravel trail, bottled gas facilities, etc.

New Ranger "Guest" Graveled Trail - Yet the "Public" doesn't get to keep the Lake Richie Trail in the GMP!

Renovated Ranger "Guest" Cabin

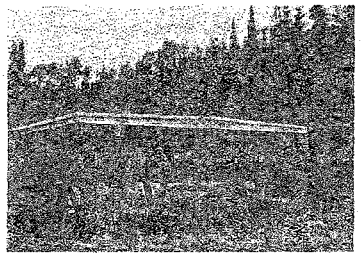


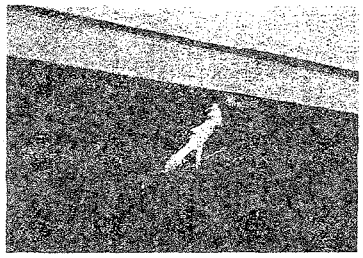


Yet, less than 100 yards away the PUBLIC campground pavilion is in complete disrepair. As the photos show, the roof is falling in on the visiting taxpayer as he/she sits around the fire burning in a fireplace falling apart as well.

Belle Isle Campground Pavilion subject to NPS Removal !!!

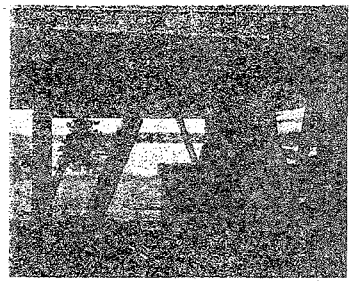
Is this Pavilion Sky light or NPS lack of Maintenance? Another Public Facility ... an Outrage !!!



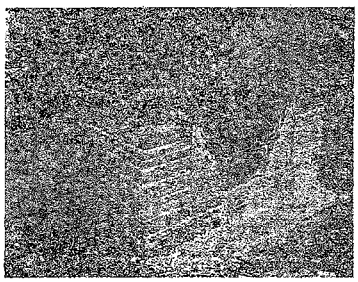


Belle Isle Campground (Continued)

This Public Fireplace was to be removed by NPS

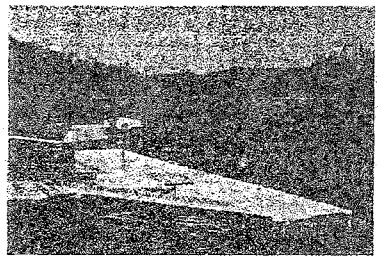


Fireplace after IRBA volunteers repaired

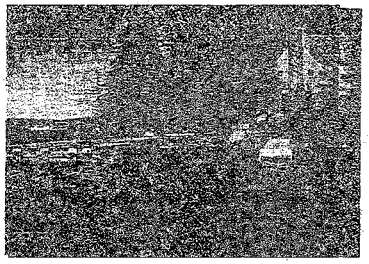


Docking Facilities: Visitors vs. NPS

Visitor seaplane dock

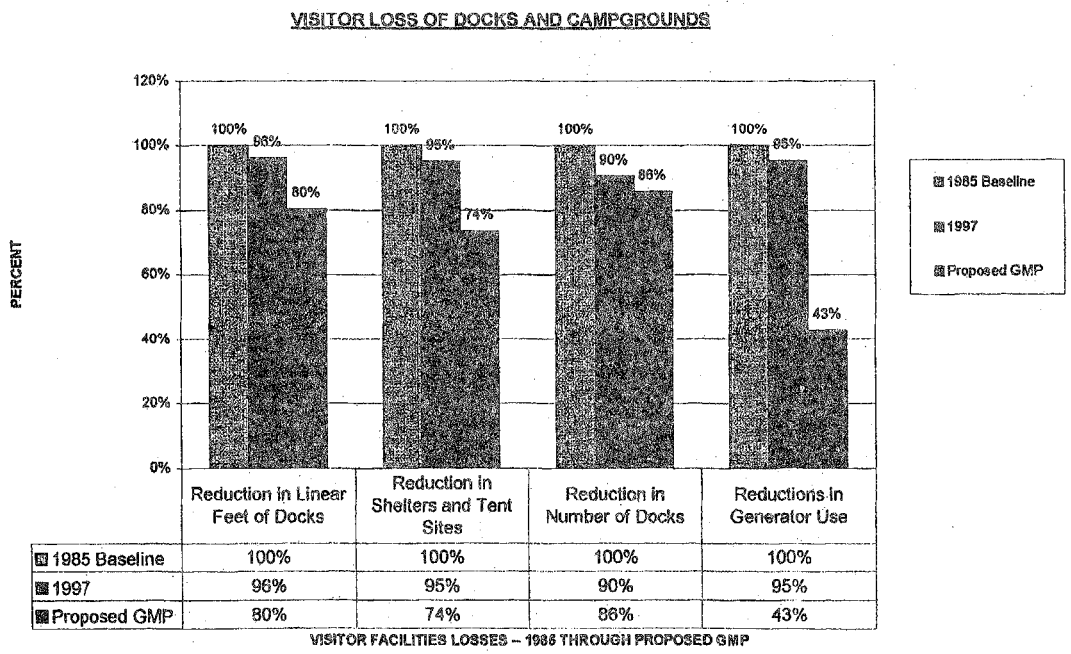


New docks for researchers



While the visitor's docks fall into disrepair each year, the NPS maintains their own personnel's docking facilities on a regular basis. Just one example is the visitor sea plane dock. There are other numerous visitor docks throughout the park that the NPS has neglected and are now in need of serious repair..

Visitor Loss of Docks and Campgrounds



	Reduction in Linear Feet of Docks	Reduction in Shelters and Tent Sites	Reduction in Number of Docks	Reductions in Generator Use
1985 Baseline	100%	100%	100%	100%
1997	96%	95%	90%	95%
Proposed GMP	80%	74%	86%	43%

VISITOR FACILITIES LOSSES – 1986 THROUGH PROPOSED GMP

Source Data for the Graph

GMP -- The Proposed Action

TABLE OF DOCKS WITH CAMPGROUNDS

Docks with Campgrounds on Lake Superior, 1985					Docks with Campgrounds on Lake Superior, 1998					Docks with Campgrounds on Lake Superior, GMP Proposed Action					
Dock	Dock space (feet)	Dock (number)	Shelters & Sites	Generator use	Docks	Dock space (feet)	Dock (number)	Shelters & Sites	Generator use	Docks	Dock space (feet)	Dock (number)	Shelters & Sites	Generator use	
Windigo	400	1	19	yes	Windigo	400	1	19	yes	Windigo	400	1	19	yes	
Grace Island	100	1	2	yes	Grace Island	100	1	2	yes	Grace Island	100	1	2	yes	
Beaver Island	80	1	3	yes	Beaver Island	80	1	3	yes	Beaver Island	80	1	3	yes	
Huginnin Cove	60	1	5	yes	Todd Harbor	65	1	10	yes	Washington/Barnum Isl	0	0	0	no	see note 5
Todd Harbor	65	1	10	yes	McCargoe Cove	100	1	11	yes	Johns Island	25	1	2	no	see note 2, 4
McCargoe Cove	100	1	11	yes	Birch Island	65	1	2	yes	Todd Harbor	65	1	10	no	
Birch Island	65	1	2	yes	Belle Isle	120	1	6	yes	McCargoe Cove	25	1	2	yes	see note 2, 4
Belle Isle	120	1	6	yes	Duncan Bay	18	1	3	yes	Birch Island	65	1	2	no	
Duncan Bay	18	1	3	yes	Duncan Narrows	60	1	2	yes	Belle Isle	120	1	6	yes	
Duncan Narrows	60	1	2	yes	Merritt Lane	30	1	1	yes	Crystal Cove	0	0	0	no	see note 1
Merritt Lane	30	1	2	yes	Tobin/Rock Harbor	600	1	9	yes	Duncan Narrows	60	1	2	no	
Tobin/Rock Harbor	600	1	9	yes	Tookers	85	1	2	yes	Merritt Lane	30	1	2	no	
Tookers	85	1	2	yes	Three Mile	120	1	15	yes	Tobin/Rock Harbor	600	1	9	yes	
Three Mile	120	1	15	yes	Caribou Island	130	1	4	yes	Tookers	85	1	2	no	
Caribou Island	130	1	4	yes	Daisy Farm	630	1	16	yes	Caribou Island	130	1	4	yes	
Daisy Farm	630	1	16	yes	Moskey Basin	260	1	6	yes	Daisy Farm	630	1	16	no	
Moskey Basin	260	1	6	yes	Chippewa Harbor	130	1	7	yes	Moskey Basin	260	1	6	no	
Chippewa Harbor	130	1	7	yes	Malone Bay	70	1	9	yes	Chippewa Harbor	130	1	7	no	
Malone Bay	70	1	9	yes	Siskiwit Bay	400	1	6	yes	Malone Bay	70	1	9	yes	
Siskiwit Bay	400	1	6	yes	Hay Bay	0	0	0	yes	Wright Island	0	0	0	no	see note 1
Hay Bay	80	1	1	yes						Hay Bay	20	1	0	yes	
										Fishermans Home	0	0	0	n/a	see note 1, 3
TOTALS	3603	21	140	21	TOTALS	3463	19	133	20	TOTALS	2895	18	103	9	
% vs. 1985 Baseline	100%	100%	100%	100%		96%	90%	95%	95%		80%	86%	74%	43%	

Note 1: Reference GMP page 37, paragraph 4. The NPS states; "... seek partners to maintain docks ..." The NPS is not committed to these docks, hence they are not counted.
Note 2: Reference GMP page 142, last response. The NPS states; "Docks length will be consistent with the historic scene.", an assumption of 25 feet is used unless the length is specified.
Note 3: This a dangerous location in most circumstances and hence is not counted.
Note 4: If the number of Shelters/Sites at a new campground is not specified, an assumption of 2 is used.
Note 5: Reference GMP page 36, paragraph 3. The NPS states; "... dependent on funding from private sources/partners." The NPS is not committed to these docks, hence they are not counted.

Mr. HANSEN. Mr. Jim Matson, the floor is yours, sir.

STATEMENT OF JIM MATSON, PRESIDENT, VERMILLION SERVICES

Mr. MATSON. Thank you, Mr. Chairman, members of the Committee.

I am Jim Matson. I live in southern Utah. It is an area of immense expanse and beauty, large public areas.

If you look at Arizona and Utah, interestingly enough it would be counterintuitive to say, boy, those are really some very great places, but you would say those two States have some of the most urbanized populations in the area—or in the country, for that matter. If you take a look at the Wasatch or what takes place in Maripoca and Pima counties, they pretty well dictate and dominate what takes place in the local political scene.

I am a local rural communities kind of an advocate. I live in an area and a county that has fewer than 5,000 people. We are surrounded by Federal lands, Federal administrations that includes Park Service, Forest Service, BLM, some 15,000 square miles including the Dixis National Forest, Kaibab National Forest, Glen Canyon recreation area, Lake Meade recreation area, Grand Canyon National Park, Zion National Park, Bryce Canyon National Park, and, of course, Pipe Springs Monument. I could name the BLM portions of that as they are around us.

In looking at the processes that take place out there, our communities thrive or just barely exist based on what takes place with the Federal administration. These communities were put in place historically from a pioneering effort that basically made their living off of the resource, off of the land. They are still dependent on those resources even today.

Today we have been limited pretty much to tourism. Tourism by itself does not pay the bills. If anything, we end up with seasonal employment, low-wage employment. As a result of closures of mills and mining operations, we have family incomes that have dropped from $24,000 a year to under $19,000 a year, and we have close to four people in each one of those families trying to make a living and exist in those islands as they are surrounded by Federal administration.

I am quite familiar with Forest Service and BLM appeals procedures and also public input procedures. I can say that, for the most part, I support what they are doing. I just learned today that the Forest Service is considering adopting the same system that the BLM has in place for appeals, so it would appear there is some standardization that is taking place.

I am here to talk about both the appeals and the public input part as it relates to Park Service and Fish and Wildlife activities. I support the two bills that you are considering and recommend their passage. I think it would go a long way to helping represent rural people in rural areas that need more than just a reliance upon the population centers to represent their point of views.

In more recent years, my experience particularly with the listing process for the Mexican spotted owl virtually took place in a vacuum as far as we are concerned on what took place on a local basis. The process is driven out of the State, out of the area, by an envi-

ronmental movement that pretty much dictated the listing of the owl in circumstances that were questionable at best. We would have benefited by a more open public involvement process.

I can recall going to public meetings in Flagstaff and over in Williams wherein the Fishing and Wildlife Service panel, which had a contract mediator to put these public meetings on, sat there basically and didn't respond to questions. We had issues that we wanted to get addressed as best we could. Without the appeals process that would go along with that, you are forced into litigation.

There is a large area north of the Grand Canyon in the Kaibab National Forest, 250,000 acres. It ended up being designated as critical habitat for the Mexican spotted owl. They have yet to find an owl up there. It is a travesty because the process is so far out of line that you can't get in and break through those lines unless there is something that makes those people in the agencies more accountable. It is an awesome amount of power that the Fish and Wildlife Service is able to dictate based on a biological opinion.

Those are the kinds of things that severely limit us at a local basis. We need to have a better way of getting input and to be heard and be a part of the process and not just victims of special interest processes.

In another event, the California condor has been released on two sites in the Arizona strip. At first, the Fish and Wildlife Service conducted some very limited and fully attended meetings in Page, Flagstaff, and Kanab, Utah. When local elected officials and the people got an idea of what this could mean as it would have the reintroduction or relocation of condors as an endangered species, it would be like having B-52s fly around the countryside. After having the experience of what we did on the Mexican spotted owl issue, it is the kind of thing that really causes some concerns.

I would have to compliment the Fish and Wildlife Service for taking a look at and listening to the comments and coming back to the table to sit down and negotiate and work some of these things out. Happily, we ended up working out a process under the 10(j) section of the Endangered Species Act in order to utilize an experimental nonessential population approach, and the condors are up there now. They are flying over the countryside. They go clear from Northern Arizona to Green River, Wyoming. They have been seen over in Grand Junction, and they are far outside that 10(j) area. But, for the most part, locally our folks have adopted those birds and have become quite friendly with them. It is interesting to watch them following the crows around and the ravens around and finding them at Lone Rock and at Lake Powell. You find them along the Colorado River. They are not recluses. They are not hiding out. They seem to be going where people are at, and they have good visibility.

I guess I would wrap up my comments and say that if we had some owls around, we would like to adopt those, too.

Mr. HANSEN. Thank you, Mr. Matson. I appreciate your comments.

[The prepared statement of Mr. Matson follows:]

STATEMENT OF JAMES L. MATSON, PRESIDENT, VERMILLION SERVICES

Mr. Chairman and distinguished members of the Subcommittee, I appreciate the opportunity to appear and testify in regard to the proposed legislation contained in H. R. 1864 and H.R. 1866. I am Jim Matson, I live, work and enjoy Southern Utah and Northern Arizona. Our home is in Kanab, Utah. We are completely surrounded by Federal lands administered by the BLM, Forest Service and Park Service. There is not a day that passes that the significance of the public lands and their impact on my neighbors and me isn't matter of daily discussion and concern. Local experiences due to cultural attachments and economic dependence on the land and associated resources are understandably necessary and generational. I have personally experienced both the joys and frustrations of public lands legislation, regulations and management. On the whole I have benefited professionally and personally from the availability of renewable resources from the National Forests and the grasslands of the BLM.

Background and basis for support of H. R. 1864 and H. R. 1866:

Public laws, policies and regulations that apply to the administration of public lands have always affected rural communities, in one way or another. During the early part of this century and until the early 1980's, the Congress and the administration concentrated its efforts on the occupation and development of the lands under policies of conservation ethics for public lands west of the 100 meridian. These conservation principles shaped management policies for public lands that are under the administration of the Park Service, Forest Service and BLM. The U.S. Fish and Wildlife Service is a rather recent entity and has become a major regulatory and enforcement factor in public lands administration due to the enactment of the Endangered and Threatened Species Act.

Roughly 3 percent to 5 percent of the lands in the 15,000 square miles of South Central Utah and the Arizona Strip are in private ownership, the balance of the area is controlled by Federal agencies. As a result the communities of Alton, Big Water, Fredonia, Glendale, Lee's Ferry, Marble Canyon, Mt. Carmel, Moccasin, Skutumpah, and Vermillion Cliffs either just exist or prosper as the Federal agencies dictate access and utilization of natural resources. It is important to note that as the population of the United States urbanizes itself and becomes further removed from the land there are increasing major problems for rural communities and economies to cope with. The most formidable is community sustainability. We live and work in an area of enormous and spectacular beauty, but that alone does not sustain us. Low wage and seasonal tourism is simply unable to provide enough economic fuel to run our rural communities. To date the areas biggest export is its young people. Our population is gradually increasing in age, as our youth must go elsewhere to find opportunities to raise their families.

The values of urban life are understandably distant from the values of deep rural life. The majority of people residing in the nation's urban population shape the policies of the day. For the most part special interest lobbying agendas on the environment are radically opposed to sustaining rural communities and peoples in isolated island communities surrounded by public lands.

Prior to the closures of natural resource based businesses engaged in forestry and mining in Southern Utah and Northern Arizona the average family incomes with 1.5 people in the workforce was about $24,000 per year prior to 1995. Today we have 2.6 in the family working and making just under $19,000 per year. Constant special interests pressures to under utilize economic renewable resources from public lands only burden rural public land dependent communities. Our communities possess the means and the desire to be working partners in developing and sustaining resource stewardship programs that can benefit public lands ecosystems and rural communities. However a willing Federal partner is either missing or unwilling to risk criticism for participating in ecosystem restoration programs that enhance landscapes and habitats.

A missing element in all this is a lack of due process by all of the Federal natural resource managing and regulatory agencies. Environmental and cultural struggles of the past two decades has brought two agencies, the Forest Service and the BLM to a leadership role of responsible public involvement. Rural and public land dependent communities must have a reasonable opportunity to be heard and to compete with distant special interest agendas. At the very least, our communities require an affordable means of appealing Federal decisions and actions that threaten community sustainability.

Appeals and adequate public hearings at the Department Interior for the Fish and Wildlife Service and Park Service:

For years special interest groups have lobbied Congress, and Federal agencies to open up the public input and processes for these interests to have a chance to shape or appeal public land management policies and implementation decisions. In the long run this has proven to be a wise undertaking for both the BLM and Forest Service. The American people for the most part are quite capable of having an impact on policies and the politics of public resource management. There are however two Federal agencies, the Fish and Wildlife Service and the Park Service lacking adequate administrative appeals procedures and requirements for public hearings. This situation often mandates the resolution of issues to the Federal courts. Litigation is always long, drawn out and very expensive. Most solutions to land and resource management issues are readily at hand through the administrative appeals processes including open and responsive public hearings. Lacking these process elements the Fish and Wildlife Service and Park Service operate in a manner with little regard for rural community values and knowledge about local people's connectivity to the land. Agency preoccupation with their daily problems and programs regrettably take primacy over public involvement and input particularly at a dependent community level. Much must be done about this, before we slide toward total dissatisfaction with all Federal land management and regulatory agencies.

Mexican Spotted Owls

Allow me to share a case in point and one in which I have, regrettably, a great deal of first hand involvement in and now more than just a passing interest. The listing as threatened by the U.S. Fish and Wildlife of the Mexican spotted owl in the southwest, particularly the plateau areas of the Kaibab National Forest and Grand Canyon National Park illustrates the difficulty of assuring credible and supportable decisions. I have known from the onset that Mexican Spotted Owls simply are not found on the North Kaibab. Recent work and surveys indicate that these owls may be present in the slick rock canyon habitats below the rim of the canyons. After years of survey and management for suitable habitat for Mexican Spotted there has been a profound lack of confirmed sighting of any these owls in the forested areas of the North Kaibab Plateau. The Fish and Wildlife Service was assured of this countless times before they arbitrarily mandated critical habitat designations for the Kaibab for what now appears to have been a bio-politically driven agenda. A properly structured public input and hearings process would have, I am certain would have resulted in a more deliberate and responsive listing and regulatory process. The Fish and Wildlife Service under its current regulations failed to properly assess and deal with the physical realities because they simply were not required to. A resultant lawsuit and injunction eventually curbed unnecessary critical habitat restrictions. But not before the closure of two lumber mills and the loss of over 900 critical and valuable jobs to Northern Arizona and Southern Utah. A timely appeals process would have been of great value in sorting most of this stuff out.

Regulations promulgated under the Threatened and Endangered Species Act are very one sided and quite subjective. Individual bias of Fish and Wildlife employees often becomes the rule and not the exception. Unsupervised Fish and Wildlife biologists have become awesome brokers of unabated power and impact. These people must be accountable for their evaluations and decisions. Over worked and under funded biologists often error in favor overly restrictive and unnecessary requirements. The far ranging and in most cases irreversible decisions of the Fish and Wildlife Service calls for a more measured and deliberate listing and findings process. Properly formatted administrative appeals requirements and open public meeting rules would go a long way to assuring an adequate and open program of protecting our plant and wildlife species.

California Condor Relocation to the Arizona Strip

On a different note and on one in which the outcome and results were of real value locally was the relocation of California Condors to the Vermilion and Hurricane Cliffs on the Arizona Strip. The Fish and Wildlife Service attempted a few public meetings in Page, Arizona and Kanab, Utah prior to the release of California Condors by the Peregrine Fund. The meeting were poorly noticed and sparsely attended. As local people became aware that endangered condors were to be sprinkled out over the landscapes of Northern Arizona and Southern Utah. Local county and community officials declared a high state of emergency. The Fish and Wildlife Service responded by saying that public meetings were held and that no one had objected. The response by local officials was one of complete surprise and amazement. Just one poorly noticed meeting for each community was justification for releasing an endangered condor with a flight range of an airplane? After the experience of

Mexican Spotted Owls and Amber Snails we were not having any more of this. The Fish and Wildlife Service eventually followed up with improved and coordinated community and public involvement process for the release of California Condors. A Key element of this involvement resulted in the use of the 100(j) rule of the Threatened and Endangered Species Act, which allowed for the introduction to be carried out as experimental nonessential population of California Condors. We're finding that these new birds now think that their mentors, the common raven are pretty cool and are to be found hanging around campgrounds and the Colorado River. If these great birds had been released in the Arizona Strip as originally planned there would have been chaos and hell to pay for a process lacking in sensitivity and reasonableness. We have adopted these new California Condors and would probably feel the same about Mexican Spotted Owls if there were any around to get to know.

Mr. HANSEN. Mr. Monahan.

STATEMENT OF BOB MONAHAN, CHAIRMAN, MONAHAN GROUP

Mr. MONAHAN. Thank you, Mr. Chairman.

On behalf of Gettysburg, local, State and national officials, historians, preservationists and historical and preservation groups, I want to thank you for this opportunity to speak to H.R. 1864 and 1866.

Gettysburg is where I grew up and now where I raise my family. Gettysburg is a community of great importance to the American history because of its role in preservation of these United States. Gettysburg is a town that is tied to a co-existence with the National Park Service. Gettysburg a town that I call home with pride.

It is in this spirit that I first approached the NPS with a new public-private partnership, one that could be used as a model of National Parks across the country, one that stressed cooperation between the NPS and the local community.

During my involvement in the 1994 development concept plan with Gettysburg, it became very clear to me how bureaucrats could manipulate the process and the outcome. I withdrew my offer and proposal from the National Park Service because of concerns by the local community, national historians and preservationists, and affiliated groups. Their fears of viewshed impact, congestion, disturbing hallowed ground, commercialization and distrust in the National Park Service were all major factors in my decision. To this day, many of these areas of concern have not been properly addressed.

The history of what is happening in Gettysburg over the past 5 years is known to some extent. However, because of a lack of Federal guidelines and requirements on public meetings and hearings regarding procedure, documentation, public notification, agency responsibility, follow-up and response, not all is known. The true story of Gettysburg has been left to the conscious Americans, those who have demanded responsibility and accountability, to fight the National Park Service, a bureaucracy out of control.

Hearings are not defined to the public for greater understanding. Citizens come to hearings thinking that if they ask questions, they will be given answers. Two hearings were conducted in a manner where citizens asked questions, but the NPS stood silent. No information or little was provided. The public was outraged at these hearings. In fact, at one of the two hearings when the NPS solicitor and superintendent gathered the hearings to a close before the allotted time period, the public rose from their seats in anger and

protest and refused to leave the room until the NPS solicitor and superintendent reponed the hearing.

Although the two official hearings were transcribed by audio tape, the other public meetings and workshops held at the NPS were not transcribed. There were constant requests and protests by the public that recordation be done, but the NPS ignored the suggestions from the public. This is important because it allowed the National Park Service to say whatever it wanted to, to answer or not answer the questions without any record of it.

Another case in point, an instance when two staff members of this committee attending a meeting in Gettysburg were exposed to this firsthand and publicly brought this to the attention of the superintendent during the meeting, their concerns were ignored.

The NPS held a meeting concerning the Visitor Center/Cyclorama with historians, architects, and preservationists. During that meeting a question was asked as to why, at such an important meeting, which was to determine the fate of an important, historic Federal building, the meeting was not being transcribed or recorded. Afterwards, some random hand notes were taken by the NPS.

By not transcribing these meetings and hearings, the NPS can hide and not be held accountable. The NPS can state how many meetings they had, but they do not have to state what actually happened or what was said during those meeting. In fact, they can simply deny or not remember what happened.

The conduct of the NPS at Gettysburg has been and continues to be one of pure arrogance and disregard for local, State and national elected officials, Congress, national historians, preservationists and their organizations. This behavior has created a national scandal.

Superintendent John Latschar was quoted in the York Sunday News on March 23, 1997, as saying ″I'm bold enough and arrogant enough to believe that I have the training and education and the ability to cure a lot of Gettysburg and Eisenhower's problems.″ .

On September 26, 1997, USA Today stated, ″As for his local critics he, Superintendent Latschar, professes not to pay much attention.″ on July 15, 1998, the Gettysburg Times quoted Superintendent Latschar as saying, ″Even members of Congress, bless their hearts, don't understand all of the legal ramifications of the laws they pass.″ .

The NPS, through its handling and general management plan and proposed public-private venture, has ignored responsibility to its constituents to conduct its affairs and public meetings in open, accountable, and forthright fashion. The GMP can be described in two expressions: ″done deal″ and a ″cart before the horse″ approach to planning.

The community was not allowed to see the particulars of the preferred proposal until 8 months after the winning bidder was selected. That proposal was selected in November, 1997; and the public was given a first look at the general nature of the proposal on July 4, 1998, a done deal. The NPS Director's Order No. 2 says that the GMP should be the first tier of a long-range planning process. The proposed GMP puts the cart before the horse by inserting

a very specific alternative before laying the basic general groundwork normally presented in GMP.

The National Environmental Protection Act mandates that NPS planners provide a full range of alternatives for any development. The GMP provided two—no action or the selected proposal. There was no middle ground such as rehabilitation or improvement of the current facility or possible placing of some non core essential features such as curatorial or archival in separate facilities nearby in the borough.

The NPS is pushing their plan for Gettysburg because they see it as a way of opening the door to entering into a public- private partnership at a host of other national parks around the country. They are hoping they have found a way to gain for themselves millions of dollars of capital and relieve themselves of congressional oversight. They believe that it is such an attractive prospect that they have been willing to play fast and loose with their fundamental responsibilities and the facts in order to make the Gettysburg plan a reality. There is just too much money at stake.

The NPS should say what they mean and mean what they say. They are doing neither. In the process, they diminish their own authority as conservators of the hallowed ground entrusted to their care. With hundreds of millions of dollars at stake, Gettysburg may only be the beginning.

Gettysburg also proves an interesting situation for the NPS in its potential impact on parks around the country. The often pathetic way it conducted meetings and hearings left many individuals upset, frustrated, angry, and with a feeling of misrepresentation, misleading statements and betrayal.

Of national consequence is Gettysburg's GMP and public- private partnership in that it will, one, be used as a national model; two, circumvent Federal concession law; and, three, put the NPS and the Federal government into for-profit businesses through a nonprofit foundation competing against every mom and pop and corporate business, and it would have devastating impact with communities who partner and depend on the relationship with the NPS.

At Gettysburg, the NPS has never asked Congress for any funds to rehabilitate or build new facilities, yet through these public meetings and hearings the NPS has devised a scheme that ignored the direction of Congress when it was told that the plan should, quote, stop and be redone because it was quote, fatally flawed. Individuals who have spoken out against these plans have had the NPS make attempts to discredit and dismiss their comments to the point of ruining the reputations.

If hearings and meetings are not run properly, then how do we raise concerns that are meaningful? Senators and Congressmen wrote and asked for an extension of the 60-day review period and were refused by the NPS. Why? Simply because they could without any ramifications.

More importantly, what about traffic, parking, community impact, and survival of a living and working community? What about the NPS's many concerns, those of viewshed impact, disturbing hallowed ground, et cetera? Should they be allowed to ignore the con-

cerns and issues they raise with everyone else? More importantly, can they break their own and Federal procedures and laws?

Should they be allowed to hold hearings and refuse to answer questions? Do you really believe the Superintendent at Gettysburg when he was asked why a meeting was not being recorded and he responded it was too expensive to tape record it?

This is bad government that has turned into bad politics because of extensive lobbying of Hill & Knolton and others who don't understand and don't care about what is really at stake. This is about a bureaucrat and bureaucracy out of control. It is about the worst of the government, a Federal agency that refuses the recognize the will of the people and ignore Congress. They have essentially told you, the elected members representing us, to go to hell.

Senator Craig Thomas, Chairman of the Subcommittee on National Park, Historic Preservation and Recreation, said on February 24, 1998, ″Any general management plan formulated in the future would be perceived by many as predetermined.″ .

Mr. Hansen, you said on July 14 of this year, ″This proposal has soured the general public's perception of the National Park Service and infuriated the public with this project.″ .

Congressman Goodling of the 19th Congressional district, where I live, on July 14 on the floor of the House of Representatives said, ″I am outraged over the Park Service out of control and its attitude towards the citizens of Gettysburg. I have never seen such a display of arrogance and disregard for the well being and opinion of those who will be impacted most.″ .

The NPS knows full well that the only appeal to a bureaucrat and bureaucracy out of control and in violation of Federal mandates and law is to use the judicial system. This is a very expensive and timely remedy to individuals, groups or to local governing bodies.

I appear to you today as a direct result of this superintendent and the NPS's misrepresentation, misleading information and botched handling of meetings and hearings. As I speak to you today, there is an ongoing GAO investigation, a Federal lawsuit, a deposition of the superintendent, as well as a pending Inspector General investigation. We cannot allow the NPS to push headlong into a project casting all questions aside without an appeal process.

In closing, I urge to you adopt H.R. 1864 as a means to standardize the procedures used by Federal agencies for public hearings so that the public understands what is to be expected from Federal agencies. I urge you to adopt H.R. 1866 in order to establish regulations which would address what types of agency decisions are appealable and who may appeal such decisions and establish a process that Federal agencies would follow for notifying the public of their appeal procedures.

Thank you.

Mr. HANSEN. Thank you, Mr. Monahan. I appreciate your comments.

[The statement of Mr. Monahan follows:]

Statement of Robert J. Monahan Jr., Chairman, Monahan Group

On behalf of Gettysburg, local, state and national elected officials, historians, preservationist, and historical and preservation groups, I thank you for this opportunity to speak to H.R. 1864 and H.R. 1866.

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Hearings are not defined to the public for greater understanding. Citizens come to hearings thinking that if they ask questions they will be given answers. Two hearings were conducted in a manner where citizens asked questions but the NPS stood silent. No information, or little information, was provided. The public was outraged at these hearings. In fact, at one of the two hearings, when the NPS solicitor and Superintendent gaveled the hearing to a close before the allotted time period, the public rose from their seats in anger and protest and refused to leave the room until the NPS solicitor and Superintendent reopened the hearing.

Although the two official hearings were transcribed by audio tape the other public meetings and workshops held by the NPS were not transcribed. There were constant requests and protests by the public that recordation be done but the NPS ignored the suggestions from the public. This is important because it allowed the NPS to say whatever it wanted to, to answer or not to answer questions without any record of it.

Another case in point—an instance when two staff members of this Committee, attending a meeting in Gettysburg, were exposed to this first hand and publicly brought this to the attention of the Superintendent at the meeting. Their concerns were ignored.

The NPS held a meeting concerning the Visitor Center/Cyclorama with historians, architects and preservationists. During that meeting a question was asked as to why, at such an important meeting, which was to determine the fate of an important, historic Federal building, the meeting was not being transcribed or recorded. Afterwards, some random, hand notes were taken by NPS.

By not transcribing these meetings/hearings, the NPS can hide and not be held accountable. The NPS can state how many meetings they had but they do not have to state what actually happened or what was said during those meetings. In fact, they can simply deny or not remember what happened.

The conduct of the NPS at Gettysburg has been, and continues to be, one of pure arrogance and disregard for local, state and national elected officials, Congress, national historians, preservationists, and their organizations. This behavior has created a national scandal.

Superintendent John Latschar was quoted in the York Sunday News of March 23, 1997 as saying "I'm bold enough and arrogant enough to believe I have the training, the education, and the ability to cure a lot of Gettysburg's and Eisenhower's problems." On September 26, 1997, the USA Today stated "As for his vocal critics, he (Superintendent Latschar) professes not to pay much attention." And on July 15, 1998 the Gettysburg Times quoted Superintendent Latschar as saying "Even members of Congress, bless their hearts, don't understand all of the legal ramifications of the laws that they pass."

The NPS, through its handling of its General Management Plan and proposed public private venture, has ignored responsibility to its constituents to conduct its

affairs at public meetings in an open, accountable and forthright fashion. The GMP can be described in two expressions: "Done deal" and a "cart before the horse" approach to planning. The community was not allowed to see the particulars of the preferred proposal until eight months after the winning bidder had been selected. That proposal was selected in November of 1997 and the public was given a first look at the general nature of the proposal on July 24, 1998. A done deal. The NPS Director's Order No. 2 says that *GMP should be the 2st tier* of a long range planning process. The proposed GMP puts the "cart before the horse" by inserting a very specific alternative before laying the basic, general groundwork normally presented in a General Management Plan.

The National Environmental Protection Act mandates that the NPS planners provide a full range of alternatives for any development. The GNMP provided two—no action or the selected proposal. There was no middle ground such as rehabilitation and improvement of the current facility or the possible placing of some non "core" essential features, such as curatorial and archival, in separate facilities nearby in the borough.

The NPS is pushing their plan for Gettysburg because they see it as a way of opening the door to entering into a public-private partnership at a host of other National Parks around the country. They are hoping they have found a way to gain for themselves hundreds of millions of dollars of capital and relieve themselves of congressional oversight. They believe it is such an attractive prospect that they have been willing to play fast and loose with their fundamental responsibilities, and the facts, in order to make the Gettysburg Plan a reality. There is just too much money at stake.

The NPS should say what they mean and should mean what they say. They are doing neither. In the process, they diminish their own authority as the conservators of the hallowed lands entrusted to their care. With hundreds of millions of dollars at stake, Gettysburg may be only the beginning.

Gettysburg proves a very interesting situation for the NPS and its potential impact on parks around the country. The often pathetic way it conducted meetings and hearings left many individuals upset, frustrated, angry, and with a feeling of misrepresentation, misleading statements and betrayal. Of national consequence is Gettysburgs' GMP and public private partnership in that it will

- be used as a national model circumvent Federal concession law
- Put the NPS and Federal Government into for-profit businesses through a non-profit organization competing against every Mom & Pop and corporate business, having devastating impact on communities who partner and depend on their relationship with NPS

At Gettysburg, the NPS has never asked Congress for any funds to rehabilitate or build new facilities. Yet, through these public meetings and hearings, the NPS has devised a scheme that ignored the direction of Congress when it was told that the Plan should be "stopped and redone" because it is "fatally flawe." Individuals who have publicly spoken out against these plans have had the NPS make attempts to discredit and dismiss their comments to the point of ruining their reputations.

If hearings and meetings are not run properly, how then do we raise concerns that are meaningful? Senators and Congressmen wrote and asked for an extension of the 60-day review period and were refused by the NPS—why? Simply because they could without any ramifications. More importantly, what about traffic, parking, community impact, and survival as a living and working community? What about NPS's many concerns: those of viewshed impact, disturbing hallowed ground, etc? Should they be allowed to ignore the concerns and issues they raise with everyone else? And even more importantly, can they break their own, and Federal, procedures and laws?

Should they be allowed to hold hearings and refuse to answer questions? Do you really believe the Superintendent at Gettysburg when he was asked why a meeting was not being recorded and he responded it was too expensive to tape record it?

This is bad government that has turned into bad politics because of extensive lobbying of Hill & Knolton and others, who don't understand and don't care about what is really at stake. This is about a bureaucrat and bureaucracy out of control. It is about the worst of government—a Federal agency that refuses to recognize the will of the people and ignore Congress. They have essentially told you—the elected members representing us—to go to hell.

Senator Craig Thomas, Chairman of the Subcommittee on National Park, Historic Preservation and Recreation said on February 24, 1998 "Any General Manaement Plan formulated in the future will be perceived by many as 'predetermined.' "

Mr. Hansen, on July 14, 1999, said ".... this proposal has soured the general public's perception of the Park Service and infuriated the public with this project."

Congressman Goodling, on July 14, 1999, on the floor of the House of Representatives said, "I am outraged over the Park Service out of control and its attitude towards the citizens of Gettysburg. I have never seen such a display of arrogance and disregard for the well being and opinions of those who will be most impacted. . . .

The NPS knows full well that the only appeal to a bureaucrat and bureaucracy out of control and in violation of Federal mandates and law is to use the judicial system. This is a very expensive and timely remedy to individuals, groups or to local government bodies.

I appear before you today, as a direct result of this superintendent and the NPS's misrepresentation, misleading information and botched handling of meetings and hearing. As I speak to you today, there is an ongoing GAO investigation and Federal lawsuit, and a deposition of the Superintendent, scheduled within days, as well as a pending Inspector General investigation. We cannot allow the NPS to push headlong into a project casting all who question them aside without an appeal process.

In closing, I want to urge you to adopt H.R. 1864 as a means to standardize the procedures used by Federal agencies for public hearings so that the public understands what is to be expected from Federal agencies. I urge you to adopt H.R. 1866 in order to establish regulations which would address what types of agency decisions are appealable, who may appeal such decisions, and establish a process that Federal agencies would follow for notifying the public of their appeal procedures.

Mr. HANSEN. Now, you may ask yourself the question of why do we come up with legislation. Basically, it is because we are all elected by the public. Probably three of us here have over 500,000 people that we represent. I have been here 10 terms now, 20 plus years, and I have sat on six committees and chaired three committees. I would assume that the thing that I have had more comment on is public hearings on the Park Service and Fish and Wildlife than any others. We don't just abstract and pull these out of the hat.

When I read Ms. Falkner's statement that everything is going fine, why does the public respond that way? Why do they not think that? Contrary to what some folks think in Washington, we are here to represent the people. This is a people's government. And if the people don't like something, that is how Congress gets involved. We don't abstractly pull this out.

I haven't heard that much on the Forest Service, strangely enough. Maybe Jim Matson has, because I know he has worked with them a lot. I haven't heard too much on BLM. I guess, of the four, BLM would be the lowest. Those other two that we are specifically addressing here, we got into that.

With that little editorial, I will turn to my colleagues for questions. The gentleman from Nevada.

Mr. GIBBONS. Thank you, Mr. Chairman.

Indeed, I would echo your comments about public sentiments and statements regarding public hearings by certain agencies, the Department of the Interior. I think Ms. Falkner can tell by the statements that were presented by these gentlemen that there is a great deal of cynicism in the general public about your agency.

With that, I would ask, having read your statement here, I noticed that you indicated that you think it would be a better idea if all Federal agencies were included in this bill, not just the Department of the Interior. Is that a correct presentation of your written statement?

Ms. FALKNER. I think a more accurate statement would be that the findings of the bill suggested that this was a problem governmentwide. And so we are looking to you, if you believe that this is a problem that is governmentwide, then we would ask that the

other agencies be put under this legislation as well and that they be allowed to comment as well.

Mr. GIBBONS. So you would advocate that all agencies be put under this same standard?

Ms. FALKNER. If the findings of this legislation are that this is a governmentwide problem, yes.

Mr. GIBBONS. Ms. Falkner, whenever there is a public hearing taken by your agency, what do you do with the records of that public hearing?

Ms. FALKNER. The records become part of the decision-making record. If it is a rule, for example, it becomes part of the rule-making record. And those comments are then made part of the decision-making process for the final decision on the rule.

Mr. GIBBONS. Do you keep the records?

Ms. FALKNER. They are maintained.

Mr. GIBBONS. All comments from the public?

Ms. FALKNER. Comments that are received are maintained.

Mr. GIBBONS. Is there a standard format that you adhere to for those public hearings that you do undertake?

Ms. FALKNER. Most of the rule-making hearings that we do are informal in nature. Some of the processes vary depending on the size of the public that is involved and the nature of the hearing itself.

Mr. GIBBONS. Would you state that it is the policy of your Department that you respond to all legitimate questions that are proposed by the public?

Ms. FALKNER. In a rule-making context under the Administrative Procedures Act we are required to respond to all significant comments within the final rule-making.

Mr. GIBBONS. What about at any of these other formal or informal hearings when the public asks questions? What is your policy? What is the position of your agency with regard to responding to public questions?

Ms. FALKNER. We believe it is important to respond to the public.

Mr. GIBBONS. Do you?

Ms. FALKNER. We attempt to do that. It is important to remember, though, that we may be limited in answering a particular type of question because it would be inappropriate under another piece of legislation such as the Administrative Procedure Act from making a final determination before all comments are received.

Mr. GIBBONS. Let me ask one of these other three gentlemen their comments. You just heard from the agency about their policy about answering public questions. Do you have a response to that, Mr. Bieti?

Mr. BIETI. Yes. Bull.

Mr. GIBBONS. What was that again? You can say it.

Mr. BIETI. Bullshit. We went into this being turned down. We wanted to read these public comments that were recorded. We were forced through the Freedom of Information Act to pay for 4,300 pages of comment. The superintendent alleged for a year that there was public support of this plan. Out of 616 comments, for example, we went through, put into a spreadsheet and found four that said we want nonmotorized areas. Four is, in the vernacular of the Park

Service, most or more or many. Four out of 616 where I come from isn't much.

Mr. GIBBONS. Let me interrupt you and make a real quick comment in the time I have. I want to go back to Ms. Falkner and ask, if these public hearings that you conduct, are any of them done where the public is not permitted to ask questions?

Ms. FALKNER. I am not familiar with that.

Mr. GIBBONS. Is anyone behind you who could testify to this matter and give us an answer to that question?

Ms. FALKNER. I think the nature of a public hearing is to get information.

Mr. GIBBONS. The question is, do you ever conduct a public hearing where the public is not permitted to ask a question?

Ms. FALKNER. What I am hearing is that we allow the questions to be asked. In some cases, we cannot provide an answer at the public hearing.

Mr. GIBBONS. In response to my earlier question, is it the policy of your Department to answer questions, obviously that would then correct that previous misstatement that it is not the policy of your agency to answer the questions of the public because you are saying now that you don't permit an answer to the question at these hearings.

The other question that didn't get answered is, at any of those hearings are the public precluded from asking a question? That is not a statement of saying, well, they can ask a question, but we won't answer it. Are they precluded from asking a question in any of these hearings?

Ms. FALKNER. I am not familiar with that unless there is a question of timing. In some cases we have enormous attendance at hearings and maybe not everybody may be allowed to speak.

Mr. HANSEN. Let's have another round, shall we?

The gentleman from Colorado.

Mr. MARK UDALL. Thank you, Mr. Chairman.

As I begin, I just want to make the comment to the Chairman and my colleagues that I stayed for the hearing because I have an interest in this issue and bring an open mind and don't bring a prescribed point of view on this. I think there are some important issues that have been raised and this is an issue that ought to be looked at in a bipartisan fashion. I look forward to doing that with you.

In that spirit, I want to ask a question of Ms. Falkner. I think you mentioned a concern that if H.R. 1864 were enacted it could lead to some litigation over this issue of procedure. If we take the bill to markup, is this something that we could address, some ideas that you might have to speak to your concerns about litigation based on procedures?

Ms. FALKNER. I think it is something that we would be willing to work with the Committee on.

Mr. MARK UDALL. You would prefer to have additional time, to provide us with some specifics? Is that what I hear you saying?

Ms. FALKNER. Yes.

Mr. MARK UDALL. I did—in response to my colleague from Nevada's questions, the hearings that I have been to seem to me to have two purposes, one to gather input from the public; the second

purpose is often to educate the public. I know there is a balancing act that has to take place. In my own experience of holding town meetings, it seems to me the best policy is to allow the public to speak as much as possible, to hear from them. I hope the agencies involved continue to keep that in mind.

Let me direct a couple more questions your way. Moving to H.R. 1866, I read it as saying, and I am curious if you read it similarly that it would require the Fish and Wildlife Service to revise its appeals and procedures for decisions under the Endangered Species Act. Would you comment on that?

Also, answer if you can what is the current procedure when you go through an appeals process around the ESA?

Ms. FALKNER. I am going to ask somebody from the Fish and Wildlife Service to respond to those questions directly. They would be more familiar with that appeals process and the opportunity that somebody may have to make a comment on that decision, if you don't mind.

Mr. MARK UDALL. Is there somebody here who could do that? Mr. Chairman, is that——

Mr. HANSEN. If they would step forward and grab a mike and identify themselves, we would appreciate it.

Mr. MILLER. My name is Martin Miller. I am with the Division of Endangered Species in the Fish and Wildlife Service. There is no formal appeal process for a listing decision under the Endangered Species Act.

Mr. MARK UDALL. There is no formal process that you are aware of before or after the decision?

Mr. MILLER. That is correct.

Mr. MARK UDALL. Mr. Chairman, at some point you may have a comment on this as well, given your experience.

Ms. Falkner, when I looked at Mr. Bieti's testimony—and if I might add an aside, Mr. Bieti, maybe we could clarify your earlier statement that you expressed some doubt about whether the Fish and Wildlife Service and other have taken your input. But it seemed that one concern about the hearings is that sometimes the open house format is seen as less satisfactory. How do you go about deciding when to use that open house format?

Ms. FALKNER. The agencies make a decision based upon the community that they are going into, the issues that are involved. For example, if it is an Endangered Species Act listing and there is a request for a formal hearing, they must go through a formal hearing. Otherwise, the intent of the Fish and Wildlife Service is to get as much information out as quickly and easily as possible. The informal hearing such as open houses, by and large, seem to work best. We have a lot of people attending those. There is much more of a dialogue exchanged at those meetings in the context of a formal hearing.

Mr. MARK UDALL. You mentioned the Fish and Wildlife Service. Is that similar to the approaches by the other Interior agencies? Can you comment?

Ms. FALKNER. They make decisions based upon the nature of the issue involved, the community that they are going into, whether or not there has been a request as well for a formal hearing.

Mr. MARK UDALL. Would you agree that it is a policy or at least a mindset within the Department that a mix of hearings is often appropriate, that that is considered at least in the process?

Ms. FALKNER. Yes. As you mentioned earlier, sometimes the purpose of a hearing can be two-fold. One is to actually exchange information and the second is to receive information from the public. The agencies need the flexibility to determine how best to conduct hearings for those particular purposes. Some people are intimidated by a more formal process and prefer to enter their comments in a less formal setting such as an open house.

Mr. MARK UDALL. Thank you, Mr. Chairman. I see my time is up.

If I could make one brief comment which I think would speak to your concern. It has to do with the Federal Highway Administration, which is not covered by part of this legislation, but there is a proposal in my district to pave a particular rugged high alpine road. The Federal Highway Administration continues to just hold open house type meetings for public input. The communities all around that area kept calling for more formal hearings, and the Federal Highway Administration refused to call those kinds of hearings. It speaks exactly to the situation that you brought attention to with this legislation.

Mr. HANSEN. I appreciate the gentleman's comments.

We will have another round of questioning.

We don't want to beat up on you folks. Please don't take it that way. We realize that you are very strong public servants, but our job is to pass legislation when we see a problem.

Frankly, as I think back to all of the complaints that we have had about public hearings, the main one goes this way. It says, the agency, whoever it may be, in many cases the Fish and Wildlife especially, comes in with preconceived plans that are already determined and then work to that. Honestly, I have heard employees of different organizations say, we just got to go through these hoops before we can implement what we want to do anyway. I will ask you three gentlemen, have you had that experience or am I just getting the wrong complaints or are these just a bunch of people who are perennial naggers?

Mr. MONAHAN. I would say your assessment is correct. There were decisions made, and it goes back to the general management plan and the Director's Order No. 2 which states that that is first tier in the planning process. Unfortunately, this is a done deal, as has been said, and predetermined.

You talked about the hearings earlier. They had an open period of 60 days for review, and then it was left not to the National Park Service, here to Congress or to the regional administrator, but to the local superintendent to determine whether he wanted to extend the opportunity that people had to address concerns that they had. He denied that.

A lot of what we have seen in Gettysburg and continue to see basically about the National Park Service made the decision and was going to move ahead regardless—that was very clear when they ignored your wishes when you called the plan fatally flawed, this Committee, and asked to have it stopped and be redone and then proceeded to put it through the 30-day, no action period. So as is

very clear in my mind and minds of many other people, when they make a decision, they just, as you say, jump through the hoops.

Mr. HANSEN. Before I came here, I was in the State legislature, and I was speaker of the house. We had a public hearing with the Federal folks in the State capital. And Scott Mathieson, who was governor at the time, really fine gentleman, different political persuasion than I am, we sat and listened to that. Almost every legislator there testified a certain way, as did the public at two other meetings. It came out exactly the way they presented, and it didn't change one iota.

Scott was really ticked off. I remember him flying back and beating up on Secretary Cecil Anders at the time, saying what the hell are these meetings for? They didn't pay attention to us.

That is when one of the guys that conducted the meeting said, I don't care you guys said, we had to go through these hoops.

I found it very distressing. I hope that isn't the case. If I hold—back to Ms. Falkner, why would it be? This is an unfair question because I am using knowledge that you don't have, and I apologize to you. Why would it be we get so many complaints about you folks?

Ms. FALKNER. I am sorry?

Mr. HANSEN. Why do we get more complaints about the Park Service and Fish and Wildlife on hearings than we do on any other agency in government?

Ms. FALKNER. As I said, Mr. Chairman, I am unfamiliar with the complaints that you are receiving.

Mr. HANSEN. I will get you some. That is only fair. That is not fair to ask you that kind of question. I realize that.

But you say, why are we getting complaints on all of these folks? That is why we have hearings like this. We have some hang-ups. We know that you operate under different laws. Some of us are of the opinion that maybe we should have had a hearing on the Grand Staircase Escalante, but we fully realize that was done under the 1906 antiquities law and did not require that as some of these others do.

Mr. Monahan, do you want to make a comment?

Mr. MONAHAN. I consider myself a friend of the parks, and I have worked over the years as I grew up in Gettysburg to support the National Park Service in many ways. The unfortunate part is that many people that live in and around a National Park have an attitude, and the attitude is the Park Service will do what the Park Service is going to do. Unfortunately, they did it one too many times in Gettysburg, and that is why all of the controversy has erupted.

I want to be clear with these folks that are here today. I think the National Park Service is an institution that we need to give our support to, but the other side of the coin is that I don't think in many instances it goes both ways. I just want to be on the record speaking as a friend of the park even though I have testified on serious conditions that have been occurring in Gettysburg.

Mr. HANSEN. We have 370 something units in the Park Service now. The majority of them do a darn good job. Secondly, a lot of these folks can only operate under the laws that come out of this

group. We give them a law, a lot of latitude. They have to interpret it and go from there. Tough job. Pleasing everybody is very hard.

Mr. Matson, your comments.

Mr. MATSON. I would like to comment in terms of a responsive process that we can deal with that might be standardized between the agencies that are involved in land management or resource management issues. The only avenue that is left open to us if we don't have an adequate public response process and questions and answers and appeals is litigation. Then you are talking about expense and cost and frustration and time. Those are the kinds of things that local communities and small county governments cannot afford to do. We think this would be a real nice process to help deal with some of that stuff and get issues dealt with in a more responsive manner.

Mr. HANSEN. I agree with you. Especially the little guy when he gets into this and he has no appeal but the court. He is pretty well had.

As you mention in your testimony, look at all of the little guys that have gone under, especially down in your area. I use Escalante sawmills as a classic example. And the company I think you used to be associated with, Kaibab Industries, they finally threw their hands in the air and that type of thing.

The gentleman from Nevada.

Mr. GIBBONS. Thank you, Mr. Chairman.

I only have one brief final question, because I think it deals exactly with the subject that we are talking about here in the whole process in an effort to get to some public confidence in the decision process. I would go back to Ms. Falkner and ask her if there has ever been a discussion within the agency with regard to establishing an appeals process for these various Park Services and Fish and Wildlife Service so there is an available recourse for some of these decisions? Have you ever had a such a discussion within your Department of Interior?

Ms. FALKNER. I am unfamiliar with that type of discussion. I can find out whether that kind of discussion has ever occurred, but I am unfamiliar with that.

Mr. GIBBONS. Would you ask that question and submit it for the record for this Committee, whether there has been a discussion and when and get the details and the record of that decision?

Ms. FALKNER. Yes.

[The information follows:]

Mr. GIBBONS. With that, Mr. Chairman, I have no further questions.

Mr. HANSEN. I would just like to end it on this.

Ms. Falkner, you may be of the opinion in your testimony that the Interior Department opposes these two pieces of legislation. I don't know if that is in cement, we oppose it regardless of what you say in it, or is there a place you would like to give us some opportunity or some input that you feel would make it better legislation of if you just feel it is unnecessary, like you say in your statement, let us know that. But if you feel there is something in there that would improve it or possibly make the whole process better, we would like to hear from you. If not, we are going to continue ahead with this legislation. If you would like to write us a letter saying

the President is going to suggest a veto, I would like to have that because that will tell me what to pocket it with before I send it to the White House.

With that, thank you very much. We will consider this adjourned.

[Whereupon, at 1:15 p.m., the Subcommittee was adjourned.]

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