

CORRECTIONS TO COASTAL BARRIER RESOURCES  
SYSTEM MAPS

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JANUARY 24, 1996.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. YOUNG of Alaska, from the Committee on Resources,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2100]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2100) to direct the Secretary of the Interior to make technical corrections to maps relating to the Coastal Barrier Resources System, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. CORRECTIONS TO MAPS.**

(a) **IN GENERAL.**—The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, make such corrections to the maps described in subsection (b) as are necessary to ensure that depictions of areas on those maps are consistent with the depictions of areas appearing on the maps entitled “Amendments to Coastal Barrier Resources System”, dated November 1, 1995, and on file with the Secretary.

(b) **MAPS DESCRIBED.**—The maps described in this subsection are maps that—

(1) are included in a set of maps entitled “Coastal Barrier Resources System”, dated October 24, 1990; and

(2) relate to the following units of the Coastal Barrier Resources System: P05, P05A, P10, P11, P11A, P18, P25, P32, and P32P.

## PURPOSE OF THE BILL

The purpose of H.R. 2100 is to direct the Secretary of the Interior to make technical corrections to maps relating to certain units of the Coastal Barrier Resources System.

## BACKGROUND AND NEED FOR LEGISLATION

Coastal barriers are typically elongated, narrow landforms composed of sand and other loose sediments transported by currents, waves, and wind. The term "barrier" is used to refer to a structure that protects other features such as lagoons, wetlands, and salt marshes from direct wave and wind action.

The major types of coastal barriers include barrier islands, barrier spits and bay barriers. These barrier systems usually enclose estuaries and lagoons which serve as nursery grounds for numerous marine species. The protective properties of these landforms are especially important for maintaining the productivity of near-shore coastal areas.

The Coastal Barrier Resources System consists of coastal barrier units which are delineated on maps adopted by Congress. These units consist of undeveloped sections of coastal barrier islands and the associated aquatic habitat which lies behind these barriers.

In 1981, the Omnibus Budget Reconciliation Act (OBRA) amended the National Flood Insurance Act of 1968 to prohibit the issuance of new Federal flood insurance after October 1, 1983, "for any new construction or for substantial improvements of structures located on undeveloped coastal barriers." OBRA directed the Secretary of the Interior to designate coastal barriers under the definition contained in OBRA and to recommend to Congress additional areas for inclusion in the System.

In August 1982, the Secretary submitted to Congress recommendations for a definition of "coastal barrier" and a list of 188 areas for inclusion in the System. The report used a density threshold of one structure per five acres to categorize a barrier as undeveloped. The Secretary also defined "structure" to mean a legally constructed building larger than 200 square feet in area, regardless of the number or size of housing units it contains. Only areas with greater than  $\frac{1}{4}$  mile of beachfront were included in the System. However, the  $\frac{1}{4}$  mile minimum may be a combination of beachfront contained in System units and adjacent, otherwise protected areas.

Acting on the report's recommendations, Congress passed the Coastal Barrier Resources Act (CBRA, Public Law 97-348) in the fall of 1982. The law embodied three major goals: to minimize loss of human life by discouraging development in high-hazard areas, to protect natural resources along the coast and to reduce Federal expenditures. A 1981 study estimated that without any change in law, the Federal Government would spend between \$5.5 and \$11 billion on undeveloped coastal barriers over the next 20 years.

CBRA formally established the Coastal Barrier Resources System, consisting of 186 units totaling 666 miles of shoreline and 452,834 acres of undeveloped, unprotected coastal barriers on the Atlantic Ocean and the Gulf of Mexico. System units are marked on maps prepared and maintained by the Department of the Interior (DOI) and enacted into law by Congress. Except for very minor

technical changes, boundaries cannot be adjusted, and units cannot be added or deleted from the System unless Congress approves a law revising these maps.

In 1988, Congress enacted the Great Lakes Coastal Barrier Act (Public Law 100-711). This law directed DOI to identify barrier lands in the Great Lakes region that merited inclusion in the System. DOI recommended the inclusion of 112 Great Lakes units.

In 1990, Congress adopted the Coastal Barrier Improvement Act (Public Law 101-591), which added many Great Lakes units to the System and made other changes recommended by DOI. After passage of this Act, the System contained approximately 1.272 million acres of undeveloped coastal barrier ("fastland") and associated aquatic habitat, 1,200 miles of coastline and 560 units. The 1990 Act also required that DOI prepare maps of undeveloped coastal barrier units on the Pacific Coast and included "otherwise protected areas" as part of the System for purposes of Federal flood insurance. These recommendations are expected to be submitted to Congress next year. The Act also required Federal agency self-certification of compliance with CBRA.

Since 1990, Congress has acted twice, in 1992 and 1994, to amend the boundaries of System units, primarily by removing property from the System.

Despite the enactment of CBRA, construction of buildings in high-risk coastal areas still occurs today. While CBRA places no restrictions on lands outside the System, development with the various units is prohibited unless individuals obtain non-Federal financial support for flood insurance and infrastructure improvements.

Inclusion of property in the System does not prevent private development of that property, nor does it prevent actions necessary to process and issue Federal permits necessary for development. However, it does place significant restrictions on the availability of any new Federal assistance to develop the property.

Of particular importance, after October 1, 1983, no new Federal flood insurance can be issued for properties in the System. Existing flood insurance policies for existing properties remain in force. If the property is damaged, it cannot be rebuilt if the cost of rebuilding is more than 50 percent of the value of the property. Insured properties outside of the System can be rebuilt even if the entire property is destroyed. If an insured structure in the System is substantially expanded or replaced with more intensive development, coverage is lost.

In addition to the flood insurance limitation, CBRA prohibits most new Federal expenditures and financial assistance within the System if those expenditures encourage development. Examples of prohibited Federal expenditures include: community block grants, disaster relief, Federal Home Administration housing loans, flood control and beach erosion projects and water systems and wastewater treatment grants.

For purposes of CBRA, Federal financial assistance does not include deposit insurance, purchase of mortgages by government chartered corporations, and programs unrelated to development, such as entitlement payments to individuals. Other exceptions are provided for assistance for Federal navigation projects, energy re-

sources projects, roads, military and Coast Guard activities, and actions such as scientific research when it is consistent with the purposes of CBRA.

It is interesting to note that undeveloped areas are often next to developed areas. Therefore, Federal assistance may be available for the development of one property, but unavailable for adjacent property.

COMMITTEE ACTION

H.R. 2100 was introduced on July 24, 1995, by Congresswoman Tillie Fowler to make boundary adjustments to nine System units in Florida. The bill was cosponsored by the seven members of the Florida delegation in whose districts changes are proposed. These included Congressmen John Mica, Dave Weldon, Mark Foley, Porter Goss and Pete Peterson and Congresswoman Karen Thurman.

The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries, Wildlife and Oceans. On July 27, 1995, the Subcommittee held a hearing on H.R. 2100. Representatives Fowler and Foley testified in strong support of the bill. The Administration and the Coast Alliance expressed opposition to the measure.

On November 7, 1995, the Subcommittee met to mark up H.R. 2100. Congressman Jim Saxton offered an amendment to delete changes to two of the units, P04A and FL-90, thus retaining the acreage in the System. The amendment was adopted by voice vote. The bill, as amended, was ordered favorably reported to the Full Committee by a rollcall vote of 5-3, as follows:

Date: November 7, 1995.

Bill Number(s): H.R. 2100, as amended.

Rollcall: Yeas: 5; Nays: 3.

Members	Yea	Nay	Present	Members	Yea	Nay	Present
Mr. Saxton, Chairman .....	X	.....	.....	Mr. Studds .....	.....	X	.....
Mr. Young .....	.....	.....	.....	Mr. Miller .....	.....	X	.....
				Mr. Gejdenson .....	.....	.....	.....
Mr. Gilchrest .....	.....	X	.....	Mr. Ortiz .....	X	.....	.....
Mr. Torkildsen .....	.....	.....	.....	Mr. Farr .....	.....	.....	.....
Mrs. Smith .....	.....	.....	.....	Mr. Pallone .....	.....	.....	.....
Mr. Jones .....	X	.....	.....	.....	.....	.....	.....
Mr. Metcalf .....	X	.....	.....	.....	.....	.....	.....
Mr. Langley .....	X	.....	.....	.....	.....	.....	.....

On December 13, 1995, the Full Resources Committee met to consider H.R. 2100. Chairman Don Young offered an amendment to delete the change to Unit P08, thus retaining 65 acres in the System, and to add changes to Unit P32. The amendment was adopted by voice vote. The bill, as amended, was ordered favorably reported to the House of Representatives, in the presence of a quorum, on a rollcall vote of 23-12, as follows:

Date: December 13, 1995.

Roll No.: 1.

Bill No. H.R. 2100

Short title: Coastal Barrier Resources System.

Amendment or matter voted on: Final passage.

Members	Yea	Nay	Present	Members	Yea	Nay	Present
Mr. Young, Chairman .....	X	.....	.....	Mr. Miller .....	.....	X	.....
Mr. Tauzin .....	.....	.....	.....	Mr. Markey .....	.....	X	.....
Mr. Hansen .....	.....	.....	.....	Mr. Rahall .....	.....	.....	.....
Mr. Saxton .....	.....	.....	.....	Mr. Vento .....	.....	X	.....
Mr. Gallegly .....	.....	.....	.....	Mr. Kildee .....	.....	X	.....
Mr. Duncan .....	.....	.....	.....	Mr. Williams .....	.....	.....	.....
Mr. Hefley .....	X	.....	.....	Mr. Gejdenson .....	.....	X	.....
Mr. Doolittle .....	X	.....	.....	Mr. Richardson .....	.....	.....	.....
Mr. Allard .....	X	.....	.....	Mr. DeFazio .....	.....	.....	.....
Mr. Gilchrest .....	.....	X	.....	Mr. Faleomavaega .....	.....	X	.....
Mr. Calvert .....	X	.....	.....	Mr. Johnson .....	.....	.....	.....
Mr. Pombo .....	X	.....	.....	Mr. Abercrombie .....	.....	X	.....
Mr. Torkildsen .....	X	.....	.....	Mr. Studds .....	.....	X	.....
Mr. Hayworth .....	X	.....	.....	.....	.....	.....	.....
Mr. Creameans .....	X	.....	.....	Mr. Ortiz .....	X	.....	.....
Mrs. Cubin .....	.....	.....	.....	Mr. Pickett .....	X	.....	.....
Mr. Cooley .....	X	.....	.....	Mr. Pallone .....	.....	X	.....
Mrs. Chenoweth .....	.....	.....	.....	Mr. Dooley .....	X	.....	.....
Mrs. Smith .....	X	.....	.....	Mr. Romero-Barcelo .....	.....	.....	.....
Mr. Radanovich .....	X	.....	.....	Mr. Hinchey .....	.....	.....	.....
Mr. Jones .....	X	.....	.....	Mr. Underwood .....	X	.....	.....
Mr. Thornberry .....	X	.....	.....	Mr. Farr .....	.....	X	.....
Mr. Hastings .....	X	.....	.....	Mr. Kennedy .....	.....	X	.....
Mr. Metcalf .....	X	.....	.....	.....	.....	.....	.....
Mr. Longley .....	X	.....	.....	.....	.....	.....	.....
Mr. Shadegg .....	X	.....	.....	.....	.....	.....	.....
Mr. Ensign .....	X	.....	.....	.....	.....	.....	.....

## SECTION-BY-SECTION ANALYSIS

**SECTION 1. CORRECTIONS TO MAPS.**

Section 1 of H.R. 2100 makes corrections to Coastal Barrier System Units P05, P05A, P10, P11, P11A, P18, P25 and P32. These units are located in Florida. These corrections remove roughly 35 acres of land in Florida from the 1.272-million-acre Coastal Barrier Resources System. Two hundred eighty-five thousand System acres are located in Florida, including 34,000 acres of fastland. An additional 37,000 acres in Florida are included in otherwise protected areas. The State of Florida supports the changes proposed for P10, P18, P25 and P32.

Generally, these changes involve removing areas that were undeveloped according to the DOI criteria in use at the time the areas were included in the System but which: (1) contained some development prior to the inclusion of the unit within the System; (2) had permits for development received prior to inclusion in the System; (3) had significant private capital invested in development prior to inclusion in the System; and/or (4) are parts of larger developments with portions in and out of the System.

Union P05 was created in 1982, and is located in Vilano Beach, St. Johns County. H.R. 2100 would exclude from the 2,160-acre unit 41 lots on less than 10 acres of land. These are part of a 145-lot residential community known as Porpoise Point. The new boundary more accurately reflects the division between developed and undeveloped property.

At the time of its inclusion, a water treatment facility on the affected property was fully constructed. One private residence was completed. The property proposed for exclusion, but not the whole unit, met the development threshold of one structure per five acres

in 1982. Additionally, 14 other lots in the affected area had been sold. The community had all paved roads and electric utilities in place. This amendment would allow all property owners within the development to be treated equally for purposes of obtaining flood insurance.

Unit P05A was created in 1982 and is located in St. Johns County. H.R. 2100 would exclude eight noncontiguous beachfront residential lots comprising less than seven acres from the 2,871-acre unit. These lots are located in the Summer Haven community.

Construction of the eight residences on these lots predate the deadline for construction imposed by the October 1982 designation of the area as a System unit. Therefore, these properties are eligible for flood insurance if they had it prior to the designation. The lot numbers and the dates of development are as follows: 15-1 (1930); 23-1 (1979); 23-2 (1980); 36 (1983); 37 (1981); 39 (1981); 44 (1981); and 46 (1982). Other residences have been built since 1983 in the area. Those properties would remain in the System.

Unit P10 was created in 1982, and amended in 1990. It is located in Indian River County. H.R. 2100 excludes approximately 8.5 acres from the 439-acre unit. In 1990, the adjacent north portion of the P10 Unit was excluded from the P10 Unit when DOI made a finding that the area had been developed in 1982 to at least one structure per five acres. Development had also occurred before 1982 on an additional 8.5 acres to the south of and adjacent to the land excluded in 1990. This amendment excludes that adjacent property.

The 8.5 acres now contain five single-family homes and three lots. Homes were constructed on Lots 1 and 2 in 1978 in the Hallmark Ocean subdivision. Electric facilities and septic systems were constructed to those homes by that time, and a road was built to service these properties in 1976.

Two additional lots in the Hallmark Ocean subdivision were in initial stages of development by 1982. In 1980, the subdivision road was extended to reach these properties. Lot 4 was cleared, filled, and graded in 1978 in preparation for building a home. By 1981, the owner obtained a building permit, well permit, and septic system permit. He had conducted a land survey, obtained zoning and health permits, designed building plans, and performed clearing, hauling, and filling. Construction was completed later. Lots No. 1 and 2 continue to be eligible for existing flood insurance on their property if it was in place prior to 1982. However, the house on Lot No. 4, although site work had begun in 1978, is not eligible for flood insurance.

Unit P11 was created in 1990, and is located on Hutchinson Island in St. Lucie County. H.R. 2100 would exclude 15 acres from the 15,145-acre unit. The property: (1) was part of the larger Island Dunes project; (2) included underlying and supporting infrastructure (e.g., a water main extension to serve the entire project) and an existing structure (clubhouse) and recreational facilities; (3) had been cleared and had access roads in place; and (4) was on the verge of the final phase of construction. Now three identical buildings of a five-building development has flood insurance while the two that are included in the System do not. A tennis court and

water treatment plant were already built on the property included in the System in 1990.

Unit P11A was created in 1990 and is located in Martin County. H.R. 2100 removes a 10.4-acre parcel and an 8-acre parcel from the 600-acre unit.

The 10.4-acre parcel is part of Santa Lucea, a county-approved, single-family community. The community has been in continuous development since 1979. The owners had already invested substantial funds in developing the property before it was added to the System, including constructing and operating a sewer system, constructing a water system, obtaining multiple county and State development approvals, building a road, and paying numerous county and State development impact fees. In 1990, Congress excluded the land in which the sewage treatment plant was built, but not the land which the plant was built to serve and which contained the underground transmission pipes.

The owners purchased land for the development in 1979. In 1981, Martin County approved the development's Final Development Plan. Santa Lucea Associates obtained multiple Florida Department on Environmental Regulation (DER) and Martin County permits for construction of a water storage and distribution system. It constructed the water system for a total cost of \$76,000, including construction and utility hookup fees.

Santa Lucea Associates bought land for a sewer system that would serve its property and The Dunes, a neighboring community. After receiving multiple DER permits, Santa Lucea Associates constructed a wastewater collection system, a sewage collection and transmission system, and a sewage treatment facility. It has operated the system as a public utility since 1981. Its total investment, including land acquisition and construction, is \$300,000.

In late 1981–1982, Santa Lucea Associates invested \$278,000 in an initial marketing effort, including landscaping the grounds, building a sales center, performing site development, and building a road and parking area. The State Department of Natural Resources issued a permit for a beach/dune walkover structure, built in late 1981 at a cost of \$18,000. Santa Lucea Associates put up a construction bond for the development. The project as originally proposed was not built. The current project proposal is to build single-family residences, thus reducing the project's density and assisting Martin County's goal of controlling the growth and environmental impact of development.

After its initial unsuccessful sales effort, Santa Lucea Associates has continuously prepared for further development of the property. It paid \$41,000 for road and parks and fire engine impacts. It kept its construction bond in force. It operated the sewer utility. It paid water reservation fees of \$41,000 to ensure availability of water. It incurred over \$2,029,000 in interest charges. Infrastructure development had occurred and substantial funds had been invested, all before the land was added to the System. However, the property did not meet the density requirement to be considered developed when it was included in the System.

The 8-acre parcel is part of Indian River Plantation, a 200-acre Planned Unit Development approved in August, 1976. The property has been under continuous phased development since that time. By

November 1990, developers had completed nearly all of the infrastructure and amenities serving the resort and the 1,199-unit residential community. Effective that date, Indian River Plantation included a 20-room resort hotel, a marina, a golf course, several restaurants and related amenities, a water and sewer plant and 899 residential units.

Development by November of 1990 represented over \$106 million of construction improvements, excluding land. The developers completed two additional phases between November 1990 and December 1993. Phase XVII (Oceanhouse), an 80-unit oceanfront condominium, was completed in September 1991 at a cost of \$18.3 million, and Phase XV (Beachwalk), a 56-unit condominium, was completed in December 1993 at a cost of \$8 million. Phase XII (Baker Point), a planned and approved 144-unit riverfront condominium, is the only remaining uncompleted phase of the project.

In 1990, Congress included acreage in and around Baker Point in Unit P11A. Prior to the time of inclusion, development had occurred on Baker Point, the area proposed for exclusion. Baker Point was also not in its natural state. It had been extensively dredged and filled in the late 1970's. As early as 1982, the developers had installed footer pilings for a 12-unit building. That work was stopped and later those pilings were removed.

In addition, the Indian River Plantation developers had constructed all the infrastructure to serve Baker Point. In 1977, the developers built the water and sewer plant serving Indian River Plantation. When they built the road to Baker Point in 1981, the developers installed all the water, sewer, electric, and telephone transmission lines necessary to serve the community. Roads, water, sewer, and electric utilities serving the development were all in place by mid-1982.

The developers doubled the main sewer and water plant capacity in 1987 at a cost of \$1.5 million. This addition gave the utility sufficient capacity to serve Baker Point and the other phases of the community. However, these utilities had not actually been extended onto the Baker Point tract prior to 1990.

By November 1990, the developers had expended over \$8 million to develop the entire property, including the phases located outside of the System, and secured approval for this final phase. The developers estimate they had paid approximately \$732,000 for Baker Point's proportionate share of the site amenities, roads, sewer, water, telephone and electric costs, and \$240,000 for its share of the water and sewer main plant cost. In addition to these utility and infrastructure costs as of November 1990, Baker Point represented over \$7.2 million of land, development, engineering, overhead, and interest.

Since November 1990, the developers estimate they have incurred over \$1.1 million of costs relating to impact fees to Martin County (\$130,000); site development costs (\$35,000); engineers and architects (\$150,000); legal (\$108,000); and overhead and interest (\$701,000). The expenditures were necessary to preserve the developers' rights under the approved Martin County development plan.

This amendment will allow all the components of Indian River Plantation to be treated equally for purposes of flood insurance.

Currently, buildings within the complex are treated differently based on their inclusion or exclusion from the System.

Unit P18 was created in 1982 and is located in Lee County, Florida. H.R. 2100 would remove the 7.5-acre Captiva Landings subdivision from the 428-acre unit. This subdivision contains eight residential lots. Four of these lots contained insurable structures in 1982 when the area was added to the System. The unit also contains less than 1/4 acre of beachfront.

County Road 867 intersects the unit, which measures approximately 750 feet at its widest point in the affected area and 310 feet at its narrowest point. In 1982, an average of 4,985 vehicles per day traveled this stretch of road, according to the Lee County Department of Transportation. In addition to the homes, telephone and water service to the affected area was installed by 1966. Electrical service has been available to these lots since 1940. Cable for television service was installed in 1981.

By 1982, human activities had significantly impeded the natural geomorphic and ecological processes occurring on the island. Since 1961, Captiva Island's shoreline has been modified by various man-made erosion control devices. Lee County has installed concrete groins, over 100,000 cubic yards of rock and sand, nylon sand bags and rock groins. Individual property owners have privately financed the installation of seawalls and sandbagged approximately 40 percent of Captiva Island since 1970.

Unit P25 was created in 1990, and is located in Levy County. H.R. 2100 excludes the 5-acre Old Fenimore Mill site from the 17,415-acre unit. Old Fenimore Mill has been in use as a commercial or industrial site since the mid-1800s. Old Fenimore Mill Condominiums is an approved, multi-family resort, and is the second largest project ever built in Levy County.

The five acres of land were not included in the System in the original 1982 Act, nor in the DOI's draft report to Congress in 1988. The land was added to Unit P25 in 1990. All similarly situated, immediately adjacent land was specifically excluded from the System.

At the time of its inclusion, the five-acre parcel had six structures which included two two-story residences, two warehouses, a two-story concrete block building and another 600-square-foot building with foundation and roof.

Unit P32 was created in 1982, and is located in Okaloosa County and the City of Destin. H.R. 2100 would exclude an approximately 4.24-acre parcel from the 4364-acre unit. The 4.24-acre parcel fronts U.S. Highway 98. Two other areas, located on either side of the parcel, were developed to the same level and were not included in the System.

U.S. Highway 98 is the only east/west corridor between Fort Walton Beach and Sandestin. The parcel had one single-family home built before 1982 as well as public water, electricity, cable TV, and telephone service already in place for continued development. Immediately to the east and west of this parcel, properties developed to the same level were excluded from the designation. All of those properties were zoned by Okaloosa County for business/tourism uses. When the City of Destin was incorporated in 1984, it upheld this zoning designation.

This bill excludes the 4.24-acre parcel from the System, adds 7.1 acres of undeveloped property, adds 28 acres of State park land, and redesignates the State park located in the unit as an otherwise protected area.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 2100 will have no significant inflationary impact on prices and costs in the operation of the national economy.

#### COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 2100. However, clause 7(d) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimates of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

#### COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 2100 does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. The bill does contain in revenue from premiums collected into the national flood insurance fund and would increase the likelihood of additional losses associated with payments from the national flood insurance program.

2. With respect to the requirement of clause 2(l)(3)(D) of Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 2100.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2100 from the Director of the Congressional Budget Office.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,  
 CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, January 22, 1996.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
 House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2100, the Coastal Barrier Resources System Fairness Act of 1995, as ordered reported by the House Committee on Resources on December 13, 1995. Because the bill would affect direct spending, pay-as-you-go procedures would apply. However, CBO estimates that enacting H.R. 2100 would result in no significant cost to the federal government.

H.R. 2100 would direct the Secretary of the Interior to exclude several parcels of land in Florida from the Coastal Barrier Resources System. The bill also would add an additional parcel to the system, resulting in a net reduction of about 35 acres. The proposed exclusions would enable the owners of these parcels to obtain federal flood insurance for houses and other local development projects. As a result, offsetting collections into the national flood insurance fund from premiums (net of additional mandatory spending for underwriting and other administrative activities) would increase by less than \$500,000 each year. Enacting the bill would increase the likelihood of additional federal costs for losses associated with any future floods, but CBO has no basis for predicting such potential costs.

This bill would impose new intergovernmental or private sector mandates, as defined in Public Law 104-4. CBO expects that enacting this legislation would have no direct impact on the budgets of state, local, or tribal governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

JUNE E. O'NEILL, *Director.*

## CHANGES IN EXISTING LAW

If enacted, H.R. 2100 would make no changes in existing law.

## DEPARTMENTAL REPORTS

The Committee has received no departmental reports on H.R. 2100.

DISSENTING VIEWS OF HON. GEORGE MILLER, HON.  
GERRY E. STUDDS, HON. BRUCE F. VENTO, HON. FRANK  
PALLONE, JR., AND HON. DALE E. KILDEE

We oppose H.R. 2100 because it does not make technical corrections to the Coastal Barrier Resources System. It makes substantive changes to the System that reinstate federal subsidies currently denied by law to developers and owners of expensive ocean-front property in Florida. Supporters of this legislation have sought to portray the inclusion of these properties in the System as errors in the interpretation of mapping criteria by the U.S. Fish and Wildlife Service. To the contrary, most of the boundary changes proposed by H.R. 2100 were considered in the last Congress and were rejected because a field team of Congressional staff and experts from the Fish and Wildlife Service had verified that these areas correctly included in the System.

The supporters of H.R. 2100 argue that these properties should be removed from the System because there was some development present at the time of their inclusion. They have misinterpreted the mapping conventions used by the Department of the Interior; CBRA was never intended to exclude all development. In recommending areas for inclusion in the System, the Department of the Interior has two main tests regarding development. Land developed to a density of greater than one completed structure per five acres of fastland is not proposed to be included in the System. Plans for future development, including zoning, platting, permits, and building plans are not grounds for exclusion from the System. Areas developed to a lower density may be excluded if they include "intensive capitalized development", such as condominiums, on the site—not adjacent to the site—being considered for inclusion. None of the areas proposed to be removed from the System by H.R. 2100 satisfy these criteria.

Supporters of the bill have also ignored the fact that it is Congress, not the Department of the Interior, that codified the Coastal Barrier System, and reviewed the merits of most of these cases in 1982, again in 1990, and again in 1994. If we continually re-examine the System in light of new and creative interpretations of the mapping criteria, we will undermine the integrity of the Coastal Barrier Resources System.

The Federal Government, through the National Flood Insurance program (NFIP), provides over \$325 billion in coverage against flood damage in all fifty states and the territories. Nearly half of this coverage is for properties in Florida. According to the Federal Emergency Management Agency, which administers the federal flood insurance program, payments for claims in Florida in 1995 alone exceed \$550 million. The NFIP has the authority to borrow up to \$500 million directly from the U.S. Treasury. It has already had to borrow \$265 million from the U.S. Treasury to pay claims

in 1995, and it has only begun to process the more than 10,000 claims associated with Hurricane Opal, the most destructive hurricane to hit the U.S. coastline since Andrew ripped through southern Florida in 1992.

Two factors give cause for concern about the solvency of the NFIP: the rapid increase in coastal development over the last few decades and predicted increases in hurricane frequency. According to an April, 1995 report issued by the Insurance Institute for Property Loss Reduction, the value of insured coastal property has nearly tripled in the last decade. This is because both the amount and the value of coastal development are increasing. Prominent atmospheric scientists at the University of Colorado and with the National Weather Service agree that we are entering a period of increased hurricane activity. Sea level is already rising along the Atlantic and Gulf coasts, while common predictions of the effects of global climate change include an increase in the rate of sea level rise and an increase in the frequency and severity of coastal storms. These factors combine to make it prudent to take steps to protect property owners and the taxpayers from the risks of unwise coastal development.

In the early 1980s, the Reagan Administration proposed to limit subsidies for development of geologically unstable and ecologically fragile coastal barriers. Enacted in 1982, the Coastal Barrier Resources Act (CBRA) denies federal financial assistance—including flood insurance and federal funds for roads, sewers, and other infrastructure—for development of barrier islands, barrier spits, and other exposed coastal areas that provide important protection to the mainland from the combined forces of wind, waves, and current. The Department of the Interior has estimated that development subsidies cost the taxpayers about \$82,000 per developed acre of coastline (in inflation-adjusted dollars). The principle behind CBRA is simple: It is irresponsible for the government to promote development that puts people in harm's way, exposes the taxpayers to significant financial liability, and frequently arrests the natural geological processes that protect our coastline.

Supporters of H.R. 2100 have argued that federal flood insurance is not subsidized because the program has, since 1987, been financed entirely by flood insurance premiums. However, prior to 1987, the program had been appropriated \$1.2 billion to pay claims and only about half of this has been repaid to the Treasury. The NFIP is authorized to borrow up to \$500 million directly from the Treasury, which is, in a sense, a subsidy in itself. A generally accepted definition of a subsidy is a good or service provided for less than fair market value. Because commercial flood insurance is very expensive, if it is available at all in high risk areas like coastal barriers, the provision by the government of low cost flood insurance represents a subsidy.

In recent years, the NFIP has remained solvent by using present premiums to pay for past claims. Because of its low rates, the program does not maintain a large cash reserve against a bad claims year—as any commercial insurance underwriter does, making it especially vulnerable during a period of high hurricane activity. This also creates a situation, sometimes called a “cross subsidy”, where policyholders in low risk areas are subsidizing those in high risk

areas. In Florida, FEMA considers 24 percent of the policies to be subsidized. If these policies are subsidized and the program remains solvent, they are being subsidized by other ratepayers.

We do not object to the Federal Government providing flood insurance under reasonable conditions. But because federal flood insurance is a privilege, not an entitlement, it is reasonable for the Federal Government to limit the underwriting of new high risk policies. A reasonable restriction, embodied in CBRA, is that the government will not issue new flood insurance policies for high risk coastal areas with sparse development. Those who own insurable structures that were in place on property when it was included in the System are eligible for flood insurance. Also, whether fiscally prudent or not, new federal flood insurance continues to be available in more heavily developed areas that are not included in the System.

Some claim that they were unaware that their property was being included in the System, and therefore did not secure federal flood insurance before the effective date of the prohibition. At the Resources Committee markup of H.R. 2100, Rep. Wayne Gilchrest offered an amendment that would have allowed the owners of structures that were there when the land was included in the System to secure flood insurance. Because of unresolvable questions about the adequacy of notice, this proposal gives property owners the benefit of the doubt and provides reasonable relief without encouraging and rewarding subsequent development on Coastal Barrier units. Unfortunately, rather than debate this proposal on its merits, the Majority chose to rule it out of order on a technicality. We are confident that the amendment can be appropriately re-drafted and we look forward to debating the merits of this approach on the Floor of the House.

In summary, H.R. 2100 undermines the highly successful Coastal Barrier Resources Act by providing special treatment for a few individuals. Not only is this bad fiscal policy in a time of austerity, but it opens a Pandora's box by establishing a precedent for exceptions. At a time when Americans from all walks of life are being asked to make sacrifices to help balance the federal budget, is it too much to ask that wealthy developers and the owners of expensive oceanfront property continue to forego subsidies that are already denied them by law? We think not.

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