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DESIGNATION OF NATIONAL MONUMENTS IN THE VIRGIN ISLANDS AND OTHER ISSUES

OVERSIGHT FIELD HEARINGS

BEFORE THE

SUBCOMMITTEE ON NATIONAL PARKS, RECREATION, AND PUBLIC LANDS

OF THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

July 20, 2002 in Cruz Bay, St. John, Virgin Islands
July 22, 2002 in Frederiksted, St. Croix, Virgin Islands

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C O N T E N T S

	Page
Hearing held on July 20, 2002	1
Statement of Members:	
Christensen, Hon. Donna M., a Delegate in Congress from the Virgin Islands	3
Radanovich, Hon. George P., a Representative in Congress from the State of California	1
Prepared statement of	3
Statement of Witnesses:	
Berry, David, Fisherman	46
Prepared statement of	48
Cole, Hon. Donald G., Senator, 24th Legislature of the U.S. Virgin Islands	23
Prepared statement of	25
Jackson, Myron, Department of Natural Resources	28
Kean, James, Landowner, U.S. Virgin Islands, Prepared statement of	54
Kessler, Joe, President, Friends of Virgin Islands National Park	42
Prepared statement of	44
Liburd, Hon. Almando "Rocky", President, 24th Legislature of the Virgin Islands	19
Prepared statement of	22
Mainella, Fran P., Director, National Park Service, U.S. Department of the Interior	6
Prepared statement of	9
Monsanto, Lorelie, Landowner	38
Prepared statement of	40
Additional materials supplied:	
Barshinger, Craig, St. John, U.S. Virgin Islands, Letter submitted for the record by The Honorable Donna M. Christensen	57

C O N T E N T S

	Page
Hearing held on July 22, 2002	1
Statement of Members:	
Christensen, Hon. Donna M., a Delegate in Congress from the Virgin Islands	61
Radanovich, Hon. George P., a Representative in Congress from the State of California	59
Prepared statement of	61
Statement of Witnesses:	
Brown, Virdin C., Chair, Caribbean Fisheries Council	100
Prepared statement of	102
Mainella, Fran P., Director, National Park Service, U.S. Department of the Interior	63
Prepared statement of	66
McAuliffe, Robert N., Fisherman	91
Prepared statement of	92
McIntosh, Maxwell, Salt River National Historical Park Commission	85
Prepared statement of	86
Plaskett, Hon. Dean C., Commissioner, Department of Planning and Natural Resources	75
Prepared statement of	80
Pugh, Michelle, Owner, Dive Experience	90
Prepared statement of	90
Turner, Bill, Executive Director, St. Croix Environmental Association	109
Prepared statement of	111
Tutein, Joel A., Superintendent for Christiansted National Historic Site, Buck Island Reef National Monument and the Salt River Bay National Historic Park and Ecological Preserve	69

OVERSIGHT HEARING ON VIRGIN ISLANDS NATIONAL PARK AND THE VIRGIN ISLANDS CORAL REEF NATIONAL MONUMENT.

Saturday, July 20, 2002
U.S. House of Representatives
Subcommittee on National Parks, Recreation, and Public Lands
Committee on Resources
Cruz Bay, St. John, Virgin Islands

The Subcommittee met, pursuant to call, at 10 a.m., Virgin Islands Legislature Building, Hill Top Building, Cruz Bay, St. John, Virgin Islands, Hon. George Radanovich [Chairman of the Subcommittee] presiding.

STATEMENT OF THE HON. GEORGE P. RADANOVICH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. RADANOVICH. Good morning, everybody. My name is George Radanovich, and I represent the 19th District in California which is near Yosemite National Park, and I am Chairman of the Subcommittee of the National Parks, Recreation & Public Lands.

Can you hear me OK in this—

AUDIENCE. No.

Mr. RADANOVICH. No? We need to turn the volume up. Can I get some help here?

Can you hear me now?

AUDIENCE. Yes.

Mr. RADANOVICH. Is that better? Does it need to be better? It's not good enough. Can you hear me now? OK.

OK. My name is George Radanovich, and I represent the 19th District in California. I'm also Chairman of the Subcommittee on National Parks, Recreation and Public Lands.

It is a great pleasure to be here on this beautiful Island of St. John, and I want to thank Delegate Donna Christensen for inviting us down and hosting this event so that we can learn more about the issues of the Virgin Islands National Park and the Virgin Islands in general.

So, thank you very much, Donna, and we are very much looking forward to it.

There are a number of issues on the island that we want to examine today. Among the important issues is the legality of former

President Clinton's national monument designation of the Virgin Islands Coral Reef National Monument.

The Antiquities Act of 1906 clearly states that all monument designations must be made on lands owned or controlled by the Government of the United States, and must be confined to the smallest area compatible with the proper care and management of the objects to be protected.

Many people in the Virgin Islands believe the Clinton proclamations violated both provisions of the law.

One big question still looming is who actually owns the submerged lands.

This question takes on great significance because ownership of the submerged lands in question was transferred to the Government of the Virgin Islands pursuant to the Territorial Submerged Land Act of 1974. When the submerged lands were claimed by the Federal Government and the Clinton administration it opened up the question as to what lands were actually transferred to the Virgin Islands in 1974.

Associated with this monument designation is the elimination, with two exceptions, by the Clinton administration, of the fishing rights of the residents of the Virgin Islands. Fishing and rights to these fishing areas are part of the history and culture of the Virgin Islands.

These fishing rights were extinguished by the former president, even though the threat, if any, to this resource has not been adequately explored. In fact, no threat of overfishing has ever been mentioned in the proclamation.

Another issue to be examined today is access to private inholdings in the Virgin Islands National Park where conflicts have arisen between private landowners and the National Park Service over access to the private lands.

Many of its longtime residents who inherited property within the Park have not been able to develop their land to their benefit.

As a result, groups like the Association of Concerned Native Virgin Islanders, Incorporated have demanded the immediate and unconditional access to their property. They assert that since 1960 no Virgin Islander has been able to develop land given to them by their families.

Other issues we will look at include entrance fees for Virgin Islands residents into the National Park, permanent fees for taxi and tour operators for the National Park, and the expansion of a school in St. John into the National Park. I am very much looking forward to the testimony from all our witnesses, including the Governor of the Virgin Islands, and all the other elected officials, along with the residents of the Virgin Islands.

And with that I want to thank, again, Mrs. Christensen, and I will turn my time over to her.

Before I do that, though, I will mention that members will be given a chance to give opening statements. We'll go to our first panel who will speak for 5 minutes. We'll open it up for questions, and invite the next panel.

And I can assure you that in this process—because I know some people complained about only being able to speak for 5 minutes—with the statements, combined with the questions that are going to

be asked afterwards, I can assure you that all of the issues will be highly visible and recorded into the record, which is the most important thing.

The important reason for doing a hearing is getting all the facts into the record.

So that's our point today, and we'll make sure that all of the information is there.

So with that, Donna, thank you very much, and I turn my time over to you.

[The prepared statement of Mr. Radanovich follows:]

Statement of The Honorable George P. Radanovich, Chairman, Subcommittee on National Parks, Recreation, and Public Lands

Good morning everyone. My name is George Radanovich, representing the 19th District of California, and am Chairman of the Subcommittee on National Parks, Recreation, and Public Lands. It is a great pleasure to be here on the beautiful island of St. John and I want to thank Delegate Donna Christensen for inviting me down and hosting this event so that we can conduct this field hearing.

There are a number of issues on the island that we intend to examine today. Among the more important issues is the legality of former President Clinton's nation monument designation of the Virgin Islands Coral Reef National Monument. The Antiquities Act of 1906 clearly states that all monument designations must be made on lands "owned or controlled by the Government of the United States" and must be "confined to the smallest area compatible with the proper care and management of the objects to be protected". Many people in the Virgin Islands believe the Clinton proclamations violated both these provisions of law. One big question still looming out there is who actually owns the submerged lands. This question takes on great significance because ownership of the submerged lands in question were transferred to the Government of the Virgin Islands pursuant to the Territorial Submerged lands Act of 1974. When the submerged lands were claimed by the Federal Government and Clinton Administration, it opened the question as to what lands were actually transferred to the Virgin Islands in 1974.

Associated with this monument designation is the elimination, with two exceptions, by the Clinton Administration of the fishing rights of the residents of the Virgin Islands. Fishing and rights to these fishing areas are part of the history and culture of the Virgin Islands. These fishing rights were extinguished by former President Clinton even though the threat, if any, to this resource has not been adequately explored. In fact, no threat of overfishing was ever mentioned in the proclamation.

Another issue to be examined today is access to private inholdings in Virgin Island National Park where conflicts have arisen between private landowners and the National Park Service over access to their private lands. Many of its longtime residents who inherited property within the park have not been able to develop their land to their benefit. As a result, groups like the Association of Concerned Native Virgin Islanders, Inc., have demanded the immediate and unconditional access to their property. They assert, that since 1960, no Virgin Islander has been able to develop land given to them by their families.

Other issues we will look at include entrance fees for Virgin Island residents into the national park, permit fees for taxi and tour operators for the national park, and the expansion of a school on St. John into the national park.

I am looking forward to the testimony from all our witnesses including the Governor of the Virgin Islands and all the other elected officials along with the residents of the Virgin Islands. With that, I want to again thank Mrs. Christensen and will turn the time over to her.

STATEMENT OF THE HON. DONNA M. CHRISTENSEN, A DELEGATE IN CONGRESS FROM THE VIRGIN ISLANDS

Mrs. CHRISTENSEN. Thank you.

And good morning, everyone.

AUDIENCE. Good morning.

Mrs. CHRISTENSEN. I want to thank you for yielding.

I want to welcome you, Mr. Chairman and Congresswoman McCollum, to St. John, the smallest of our three islands. I hope you get an opportunity to meet and talk to my constituents, and experience the warm hospitality of the people of the Virgin Islands while you're here.

I also want to publicly express my appreciation to you, Mr. Chairman, for your willingness to come to the Virgin Islands to conduct 2 days of hearings, and to my colleague Ms. McCollum as well.

Although we're holding our hearing in one of the most beautiful places on earth, like our other colleagues who are not present with us, both of you could be at home in your congressional districts attending to the needs of your constituents. So I really appreciate your coming here, and I want to also thank the staff for the hard work that they've put in to make this trip possible.

And to those of you in the audience, I know you're looking up here and you're seeing three members of the Subcommittee, but let me assure you, this is the usual number that we might have at a hearing, so we're not slighting you in any way. As a matter of fact, the three that you see before you here this morning are usually the three who are almost always present at the hearings.

So let me also welcome and thank all of the witnesses who are here to offer testimony.

I want to, in particular, welcome the Director of the National Park Service, Fran Mainella, Director Mainella.

During the course of today's hearing and the one on St. Croix on Monday you'll hear a lot about the important issues that we in the Virgin Islands have been wrestling with for many years.

I appreciate the fact that you're here. I know this is your first visit here, and I look forward to working with you and your staff as we work to bring closure to some of those issues.

I want to welcome the witnesses here, people whom I am privileged to represent, and everyone in the audience. I know that many would have liked to testify, and I apologize for not being able to accommodate everyone but, as the Chairman said, all written testimony also becomes a part of the official record of this hearing.

So we encourage those in the audience who are not able to testify to present your written statements because they become formal parts of the record of this hearing.

I want to welcome, particularly, Senate President Liburd, and thank him for making this room available to us this morning. Also, Senator Cole.

Commissioner Dean Plaskett is not going to be able to be with us this morning. He will join us in St. Croix. But we do have Myron Jackson representing him here.

And as well, I want to welcome Ms. Lorelei Monsanto, the St. John tour operator. I understand there will be a representative of that group testifying.

We hope that Mr. Penn will be able to join us as well, Ms. Joseph, Ms. Alicia Wells, and Mr. Kessler, and anyone else who is going to testify this morning.

Mr. Chairman, as I noted, there are a number of issues relating to the Virgin Islands National Park that the residents of St. John have been wrestling with for quite some time. You will hear from

our testifiers this morning some of the issues around fees, the concern of the impact on our local fishing community of a possible monument, difficulties of access to private inholdings, and just the everyday hassles of living with the National Park that takes up so much of this island.

So I'm not going to address them now because they will be addressed by those who will be testifying. I just want to mention a couple other issues that are also important.

Chief among those issues is the need for the Park and the Government of the Virgin Islands to agree on an exchange of land so that the residents of St. John could build a school to accommodate the students from K through 12.

Enrollment in the public schools on St. John, or of students who will attend school from St. John, has grown considerably since the 1970's, and the local Government has no more land on which to expand either of the two current St. John public schools.

We have been dealing with this issue for several years, and I think it's time that we sit down and resolve this issue so that the residents and the students of St. John could get the kind of school that they deserve on their island.

I also want to mention that the Park could do a better job of managing the impact of cruise ship traffic on the residents of St. John. We're always grateful for the economic benefit the cruise ship visitors bring to the Territory. However, St. John and the Cruz Bay area is very small, as you've seen, and we must be mindful of this as we welcome the visitors to our shores.

Finally, let me say that I truly hoped that we would have had the legal opinion on the ownership of the submerged lands from the General Accounting Office released in advance of this hearing, and while some of the testimony both here and in St. Croix will relate to issues around that monument when it's completed, I wanted to say to the people of the Territory that I will come back, and we will have discussions among ourselves about that decision, however it comes out, and how we will proceed from there.

In closing, let me just say that as best as my staff and I can determine, this is the first time that the Subcommittee with direct authority over our National Park has held an official public hearing in the Territory.

So, once again, I want to thank Chairman Radanovich and Congresswoman McCollum for being here, the Chairman for agreeing to hold these hearings here because it's very difficult for people in the Virgin Islands to get to Washington to testify there.

I want to thank everyone, once again, Director Mainella, all of the other people who are going to testify this morning, and everyone who is here in our audience for taking the time on a Saturday morning to come out.

Thank you, Mr. Chairman. With that, I end my opening statement.

Mr. RADANOVICH. Thank you very much, Mrs. Christensen.

Mr. RADANOVICH. And we are, as you know, also pleased to have with us Congresswoman Betty McCollum from the State of Minnesota.

Betty.

Ms. MCCOLLUM. I'll be brief. In looking at the information that was given to me by the Park Service and others in preparing for this hearing, and the people whom I have had an opportunity to meet over the last couple of days, and then listening to the focus of this hearing, I just want to share with you that all politics is local, and it's surprisingly the same.

In Lake Superior there is much controversy over who owns the submerged land in Lake Superior. So submerged land issues are happening all over our country.

Fishing rights. Fishing rights is something that we hear a lot about throughout the country, and it's very important to come here and hear about your unique experience to give me a better understanding of what importance the fishing rights are.

Private holdings. Private holdings in Voyagers National Park and in the boundary waters, canoe area, where I was just a couple of weeks ago, is an issue that we are addressing there.

So even though this is my first visit to the Virgin Islands, and even though your experiences and what you need to have happen, to work in order to make this a community for your families to grow and prosper in the coming years, we share a common bond.

And then, providing an opportunity with land exchanges for children to be educated, I can think of nothing more important that we can work on together cooperatively.

So even though we usually talk about snowshoes and not snorkels, it is a real pleasure to be here. I'm very honored to be in the presence of so many people who care so passionately about our environment and our Government, where they would take time out on a beautiful day to be here.

Thank you very much.

Mr. RADANOVICH. Thank you, Ms. McCollum. And as I mentioned, I represent Yosemite. There's not a lot that's submerged there but—you know, and understanding is—that's a good reason why we're here.

OK. With that we'll move to our first panel, and we're honored to have with us Ms. Fran Mainella, who is the Director of the National Park Service.

Many people know that—or don't know Fran was a former Director of State Parks in the State of Florida before being asked to come on board and to be the Director of all of our nation's National Parks. And this is the Director's first trip into the Virgin Islands.

And so, Fran, welcome. And we're looking forward to your testimony. And, again, what we might do in this case, since you're the only person on this first panel, would be to start with your statement, and then we'll ask questions and clarify as we go along.

STATEMENT OF FRAN MAINELLA, DIRECTOR, NATIONAL PARK SERVICE (NPS), ACCOMPANIED BY JOHN KING, SUPERINTENDENT, NATIONAL PARK, ST. JOHN; JERRY BELSON, REGIONAL DIRECTOR, NPS, SOUTHEAST REGION; PAT HOOKS, DEPUTY, NPS, SOUTHEAST REGION; AND DANIEL SMITH, NPS

Ms. MAINELLA. Thank you, Mr. Chairman, and thank you, Committee Members. I'm so pleased to be able to be here today.

Can everyone hear me back there? All right. Thumbs up. Yes.

Again, it is a great opportunity for me to be able to appear here in front of this Subcommittee, and this Subcommittee does address so much of the issues that are so important to our National Park.

And being able to be out here in a field hearing, and for the Virgin Islands National Park and Virgin Islands Coral Reef National Monument is, again, an extra treat.

I do have with me today our Superintendent John King who has been here about a year and a half.

And, John, we're very pleased to have you joining with us.

Also with me is Jerry Belson, our Regional Director for the whole Southeast.

And, Jerry, appreciate your being here.

And his Deputy, Pat Hooks, is with us, behind us. And, also, my assistant, who assists with Congressional appearances in Washington, is Dan Smith, and he's with us, also, as well as many key staff who really make all these things work well together.

As we go forth one of the things that I want to make sure is clear is that we—as the Director of the National Park Service, I keep telling the President I got the best job in the Federal Government. And it is something that's a great treat to be able to work with all our national parks.

But one of the key areas—and I hope that as you hear my testimony and answer questions—one of the things is that when we work together, we work together as partners, the public, the citizens, and our national parks. If the national parks don't do well, then the community that surrounds it doesn't do well. If the community around is not doing well, then the national parks suffer as well.

We are a team and we are a partnership. So I just want to make sure that's a tone that is clear throughout all of my testimony.

Again, we appreciate being here, and to look at many of the issues that lie up front here for us in the Virgin Islands. But in particular I'm going to focus a bit on the Virgin Islands Coral Reef National Monument and an update on some of those particular issues.

As you know, the Virgin Islands Coral Reef National Monument was established on January 17th, 2001 by proclamation of President Clinton under the Antiquities Act, consisting of 12,708 acres of submerged lands off the Island of St. John. The monument contains all of the elements of a Caribbean tropical marine ecosystem.

The designation also enhances the protection of fragile resources, including the Virgin Islands National Park, which Congress established in 1956, and then again expanded in 1962. The establishment of the monument roughly doubled the amount of acreage in and around St. John that is now under the jurisdiction of the National Park.

Since the designation of the Virgin Islands Coral Reef monument last year, representatives of the Virgin Islands Government raised numerous questions and concerns. In fact, on April 9th of 2001 the Legislature of the Virgin Islands passed a resolution—I believe it's Number 1609—expressing concern over the lack of adequate public participation in the expansion of the monument, ownership of the submerged lands, the size of the monument, and potential impacts on the fishing and marine industries.

I'd like to comment a little bit on those concerns, and I know with follow-up questions we may be able to address a few more.

While we share concerns about the way in which these monuments were created, our job now is to ensure that we develop management plans in an open, inclusive and comprehensive way; again, a partnership approach.

As stated by Secretary Norton, who is head of the Department of Interior, on numerous occasions, the planning for the future management of these monuments will be a model, not may be, but will be a model of what we call the four C's. That's consultation, cooperation, and communication, all in the service of conservation.

The Department of Interior is committed to management and protection of the monuments, consistent with the four C's and the purposes established in the proclamations.

In response to this commitment the Department of Interior published a notice in the Federal Register on April 24th, '02, initiating a formal scoping period, seeking public comment to identify issues to consider and analyze regarding management at the monument designations, and these were in the western states.

The Department is currently reviewing those public comments. After reviewing all the comments on each monument, I believe most of the issues can be addressed out west through the management planning process which also included comprehensive public input.

With regard to these, the monuments here in the Virgin Islands we are discussing, we will anticipate a similar public review process as soon as the issue of the submerged land ownership is resolved.

Being at this hearing today, again, will help me learn more about some of the management issues that we will have at—through transcript be able to help feed into that review process as we go forward.

We agree that Federal ownership or control, as Congressman Radanovich has indicated earlier, of land is necessary for an area to be designated as a national monument under the Antiquities Act. The General Accounting Office, as Delegate Christensen mentioned, is right now reviewing—and at her request has reviewed—the question of Federal ownership of, and control of these submerged lands.

I do want to here, also, compliment Delegate Christensen for all that she has done.

Now, she's got us hopping in a number of different ways in addressing many of the issues that you're going to bring forth today but I want to thank her for having—giving us the focus, and having me get here so that I could actually take a look at these issues, and not do it from sitting in Washington and understanding it from there.

So I just want to thank you for allowing me to have this opportunity, and also to get our attention on these issues.

Again, we hope that the GAO report will be out shortly so we can move forward again with more public input and involvement so we can better analyze how we go forward.

As to the size of the Virgin Islands Coral Reef Monument, the Clinton administration determined the 12,708 acres was the small-

est area needed to ensure the proper care and management of the resources being protected and their long-term sustainability. It is a large enough area to provide a fisheries nursery, and, in theory, should assure that fishing remains viable as an industry and a recreation activity here.

I know one of the issues is the loss of fishing territory and what kind of impact it will have on the industry but also I think that many are aware that as we go forth we want to look at how do we regenerate stocks of fish so that in the long view we are able to have fishing for now and future generations, what we call "fishing forever."

Like many coral reef environments throughout the world—and I know. I worked in many of them in Florida—the Virgin Islands tropical marina ecosystem is under stress.

Damage has been caused over the years from a variety of natural forces, obviously, such as hurricanes and human activities. The marine ecosystem has been harmed by hurricanes, diseases of various kinds and coral predators.

Activities that continue to the degradation of these marine resources include sediment runoff from incompatible land uses, development practices, nutrient input from sewage. Poaching, overfishing and improper fishing, and diving and boating activities can contribute.

Mr. RADANOVICH. Excuse me.

Ms. MAINELLA. Yes.

Mr. RADANOVICH. Fran, you'll do a sum-up—

Ms. MAINELLA. I will. Thank you so much.

Mr. RADANOVICH. —and then we'll catch the rest in questions.

Ms. MAINELLA. Let me just kind of come to a conclusion on the sense that what I want to just be able to say is that tourism is an important part of all that we do, and know that we're going to play an important role in tourism.

And the fact is, most areas in the Nation fight to have a National Park come in their area because of the value it brings because of tourism.

We're here to work with you. We are part of a team, and want to make sure you know that we are here to make sure that happens.

John King and others will be ready and willing to work for and with you, and we're ready to assist you in whatever we can.

Also, Delegate Christensen asked me about what can we do, when I met with her in Washington, about more promotions. We do have a video that will be ready, and we'll be ready to have that available to go on Cable TV or others, whatever way would better help this community to promote the Virgin Islands and our parks.

Thank you so much.

Mr. RADANOVICH. Thank you very much, Fran.

[The prepared statement of Ms. Mainella follows:]

Statement of Fran P. Mainella, Director, National Park Service, U.S. Department of the Interior

Mr. Chairman, thank you for the opportunity to appear before your Subcommittee at this oversight field hearing on the Virgin Islands National Park and the Virgin Islands Coral Reef National Monument. I am accompanied by John King, Super-

intendent of Virgin Islands National Park, who also has management responsibility for the newly established Virgin Islands Coral Reef National Monument.

We appreciate the opportunity that this hearing and visit is providing for all of us to increase our understanding of the Virgin Islands its people and its resources and to discuss the particular opportunities and challenges the National Park Service faces in managing the units here that are under our jurisdiction. My statement will focus on the establishment of the Virgin Islands Coral Reef National Monument, and an update on the planning process that will set forth future management goals.

As you know, the Virgin Islands Coral Reef National Monument was established on January 17, 2001, by proclamation of President Clinton under the Antiquities Act. Consisting of 12,708 acres of submerged lands off the island of St. John, the monument contains all the elements of a Caribbean tropical marine ecosystem. The designation also enhances the protection of fragile resources included in the Virgin Islands National Park, which Congress established in 1956 and expanded in 1962. Establishment of the monument roughly doubled the amount of acreage in and around St. John that is now under the jurisdiction of the National Park Service.

Since the designation of the Virgin Islands Coral Reef Monument last year, representatives of the Virgin Islands government raised numerous questions and concerns. In fact, on April 9, 2001, the Legislature of the Virgin Islands passed a resolution (No. 1609), expressing concern over the lack of adequate public participation in expansion of the monument, ownership of the submerged lands, the size of the monument, and potential impacts on the fishing and marine industries. I would like to briefly address those concerns.

While we share concerns about the way in which these monuments were created, our job now is to ensure that we develop management plans in an open, inclusive, and comprehensive way. As stated by Secretary Norton on numerous occasions, the planning for the future management of these monuments will be a model of what we call the four C's: Consultation, Cooperation, and Communication, all in the service of Conservation. The Department of the Interior is committed to management and protection of the monuments consistent with the four C's and the purposes established in the proclamations. In response to this commitment, we published a notice in the Federal Register on April 24, 2002, initiating a formal scoping period seeking public comment to identify issues to consider and analyze regarding management at the monument designations in the western states. The Department is currently reviewing the public comments. After reviewing all the comments on each monument, I believe most of the issues can be addressed through the management planning process, which will also include comprehensive public input. With regard to the monuments we are discussing today, we anticipate a similar public review process as soon as the issue of submerged lands ownership is resolved.

We agree that Federal ownership or control of the land is necessary for an area to be designated as a national monument under the Antiquities Act. The General Accounting Office (GAO), at the request of Delegate Christian–Christensen, has reviewed the question of Federal ownership or control of the submerged lands in the expansion of Buck Island Reef National Monument. We understand that GAO will issue its opinion shortly.

As to the size of the Virgin Islands Coral Reef National Monument, the Clinton Administration determined that 12,708 acres was the smallest area needed to ensure the proper care and management of the resources to be protected and their long-term sustainability. It is large enough to provide a fish nursery and, in theory, should help assure that fishing remains viable as an industry and a recreational activity here.

Although the loss of fishing territory could have an impact on the industry, we believe that it should be offset by the regeneration of stocks of fish that should occur from the enhancement of the fish nurseries made possible by the designation. Like many coral reef environments throughout the world, the Virgin Islands tropical marine ecosystem is under stress. Damage has been caused over the years from a variety of both natural forces and human activities. The marine ecosystem has been harmed by hurricanes, diseases of various kinds, and coral predators. Activities that contribute to the degradation of these marine resources include sediment runoff from incompatible land-use and development practices, nutrient input from sewage, poaching, overfishing, and improper fishing, boating, and diving practices.

Research over a long period of time has provided evidence that fish are not only smaller than in the past, but also that there has been a serial depletion of certain species, including the commercial extinction of the Nassau Grouper and Goliath Grouper. In addition, twenty years of data collection within and around Virgin Islands National Park show a marked decrease in the amount of sea grass beds, mangroves, and live coral. Research has also shown little to no recovery on damaged

coral reefs. These conditions, and the prediction of continued decline, are what led to the establishment of the monument.

Another critical factor in the decision to designate the Virgin Islands Coral Reef National Monument, as well as expand the Buck Island Reef National Monument, was their potential to improve the Virgin Islands economy. Tourism is the mainstay of the economy here, and the national park units on both St. John and St. Croix contribute significantly to the tourism revenues generated on those islands. By enhancing and providing more long-term protection for the spectacular resources managed by the National Park Service that lure tourists to the Virgin Islands, the monument designations were seen by the Clinton Administration as an important way to help improve and sustain the Virgin Islands' economy.

In summary, the designation of the Virgin Islands Coral Reef National Monument should provide for a recovery of coral reefs and associated habitats, facilitate an increase in the abundance of reef fish, sustain traditional cultural fishing practices in surrounding waters, enhance the quality of the visitor experience to the Virgin Islands, and contribute to economic growth from tourism. As stated earlier, the National Park Service has been preparing to undertake the planning process that will set forth the future management and use of this area, and we look forward to working collaboratively with the territorial government, our gateway communities, and other interested stakeholders in this endeavor.

Mr. Chairman, this concludes my remarks. Superintendent King and I will be happy to answer any questions you or your colleagues may have.

Mr. RADANOVICH. I'm going to turn my time to Donna to begin the questioning.

Mrs. CHRISTENSEN. Thank you. I do have a few questions, Director. And welcome, Regional Director Mr. Belson, and Deputy Hooks and, of course, our own Superintendent King.

Most of your testimony revolved around the issue of the Monument, and as we await the GAO opinion on who—the ownership of the submerged lands, should it happen that the opinion were to state that these were Federal lands, and that the monument designation is legal, can you assure me today that there will not be an immediate no-take imposed on the waters, the submerged land?

Ms. MAINELLA. Delegate, one of the things that—our whole style, again, is a partnership approach. What we will be doing, just as the Secretary is doing now under the monuments that are already established in the western states, we will be looking for public input, and again, we'll do a transition team to help us kick this into gear.

One that works well, is the most as we can do within the law that's been given to us, and I would ask for your help in helping us establish that transition team as we move forward.

Mrs. CHRISTENSEN. And as a follow-up to that, do you believe that the issue of fishing rights can be resolved through the management plans in the V.I. Monuments?

Ms. MAINELLA. I believe the management plans are what are key to being able to deal with fishing issues.

But I think there are some things that are set in law. If the Monument does prevail, that we won't have as much flexibility but I hope, again, through other approaches, that we can be able to better address, so that fishing not only exists but continues to grow in a way that is appropriate, and appropriate with the Monument status, if that's what does prevail.

Mrs. CHRISTENSEN. You've been in the Park system for a long time?

Ms. MAINELLA. A long time.

Mrs. CHRISTENSEN. Can you tell us a little about your experience where, in areas where there might have been overfishing and also where monuments or some kind of marine reserve has been put in place?

Ms. MAINELLA. Yes. As Director of Florida State Parks for the last 12 years before I came here, as Congressman Radanovich had indicated, I worked with a number of marine environments. In particular, many would know John Pennecamp Coral Reef State Park which abuts right up to Biscayne National Park, and that is very well known for its coral reefs.

One of the things that we did have to do in there, we did have to go in, and go into an area where we put fishing restrictions, either going into no-take in some parks in the area, or going into catch and release, but definitely eliminating a lot of the anchoring and putting a lot of mooring buoys out there to be able to tie up to.

In doing that we actually watched the growth and increase. Like the lobsters that used to be in there got very small. Now they're coming back and being much, much larger. And those are things that can happen, in other words.

But together we have to find a way to work together, and it needs to be the fishing industry along with the Park, with our scientists, working together to understand the big picture.

And we have to constantly look what is the big picture for the Virgin Islands in our parks. How we're going to make sure that prevails in the long way. And I've seen success there.

Mrs. CHRISTENSEN. Thank you.

We have been also talking about fees, the issue of fees to the Park, and we're going to talk a little later about concession fees but I want to talk about entrance fees because in the enabling legislation it was clearly stated that there should be no barriers to people of the Virgin Islands using the National Parks, and fees are a barrier.

And I know we've talked about this, and I'd like you, for the record, to respond to where we are.

Where is the National Park Service with regard to our request that the fees be waived?

Ms. MAINELLA. Thank you so much.

As you know, our agents worked on this issue. Jerry Belson and others have worked aggressively trying to find some answers, and one was maybe discounts or something like that.

Since the time I've already been here—and, again, I haven't even had a chance to really get out. I just arrived yesterday. But we talked to people even around the island already, and having a chance, even people coming in, and to talk about the fee aspect.

I would like to ask that we look at a committee that you and I together, and others that are appropriate, you would suggest look at the fees as a whole. Fees in our National Park system have actually been a big success. In all honesty I think all of us want to see the structures, the improvements that John and others are making take place, but we also need to make sure that all that we do, again, is a fair and equitable situation, and abiding by all of the laws.

So I'd like us to go back. It doesn't mean that we'll end up with major changes but it could be. And I would like us to go back and look at that so we have a clarity regarding—this is particularly dealing with the Virgin Islands and their residents as—on that, particularly, with the enabling legislation.

So, if you would agree to help me in a committee to look at that, I would appreciate that kind of review at this time.

Mrs. CHRISTENSEN. Thank you.

Mr. Chairman, my initial 5 minutes are up.

Mr. RADANOVICH. No. We'll go—I'll allow 5 minutes. We will certainly do a second round.

Mrs. McCollum, any questions?

Ms. MCCOLLUM. I just have—it's more of a general question for your management plan. I know the National Park Service has struggled for years to get the management plans done and on time. I know it's been a concern, not only on my part, of the United States, but in—since having been appointed to this Committee, many other parties.

Can you tell me what we need to do, as Congress, to facilitate your being able to get, after the rulings come out and you have your public hearings, and you get to manage—how we get the management plan processed, jump start it so that people in the Virgin Islands are not waiting for a long time for that to happen for the Monument?

And, also, how, in reading some of the material that I had, updating the management plan to identify many of the concerns that Delegate Christensen brought up with cruise ship travel and other things?

What can we do to make those processes which are independent but at the same time very complementary happen quickly for the people here in the Virgin Islands?

Ms. MAINELLA. Well, I want to thank you all, first of all, because you did put some money in our budget, and I'm going to ask John to help me in a moment to give me even further detail, that we do have money in our budget for '02—that's the year we're in now—to begin our management planning process for the Park as a whole, and it certainly can tie right together with the Monument once we have a determination from GAO on the status of that.

John, could you give us a further update how we're going forward?

And is there other—I mean, you know, as the President asked me one time, do you—"Do parks always have all the money they need? Did you get all the money in your budget?".

I said, "Mr. President, considering all we've gone through since September 11th, you've taken good care of us. The parks always need more money. But exactly how we've done well here in our budget, I thank all of you for your leadership."

John, could you give us an update, please, sir?

Mr. KING. Yes. Yes, Director. Can you hear me?

Mr. RADANOVICH. No. You need to speak more directly. Or it's not on.

Mr. KING. Can you hear me?

Mr. RADANOVICH. No.

Mr. KING. Can you hear me now?

Mr. RADANOVICH. No. There you go.

Mr. KING. Well, I'd like to just say for the record that the Virgin Islands National Park does not have all of the funding that it would require, and anything that you might be able to do to help us in that regard would be greatly appreciated.

As to the general management plans, we did receive funding in Fiscal 2002 to update the Virgin Islands National Park management plan and also to initiate the planning process for the Coral Reef National Monument, and that depending upon the outcome of the GAO in dealing with the question of the ownership of the submerged lands.

Given the fact that we are getting so close to the end of the fiscal year, we've been told by our planning office that we're going to have to defer the starts of the award of the contracts to begin the GMP's in total of three.

That the money is still available. That we have not lost our place in line as it were, and so we're hoping that as soon as the issue of the ownership of the submerged lands is resolved that we'll be able to commence the planning effort hopefully early in Fiscal 2003.

Thank you.

Ms. MAINELLA. Thank you, Mr. Chairman.

Mr. RADANOVICH. You're welcome.

Fran, a couple questions. We have mentioned that GAO started just looking into the legality of the Monument. Although I think it's very good to have the study, the GAO is not the final arbiter of whether this is—

Ms. MAINELLA. That's correct.

Mr. RADANOVICH. —right or not, or legal or not.

Ms. MAINELLA. Right. That's correct.

Mr. RADANOVICH. So what is, I mean, I think Donna described the context of what would happen if GAO came out and said yes, that the Monument is correct.

But what if they don't, and how does that issue get resolved?

Ms. MAINELLA. Again, this would go all the way to the Secretary level. So the only thing that I could say right now, immediately when that report comes out, the solicitors will take a look at it to understand what are the implications to us and to, you know, to the Park, to everyone involved. And I think that, again, we just have to look at it and get that public input.

That's what I'm hoping these hearings—by you having these hearings, you're expediting all of the transactions that could take place following the GAO report.

And I think the Secretary, we may come back after the hearing, and you and I may go back, and all of us recommend to the Secretary no matter whether the GAO report is out or not, we're planning to keep moving with the management plan and start the planning process. It just would be a lot clearer if we're doing it for a whole monument versus not.

And so I guess, again, this will go all the way to the Secretary's level, and your involvement as well as mine, and the whole Committee certainly will help expedite a game plan on this.

Mr. RADANOVICH. Can you answer for me, too—there's an issue of the health of the fisheries in the area. Is there evidence to sug-

gest that the area is—that the stock is down, that the area has been overfished or is—

Ms. MAINELLA. Yes, actually, a part of it. I didn't get a chance to, and I'll ask John to help me on that.

I know that there is quite a bit of research that has shown that there is a drop-off in many different areas.

John, could you follow up on that, or do you have that detail? I have my notes, and I'll put my glasses on to find it real quick.

Mr. KING. Certainly, the information that we have been given—

Mrs. CHRISTENSEN. You need to speak a little louder.

Mr. KING. Certainly the information that we have been given by the scientists, both with the National Park Service and with the USGS Biological Resource Division, is that the fishery in the Virgin Islands is in a significantly depleted state.

As a matter of fact, we have heard references to the fishery in the Virgin Islands being compared to fisheries off the coasts of Haiti and Jamaica, both of which are considered to be collapsed fisheries. So there is a serious problem here.

I mean, we are, quite frankly, very excited about the possibility of improvements that can be realized through the establishment of a marine-protected area. And something that we are planning to do during the planning process for the Monument is to bring fishermen from other communities that have had marine management areas where marine reserves are established, so they can share what the positive results of those have been.

As a matter of fact—and I think Delegate Christensen might have seen this video but if not we could certainly make it available. But we obtained a video that was taken of fishermen on St. Lucia who were—several years ago a marine management area was established—and who complained vociferously about it, fought it vigorously, and then several years later came back and said it was probably the best thing that ever happened to the fishery there, that the fish were abundant, they were larger, and their traditional life ways were continued as a result of the additional protections that were afforded.

Mr. RADANOVICH. Mr. King, could you provide the Subcommittee with the information that you have of the science that would lead to the description, the status of the fisheries?

Mr. KING. We'll provide it to you, Mr. Chairman.

Mr. RADANOVICH. I'd appreciate that.

Betty?

Ms. MCCOLLUM. Thank you, Mr. Chairman. I just have a question that came to mind.

We have the British Islands. Are the British—do they have parks?

Do they have a fish protection habitat?

Because the fish are swimming around, and if they're not doing anything to protect the fish, that puts more pressure on just us to do it, and I know we have to work with Canada on our border lakes about, you know, what catch needs, commercial fish nets.

Are we in dialog with what's going on in the other islands or are we going to be taking on the sole responsibility of trying to protect the habitat?

Mr. KING. Well, there is a national park system in the British Virgin Islands. Now, the degree to which collaboration by marine biologists and other scientists has been made between the U.S. Virgin Islands and the British Virgin Islands and other Caribbean islands, I'm not sure, but we can certainly find that out and provide that for the record.

Mr. RADANOVICH. Yes, thank you. And just one quick question before I move on with Donna.

But can you tell me, Mr. King, or Fran, the word was mentioned that this was a marine-protected area. Officially, I don't think it is. Or can—

Ms. MAINELLA. I—

Mr. RADANOVICH. You want to speak to that?

Mr. KING. No, it's not officially a marine-protected area. Right. I guess I used that term in that additional protections would be afforded to the fishery, and so it would operate essentially as a marine management area, a marine-protected area.

But, it's the thinking of the Coral Reef National Monument, there are fishing prohibitions with two exceptions, and those two exceptions are bait fishing, and Hurricane Hole, which is an area that, by permit, and blue runner or hardnose fishing on the South Shore of St. John, also by permit, but other than that, that all extractive uses would be eliminated.

Mr. RADANOVICH. OK, thank you.

Donna?

Mrs. CHRISTENSEN. Thank you. I have a couple of follow-up questions on something the Chairman asked.

And just for clarification, now, when I asked—when I asked my first question, that was assuming that the lands were Federal.

Ms. MAINELLA. Right.

Mrs. CHRISTENSEN. Assuming that the lands are—the opinion is—

Ms. MAINELLA. Right.

Mrs. CHRISTENSEN. —that, as they looked at how the determination of ownership was done, it was done incorrectly, and—

Ms. MAINELLA. Right.

Mrs. CHRISTENSEN. —the lands are really the property of the people of the Virgin Islands.

We would not anticipate any contest from the Department on that. That would—the whole issue would disappear, correct?

Ms. MAINELLA. I would expect, again, that the Secretary would review it, but I think you have to have control. If a determination is concurred that we don't have control of these lands, I don't know how you'd designate something as a monument.

Mrs. CHRISTENSEN. Right, because if—

Ms. MAINELLA. And I mean, I can't speak—it would be a Secretarial determination but my recommendation would be that, you know, you have to follow the law. And we need to make sure that we do.

Mrs. CHRISTENSEN. Right. And a follow-up, also, if I could ask Mr. King this question.

You talked about bringing examples where a reserve or a no-take area worked. Are you aware of some that don't work?

When we do this, I'd like to have a balanced approach so that we can hear pros and cons. Are we going to do that? Are we going to take a balanced approach?

I mean, are you aware of anywhere that no-take zones, for example, where this was imposed and it didn't work, and the people were still unhappy?

Mr. KING. Not to my knowledge, Ms. Christensen. That could very well have happened and I just am not aware of it. But we certainly want to take a balanced approach to the planning effort, and ensure that all of those who have a valid and vested interest in the outcome of this planning opportunity have a chance to participate actively and substantively.

Ms. MAINELLA. One of the things, if I may follow up, is that, one, we will search if there are any things that are in those—you know, where we've gone into a no-take, and things have not been—it hasn't been helpful.

I know there's a period of time that takes place for that to replenish. But we have just brought on, because of the issues of Virgin Islands and a lot of other areas throughout this nation, we now are going to have a specialist who's going to help us more in the marine side of our efforts, and we haven't had that before.

We've just brought him on, and that will be part, also, linked to our natural resource channel, that you'll help us with. And so you'll see that.

And also, again, we'll continue to work with our partners who are beyond, you know, both state, Federal, and others who work in this area, to make sure that we're not doing this in isolation.

One of the things we do not want the Park Service to do is function in isolation. We have to function in partnership.

Mrs. CHRISTENSEN. Thank you.

And two other brief questions. The number of questions—this is a different subject regarding the ownership of roads in the National Park, and you're going to hear about in a little while.

Ms. MAINELLA. Right.

Mrs. CHRISTENSEN. Can you tell me, do you have knowledge of other parks that also have, within those parks, roads that are not owned by the Park?

And how does that impact management?

Does it have an impact on management at all?

Ms. MAINELLA. Usually, again, you know, having been on for a year now, you know, I know we have some roads that we don't own, but we will usually work in partnership. Again, it's usually to the best interests of the community or whatever, who may or may not have—who may have ownership or whatever, to work in conjunction with the Park.

Because, again, if the Park is not being successful—where we used to see a lot of people were injured on those roads and things of that nature, because they forgot—they were in a Park, or maybe not, you know, in—or people walking across streets thinking they're in a Park, and not paying attention to the fact that this is a major highway.

We've worked in conjunction with the local governments, and they helped us enforce and make sure that things were done appropriately for the well-being of the visitors. Because without the well-

being of the visitors being taken care of, our whole economy suffers, both locally and for the well-being of the National Park system as a whole.

Mrs. CHRISTENSEN. But if the Park—if the roads do not belong to the Park,—

Ms. MAINELLA. Uhm-hmm?

Mrs. CHRISTENSEN. —can the Park still manage the entire Park, including those roads?

Ms. MAINELLA. I think it's more challenging if—you know, a lot of places, you know, roads have been, you know, given through an MOU for us to manage, even if they belong to a county or whatever, because it wasn't as effective.

It's better when we jointly, you know, when things are clear, and not get into contradictory positioning.

But I don't know all of that. I can do more homework for you and get you a more detailed answer if you'd like.

Mrs. CHRISTENSEN. When some of the people, the panels that follow, those issues will be brought up and they can—

Ms. MAINELLA. Thank you.

Mrs. CHRISTENSEN. —give us some more information on which to continue those discussions.

One last question. What's the Department's position, to your knowledge, on access to inholders' property? You're going to also hear it, and I'm asking you before the—

Ms. MAINELLA. Right.

Mrs. CHRISTENSEN. —testimony is actually given. But I'd like to at least hear what's the Department's position on it.

Many of my constituents are complaining that they're being denied access to their property by the Park, and as Director of all of our Parks, and your experience with the Park, if there is a response that you might have at this point to some of those concerns?

Ms. MAINELLA. Access is a critical issue for everyone, to come into a Park and to get to their inholding, and we do work with individuals to make sure they are getting access to their property.

Now, going beyond, we try to work in partnership with them so that that access is an environmentally friendly access. We do get into—we don't normally physically provide the roads, in other words, or whatever, but we work with the individuals for access. But it has to be done as an individual.

Where you get into a little more challenge—and I would need legal help on this one—is when it gets into a lot of development purposes where it's going to bring more than just the individual having access.

And that's something that has to continue to be worked on with, beyond my level, which I'm deferring to our legal counsel on that.

Thank you.

Mrs. CHRISTENSEN. Thank you.

And we'll hear from our panel on that issue, and get some more information on which we can continue this discussion later on.

Mr. RADANOVICH. Yes. Thank you, Mrs. Christensen.

Mrs. CHRISTENSEN. Thank you.

Mr. RADANOVICH. Any other questions?

Mrs. CHRISTENSEN. No, Mr. Chair.

Mr. RADANOVICH. Any other questions? Did you want another 5 minutes, Donna?

Mrs. CHRISTENSEN. No. I would like to hear from—

Ms. MAINELLA. We'll be sitting back here.

Mrs. CHRISTENSEN. I get a chance to talk to Fran all the time.

Mr. RADANOVICH. Thank you, Fran, Mr. Belson, Mr. King. Appreciate it.

Ms. MAINELLA. Thank you so much.

Mr. RADANOVICH. Oh, and, Fran, we do have some other questions but we'll be submitting them to you, and would request that you respond by writing.

Ms. MAINELLA. And thank you for allowing me to be here today. I appreciate it.

Mr. RADANOVICH. Thank you for being here today.

Ms. MAINELLA. Thank you very much.

Mr. RADANOVICH. OK, I will now introduce our next panel which includes the Honorable Almando "Rocky" Liburd. Oh, please forgive me if I—

Mrs. CHRISTENSEN. Liburd.

Mr. RADANOVICH. Liburd. Thank you. My name's Radanovich.

24th Legislature of the Virgin Islands; the Honorable Donald "Ducks" Cole, Chairman of the Planning and Environmental Protection Committee; and Mr. Myron Jackson, Department of Natural Resources.

Good morning, gentlemen. Welcome to the Committee, and I appreciate your testimony that you're about to give, and also to make yourselves available for questions.

We'll begin with the Honorable Almando "Rocky" Liburd, President of the 24th Legislature. Rocky, welcome to the Committee.

And we are under the 5-minute rule, please. If you can keep it up, that would be great but we'll have lots of opportunities for you to speak. So please begin.

STATEMENT OF HON. ALMANDO "ROCKY" LIBURD, PRESIDENT, 24TH LEGISLATURE OF THE VIRGIN ISLANDS

Mr. LIBURD. Thank you very much, Mr. Chairman George Radanovich; and to Congresswomen Christensen and McCollum; and two of my colleagues who are here, my colleague Senator Cole, who's the Chair of the Planning and Environmental Protection Committee; Mr. Myron Jackson, representing the Commissioner of DPNR; to all of the testifiers; fellow St. Johnians; fellow Virgin Islanders, welcome.

Let me just say before I begin my testimony, that you are the first—this is the first Committee to sit in this setting. You know, we have upgraded our whole entire Senate, and you are the first one to Chair a Committee here, and by the way, let me also say that you're carried live on radio. We are on radio. We are live Territory-wide.

Mr. RADANOVICH. We're christening the hearing room.

Mr. LIBURD. Yes, you're christening the hearing room. My colleagues certainly will thank you.

Mr. RADANOVICH. It's very much an honor.

Mr. LIBURD. Thank you.

All right. Good morning. My name is Almando "Rocky" Liburd. I'm the President of the Senate. I'm also the Senator at Large, and I'm also an indigenous St. Johnian, born and raised here, live here.

And so I want to thank you, and thank you, Congresswoman Christensen, for inviting the Subcommittee here.

I've submitted a statement on the record but I want to just expound on it as we go forward. Let me begin first by saying that the National Park, as I've always said, has been a good addition to the Island of St. John.

You know, if it hadn't been for the National Park, as a matter of fact, we probably would have seen all of our beaches with hotels and resorts, you name it.

And so I must say that they've done an excellent job in maintaining—and right behind you is a picture of one of those sites. And it's there as part of this institution. So I say that the Park has been good in that respect.

But you know, like in families, we have some little disagreements, and certainly there are a couple of things that come to mind.

As a youngster growing up here in the Park, I recall at the inception the Park was to be part of our people. In other words, it wasn't supposed to be the Park and then us.

And such, what happens is that we have seen from time to time that separation that has occurred. And how has this occurred?

It has occurred due to the fact that roads that were within the Park that were passable, that provide access from one end of the island to the other end of the island, have been closed off. Case in point. Right here in Cruz Bay there are about two or three ways to get to the other end of the island, which is Coral Bay, but right now they are blocked off.

In particular, two of them, one at the—what we call Steven Mandahl or Fish Bay area. There is another road over by the Leinster Bay area that goes right into Emmaus Moravian Church in Coral Bay. We call it Johnny Home. These are names that have been given over the years.

The Legislature, in its wisdom, back in 1962, passed an act, Act 806, that transferred the roads to the National Park. As a matter of fact the Act indicated—and it is part of the submission that I sent—in it it states that the National Park Service has informed the Government of the Virgin Islands by a letter dated October 26, 1961 that it would improve and maintain the following public roads in St. John.

And we have North Shore Road. We have the Cruz Intersection, Centerline, Annaberg, Mirror Point, Kingshill Road, Bordeaux, Lameshur, East End, et cetera. All of these roads have been outlined in this Act.

But today many of those roads haven't been maintained according to the Act.

Secondly, there are a number of residents who, upon the purchase, or when the property was turned over to the National Park, they had properties or inholdings within the Park. They were able to access these properties, but once the Park came in, their access has been slowly denied. That is wrong. I believe that we have a right to access our property.

I don't believe nowhere in America it should be that persons under the American flag are denied access to their own property. And I believe that your Committee, and as the Chair of the Park here, the Director of the Park can do something about that.

Because, you know, the problem we have is that we're a small community. We don't have a lot of resources, but we need some friends. And the friends we see here in you, Mr. George, Chairman; McCollum; Donna Christensen and your Committee, and along with— I just met the Director. I'm sure she's going to work with us, also, that we can bring some relief to some of these situations.

In Coral Bay in particular, if there is a disaster, or, God forbid, one of our hurricanes, as we experience them from time to time, and there's a section of the road, Centerline Road, that's blocked off called Kingshill, there's no exit.

We have an entire population that are at the mercy, no exit for any kind of service at all, and that should not be. For years we've been trying to ask for at least an access.

There are three of them. We are asking for at least one, one that can provide that, in the event of something to happen.

That has not happened. And I don't believe it's too much to ask for. I think that we as a people deserve that, and certainly the St. Johnians deserve that.

I know this because I was born and raised in that area. I know the area, and many residents in here you will see, as they come forward to speak about it, the area.

The issue about the school. You know, because St. John is so small, and the National Park takes up the majority of it, we have finite property, and because of that, there is a great need for us to work out some—either an exchange or some type of a support because I think that the whole concept of the Park was to work with the community, not against the community. And that issue of the school has been brought about but I must say in the Park's defense that letters have been written to them, and I think they have not said they are not going to do it.

So, to some degree I think part of it is the blame of the Government. We haven't done as much as we should do, and I'm speaking about the executive branch because we put it into law. So I just want to make sure because I know the record that is there, and we can show that.

So today's hearing, it is my hope that you can bring some relief to a longstanding problem, over 40-plus years, of residents coming and going. Many residents have to sell their land because they can't afford to get to it, so they certainly don't want to pay for it.

As a matter of fact, the Legislature, we passed an Act that said that they should not pay taxes for their property if they can't access it. And so that's in the law right now. So they don't have to pay any taxes for those properties that are within the holding of the Park.

And I heard the Director spoke a while ago about roads through the Park. This is not unique. It's happened throughout the world.

And so I'm saying that just like how it happens other places, we are Americans, deserve the same, and I'm saying that I don't believe that we want to have some of the most laborious or—we don't

want to be unfriendly to the environment but I believe that we can coexist.

But remember, we're talking about human beings who live here, who have no place else to go, who can't afford to get attorneys to fight any cases, so—and so we hope that your oversight and the fact that you're here would certainly bring some closure to this issue.

And certainly we want to thank you for this opportunity, and I remain available for any questions. Thank you.

Mr. RADANOVICH. Thank you very much, Mr. Liburd. Appreciate that.

[The prepared statement of Mr. Liburd follows:]

Statement of The Honorable Almando "Rocky" Liburd, President, 24th Legislature, U.S. Virgin Islands

Good morning to our Honorable Delegate to Congress Donna Christian–Christensen, the Honorable Members of the United States House of Representatives' Subcommittee on National Parks, Recreation and Public Lands and fellow St. Johnians.

I thank you for the opportunity to address you on behalf of the residents of St. John, in the United States Virgin Islands; who for the last forty-four years have been denied access to their property within the boundaries of the Virgin Islands National Park. I come before you today to ask for your assistance through positive actions, to guarantee the residents on the island of St. John and the Virgin Islands as a whole, that they have the right to own and possess their property like every other citizen of the United States.

Before the United States bought the Virgin Islands from Denmark in 1917, many families lived within the areas now designated as the boundaries of the VI National Park. However, because they were denied access to their own properties by the National Park Service, they were forced to move to other sections of the island. This is contrary to the agreement between the United States and Denmark regarding the private property rights and public roads of St. John residents.

A September 17, 2001 legal opinion, written by VI Attorney General Iver A—Stridiron to Department of Public Works Commissioner Wayne Callwood, states, "'All property which may have been acquired by the United States from Denmark in the Virgin Islands under the convention entered into August 4, 1916, not reserved by the United States for public purposes prior to June 22, 1937, is placed under the control of the Government of the Virgin Islands."

Please find attached "EXHIBIT I"

In addition, Act 806 of the Virgin Islands Code, approved January 24, 1962 clearly states, "the National Park Service has informed the Governor of the Virgin Islands, by letter dated October 26, 1961, that it will improve and maintain the following public roads in St. John: (1) The North Shore Road from the park boundary at Cruz Bay to the intersection of said road with the Center Line Road at King Hill; (2) the spur road to Annaberg and Mary Point; (3) the Bordeaux Road; (4) the Lamedhur Road from Park boundary to Lameshur, and (5) the East End Road from Park boundary at Coral Bay eastward to the East Boundary of the Park; and to cooperate fully to the end that all private properties have passable road access, wherever necessary, to the aforesaid public roads...

Please find attached "EXHIBIT II"

Our residents have suffered for many years due to the National Parks refusal to acknowledge these laws. To the contrary, National Park rangers started instructing residents on lands still private, that they could no longer fish, chop wood, or other needful things for their survival. Because the roads are not maintained, exits are blocked in times of emergencies such as fires and illness.

In conclusion, the frustration of landowners and residents would increase unless a time frame is in place when all in holdings would have "passable roads." 1 wish to recommend that this Subcommittee utilize all of its authority to bring a resolution immediately!

Since all parties involved determined forty (40) years ago that the private landowners have a right to access their properties unhindered, all that's required is the practical will to do it. We as United States citizens, under the United States Constitution, have the right to free access to our properties just as any other American citizen. We request and demand this right because we are no less citizens than any

other within any other state, territory or jurisdiction under the control of the United States of America.

Thank you

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

Mr. RADANOVICH. So, next is the Honorable Donald "Ducks" Cole, Chair of the Planning and Environmental Protection Committee.

Mr. Cole, welcome to the Committee, and, again, please begin your testimony.

STATEMENT OF HON. DONALD "DUCKS" COLE, SENATOR, 24TH LEGISLATURE OF THE VIRGIN ISLANDS

Mr. COLE. Good morning, the Honorable George Radanovich, our own Donna Christian Christensen, and Congress Lady McCollum.

Mr. Chair, I'm happy that you're here in the Territory. I'm happy that you're addressing the situation. I must commend Delegate Christensen for having you here.

The issues before us today are clear. In my written statement to you we have outlined the legal issues as I believe that the Office is going to be looking at.

We believe that, as it pertains to the Monument, that the lands, the submerged lands that were taken were taken illegally, based on the law, in the President's forward proclamation.

We believe that these things should be repealed, and it is in your power. Once this comes out, I believe that the people of the Virgin Islands—if it comes back that we are not the owners of those lands, I believe we need to take this as far as the Supreme Court because I tend to believe that the people of the Virgin Islands are United States citizens.

The Federal Government oversees us here, should not trample on the rights which were given to us. So I believe that should be done.

The issues with the inholdings in the Park I can liken to a situation where, Mr. Chair, you were just given the keys to a brand new Cadillac, and that Cadillac is brought in and it's placed in your garage. You have the keys, and you have the ability to move that Cadillac, but because of the restrictions that are placed on you, all you can do is go in your garage and wash and buff and look at your Cadillac.

And you want to be able to take that Cadillac out and drive it and pick up your wife or your children, and take a tour, and that can't happen because guess what—it is so restrictive that you can't come out.

And that is how I see, and the people see, the inholdings here in the National Park. They have the land, and some of the most expensive land in the Territory, deeded to them by their parents.

And as you know, Mr. Chair, that the Virgin Islands heirs, specifically in St. John, the landholders, we came through a situation of slavery here in the Territory, and our ancestors—

Mr. RADANOVICH. Yes. Can you hold that? Hold that thought just 1 second. Because I see people waiting for seats, and I want to ask if maybe Mr. King and some folks might want to take these seats up here, so that it'll free up some seats for other people back there, Ducks, because—I'm sorry for interrupting.

Mr. COLE. No problem, Mr. Chair.

Mr. RADANOVICH. If you could, that'd be great, and—

Yes, Mr.—there you go.

OK, Ducks, go for it. And, again, excuse me for interrupting.

Mr. COLE. Mr. Chair, I appreciate it. The fact that they—and I believe the people want to come and the people want to see. It's an historic occasion here in the Territory wherein the Subcommittee has come here to hear the concerns of the people of the Virgin Islands, specifically this beautiful island.

And I was speaking in terms of landownership and the passage of land from individuals who were in servitude. You can see how that has become a serious problem here.

And the fact remains, I believe that the citizens who own these lands, if not given access, basically under the U.S. Government, you know, we would be able to move to some concerns, and we don't really want to go there.

My colleague Senator Liburd spoke to the fact that he grew up here in the Territory, here in St. John, roamed the island over there, and that is it.

So through your powers we are asking you to go back to the U.S. Congress, let them know what happened here.

I hope you will be able to have a tour where these inholdings are. And the road situation, as you traverse and you go to the East End, one of the most beautiful places on earth, you can see the problems that we have here.

As it pertains to—and, Ladies and Gentlemen, the reason I'm not reading from my written statement, it becomes a little redundant because a lot of the issues have been pointed out, have been clear as to what we're seeking.

The school right next to where we're seated right now is the Julius Sprauve School, located in the heart of industrial—well, commercial areas. Big trucks and everything go by there.

And the Legislature had petitioned the Governor asking him to sit down and negotiate with the National Park for some property within the National Park to place the schools so we can remove these children from this area and get them in a more conducive environment. And I believe that is supposed to happen.

The fact remains, the Park System, the taxes that should be paid as in the national government in Washington, D.C., taxes are not paid. And I believe that the Federal Government should, on behalf of the National Park, build that school, fund that school, furnish that school as a quid pro quo for the taxes that are not collected on the lands that are owned by the Federal Government.

That is one of the major concerns that my colleagues and myself have as it pertains to the education of our children. And I'm asking that something like that be done, and let the executive branch sit down and make sure that is done.

As it pertains to the taxi drivers, and they're going to come up, and they'll be able to represent themselves, who make a living going throughout the Parks.

And the access. And the good Congresswoman Christensen spoke to that fact, prohibiting them from going through.

And the roads, as they are, they should be maintained.

These are the issues that we hope that you will be able to clear up and take back because one of the problems I have, witnesses far removed from the Territory. We are here. You are there.

A lot of the things that you deliberate on up there, you don't have that visual knowledge. And you will be able to take it back.

I must say Congresswoman McCollum, as she mentioned the British Virgin Islands, we here are located between Puerto Rico, which has almost 4 million people, a vast amount of land, and between the British Virgin Islands that is a British dependency. The rules and regulations that are so stringently enforced against us here are limiting our economic development.

I have a serious joke as it pertains to the turtles that are protected by the Federal Government. The turtles are populating now. They're getting so smart because they know right next door in the British Virgin Islands they can be taken and killed, so what they do, they swim over here and they party and laugh at those other turtles and those other people over there that are swimming.

And these turtles and our fishes, they're getting smart because they're recognizing that they're being caught over there without any restrictions, and once they come over here they can cool out.

And I understand why the Monument was set up, and I am for conservation and preservation and for future use, but the fact remains, I believe, and I believe that the Court would rule, that those lands were taken illegally.

I see my time is up, and I'd like to thank you for coming here. And those issues that are dear to the people of the Virgin Islands, we ask you to look upon them, and in your deliberative process with the treaties with the Federal Government and the British, the British Empire, as it pertains to conservation in the British Virgin Islands, yes, they do have some laws but the line of demarcation is so small that what happens over there affects us over here.

So if you can utilize your authority and power in those treaty processes to make sure that what is done over there basically coincides with what we do over here.

And the question was well taken, Madam McCollum, because what happens over there affects us over here.

I would like to thank you for coming, and I'm available for any questions.

Mr. RADANOVICH. Thank you very much, Mr. Cole.

[The prepared statement of Mr. Cole follows:]

Statement of The Honorable Donald G. Cole, Senator, 24th Legislature of the U.S. Virgin Islands

My name is Senator Donald G. Cole, Liaison to the United States Congress, Chairman of the Committee on Planning and Environmental Protection and member of the 24th Legislature of the United States Virgin Islands. It is an honor to have the opportunity to testify today before the Subcommittee on National Parks, Recreation and Public Lands.

I stand before you today, honoring an invitation to testify from George Radanovich, Chairman of the Subcommittee on National Parks, Recreation and Public Lands. The said invitation has asked me to contribute in this July 20, 2002 Subcommittee oversight hearing on the Virgin Islands National Park and the Virgin Islands Coral Reef National Monument.

As important as these two issues are to the people of the Virgin Islands today and those who have prepared the path, I will attempt to express my sincere concerns as it pertains to these two issues of historical importance. I present the following testimony.

National Park

It has been several years now since my colleagues and I have received numerous calls concerning access to properties in and surrounding the national park by landowners of that community. The debate and questions point back to, "Who are the owners of the roads?"

According to an analysis done by Attorney General, Iver Stridiron on August 4, 1916, all property in the Virgin Islands was ceded to the United States Government from Denmark. This property included all the Danish Roads. He went on to state that in 1936, the Organic Act Section 4, 49 Stat 1806, 48 USCA 1405 (a), was enacted which states that: Virgin Islands under the convention entered into August 4, 1916, not reserved by the United States for public purposes prior to June 22, 1937, is placed under the control of the Government o the Virgin Islands.

There is still some uncertainty as to who owns these roads. Then there is still the debate as to if these roads are "public" or "private". One thing is clear, the Federal Government and the National Park has control of the access roads as we stand here today. In 1962, the Territorial and Federal Government entered into a Memorandum of Understanding, which codified by the Legislature of the Virgin Islands as Act No. 806. This legislation transferred responsibility for, and authorized the National Park Service to maintain certain public roads within the National Park. Since the Territorial Government gave up the Federal Government the right to maintain these roads, any attempt today by the Territorial Government to maintain these roads without he consent of the Federal Government would violate the Memorandum of Understanding and Act. No. 806.

Now that it is clear that the Federal Government has control of access to these roads within the National Park it has created and still is creating a major problem. Property owners within the National Park surrounding areas are denied access. For the past 40 years, no progress has been made despite all of the entered agreements and laws that are on the books. For example, as far back as 1961 in and October 26th letter, the National Park agreed that it would cooperate fully to the end that all private properties have passable road access, whenever necessary, to the major public roads within the National Park.

Even if roads within the National Park are not a "public road", individuals with inholdings on Federal lands must be provided access to their property. Courts have maintained that landowners with inholdings in the National Parks have a legal right to access their property.

Inholders also may have common law access rights via easements and otherwise. These rights exist regardless of any National Park policies that would restrict and deny access. It is clear that the landowners cannot be prevented from accessing their property.

Such landowners are:

Timothy Rasmus: Gerda Marsh & Others: Emeleo Jeppesen & Others: Ernest Marsh & Others: Everton Lewis: George Beretta & Others: Caines, Felicia & Roberts: William Roberts: John Testamark: George Thomas: Alphonse Jacob: Dalmida, Walter & Others: Mathias, M & Others: Mary Anthony: Samuel, Gloria & Others: Testamark, H.M. & Julius: Mathia, Thomas, Petersen: Luke Petrus: Lorentz Bryan: Christian Bryan: Rich, Jr. William & Jerome: George Bryan: Mary Donatry: Henry Brown: Thomas, Alice & E: Prince, Ralph & Rosalind: Janet S. Waden: and Thomas, Susanna & Others.

In the chronology of events as it relates to the National Park, it is clear what the intent of the National Park was not in consideration of the many landowners that will be affected in that community. In 1916 there was a Convention between the United States and Denmark. In 1932 the United States Government conducted a survey of St. John for Parks. Then a major event took place.

In 1956 Laurence S. Rockefeller donated 5,000 acres of his privately owned land to the National Park Service. At this point, it was the intent of Mr. Rockefeller to make St John the amusement capital of the world. He referred to the park as the new Virgin Islands National Park that will serve as a focal point of many opportunities. It is bound to bring new attention to the recreational advantages of the islands. This vision was developed without consideration of the landowners within the National Park.

In 1958, the National Park Service rangers told landowners that they were not permitted to cut wood, fish or other such activities that were usual methods for survival and then a standard of living. It was apparent that the National Park Service was developing a strategy to persuade landowners to sell and give up their land so that the park could fulfill the vision of Laurence Rockefeller and all those who had no consideration for the people of the Virgin Islands.

With this plan coming to light, in 1962 the Legislature of the Virgin Islands passed Bill No. 1562 to assure that Virgin Islands residents would have access to their properties. As a counter that same year, the House of Representatives attempted to authorize the National Park Service to acquire additional acreage through condemnation. From the actions to the date of the Federal Government it is unclear as to what definition of the word applied to the people of the Virgin Islands. Did they want to appropriate (property) for the public use or did they want to acquire the land by declaring it unfit for use?

It has been 40 years, and the people of the Virgin Islands need access to their property. It is unfair for the Federal Government to deny access property. It is unfair for the Federal Government to deny access by not maintaining and not developing proper passage for the people of the Virgin Islands. All of the homeowners within the National Park should have an input. They are affected and should be informed about any and all developments as it pertains to the National Park. The people have been denied. Just put yourself in the same position as the people of the Virgin Islands. Please follow along with me. The year is 1962 and you just bought a Cadillac. You have it fully loaded and the keys in hand. You have paid in full. The dealer delivers it to your garage and closes the door and locks it. Yu have no way of getting to your Cadillac. Can you enjoy and reap the benefits? No! It's the same feeling that the landowners have as it relates to the National Park.

National Monument

Over the past, I have written correspondence to the Honorable Donna M. Christian–Christiansen, U.S. Congresswoman, United States Virgin Islands; the Honorable Frank Murkowski, Chairman, Committee on Energy and Natural Resources and the Honorable Gail A. Norton, secretary of Interior, United States Department of Interior asking for introduction of the legislation to repeal the monument designation of the Virgin Islands Coral Reef Monument.

This area covers 12,000 acres of water around St. John, and the expansion of St. Croix's Buck Island National Reef Monument, which covers from 900 acres to approximately 18,000 acres.

On January 17, 2001, President Clinton signed Proclamation Nos. 7392and 7399 designating these areas as national Monuments. The former is entitled "Boundary Enlargement and Modifications of the Buck Island Reef National Monument" near St. Croix and 7399, "Establishment of the Virgin Islands coral Reef National Monument" off St. John.

The issue here is whether or not the Department of Interior has the right and title to the submerged lands over which they have exercised this authority under Section 2 of the Act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431). The Department of Interior, under the Clinton Administration, was overzealous in its efforts to have these sites designated as "National Monument" and spent very little time discussing its plans with the people of the Virgin Islands especially the fishermen who will be directly impacted by this Federal action.

There are two reasons why the above Proclamations should be repealed. First, as mentioned, the land designation was NOT Federal submerged lands and the Department of Interior has had neither ownership nor control over them since midnight February 2, 1975. Secondly the impact on local fishing rights will severely impact our marine fishing industry and our failing economy.

The history of ownership is clear. On October 5, 1974, Public Law 93–435 took affect and transferred all submerged lands in the Virgin Islands, Guam, and American Samoa to the respective territorial governments. It provided for the retention of certain lands and mineral rights by the United States Government and also clearly stated the President, by proclamation, would have one hundred and twenty (120) days after October 5, 1974, to reserve those submerged lands that he proclaims will be exempted from transfer to the territorial governments. Title 48, Section 1705 (b) states in pertinent part:

There are exceptions from the transfer made by subsection (a) hereof:

- All deposits of oil, gas and other minerals, but the term "minerals" should not include coral, sand and grave.
- All submerged lands designated by the President within one hundred and twenty days after October 5, 1972 (These 120 days ended on February 2, 1975)
- All submerged lands designated within the Virgin Islands National Park established by sections 398(c) and 398(d) of Title 16: and
- All submerged lands within thee Buck Islands Reed National Monument as described in Presidential Proclamation 3448 dated December 28, 1961.

There were only two proclamation issued under this section of PL 93–435 affecting the Virgin Islands. They are Proclamation NO. 4346, which added thirty (30) acres of submerged lands to the Buck Island Reed National Monument and Procla-

mation No. 4347, which reserved certain submerged lands off the west coast from St. Croix for use by the United States Navy.

President Gerald Fox signed these proclamations on February 1, 1975, just one (1) day prior to the expiration of the one hundred and twenty day period. There transfers were the only exceptions made to PL 93–435. Thereafter, all other submerged lands were transferred from the Department of Interior to the Government of the Virgin Islands. These 30,843 acres of submerged lands, which the Department of Interior, through presidential proclamation, has declared national monuments, are not Federal lands, but the property of the Government of the Virgin Islands.

Of great concern, is the impact on the marine fishing industry that is substantial. Numerous individuals from the fishing and boating communities have opposed these designations. The amount of acreage designated over compensated for the protection needed on the natural reefs in and around the existing national monument. Fishing experts have stated that the size of the areas will adversely impact the traditional use of those areas for alternating their fishing patterns. These are essential patterns that allow fishermen to fish in certain areas, while fish are breeding in other areas.

In conclusion, it is clear that we need to consult and get the important testimony from the V.I. Department of Natural Resources, local researchers and environmentalists of the marine industry on the economic impact these designations will have on the Virgin Islands.

In the past, meetings and hearings were held and many citizens of the Virgin Islands opposed these same designations. The Governor and Congresswoman publicly opposed the designation. At the meetings, the vast majority of the testifiers opposed, but yet the designation was still passed.

It is my wish that the people of the Virgin Island who will ultimately be affected be heard. Not only just to be heard, but take into consideration the recommendations and concerns of the people of the Virgin Islands. God Bless America, God Bless the Virgin Islands and God Bless us all.

Mr. RADANOVICH. We will now hear from Mr. Myron Jackson from the Department of Natural Resources before we open up the panel for questions. Mr. Jackson is speaking for the Honorable Dean Plaskett who's the Commissioner of the Department of Planning and Natural Resources, who will, as I understand, articulate or read Mr. Plaskett's statements, and Mr. Plaskett will be asked questions over on St. Croix at Monday morning's hearing.

STATEMENT OF MYRON JACKSON, DEPARTMENT OF NATURAL RESOURCES

Mr. JACKSON. Thank you very much.

Mr. RADANOVICH. Sure, Mr. Jackson.

Mr. JACKSON. Good morning, Honorable Representatives of Congress, and to all present or otherwise listening. My name is Myron Jackson. I am here on behalf of Commissioner Dean C. Plaskett, State Historic Preservation Officer from the Department of Planning and Natural Resources.

I've been invited here today to render testimony on behalf of the Government of the Virgin Islands with regard to the former President's creation of a national monument here in the United States Virgin Islands.

Pursuant to the Antiquities Act, the President of the United States has the authority to designate national monuments on land owned or controlled by the Government of the United States. However, because the Virgin Islands owns virtually all of the submerged lands that President Clinton designated as national monument lands, he did not have the authority to make such designations under the Antiquities Act.

Furthermore, President Clinton's proclamation regarding the Buck Island Reef National Monument breaches the contract between the Virgin Islands and the United States entered into in 1961.

In addition, the Department of Planning and Natural Resources, known as DPNR, and the Territory as a whole believe that President Clinton's proclamation also violated several other Federal statutes and the Constitution.

Time does not permit me to outline all of the key points as entered into the remarks by Commissioner Plaskett. However, I would like to bullet some of his key points.

A) President Clinton acted beyond the authority conferred by the Antiquities Act. Since June 8th, 1906 the Antiquities Act has authorized the President of the United States to declare by public proclamation objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments.

Thus, because the U.S. Government did not own the lands designated by President Clinton as national monument lands, President Clinton did not have the authority to designate such lands and such designation.

In 1974 Congress passed, and the President signed, the Territorial Submerged Land Act, TSLA, which provides, subject to valid, existing rights, all right, title and interest of the United States in lands permanently or periodically covered by tidal waters up to, but not above, the line of high tide, and seaward to a line three geographical miles distant from the coastlines of the territories of Guam, the Virgin Islands, and American Samoa are hereby conveyed to the Governments of Guam, the Virgin Islands, and American Samoa, as the case may be, to be administered in trust for the benefit of the people thereof.

Commissioner Plaskett also outlines in his paper:

Item B) President Clinton's expansion of Buck Island Reef National Monument breached the contract between the United States and the Territory, and constituted takings.

In 1936, the United States gave the Virgin Islands control, but not title, to Buck Island. He makes reference to 28 USCA, Subchapter 1405(c).

In 1961 the Governor of the Virgin Islands, as authorized by the Legislature of the Virgin Islands in an Act of December 5th, 1961, relinquished its control over Buck Island to facilitate the establishment and management of the Buck Island Reef National Monument.

In exchange for this relinquishment of control by the Virgin Islands, however, the United States agreed not to adopt any regulations restricting the existing fishing and recreational privileges of Virgin Islands inhabitants in and around Buck Island.

Moreover, when President Clinton designated the Virgin Islands Coral Reef National Monument and expanded the Buck Island Reef National Monument in January of 2001, he effectuated a taking of the fishing and boating rights of the residents of the Virgin Islands without just compensation.

Furthermore, to the extent that the President designated territorial, as opposed to Federal, lands as monument lands, the Territory views this as takings as well.

The Commissioner then goes on to outline procedural requirements for the Territory.

And for the foregoing reasons, DPNR and the Territory believe that President Clinton's proclamations designating the Virgin Islands Coral Reef National Monument and expanding the Buck Island Reef National Monument are invalid.

He then goes on to outline issues relating to the St. Croix East End Marine Management Plan and the key points of that and the Department's position in reference to the conservation and management of those cultural resources.

Commissioner Plaskett regrets that he was unable to be here this morning due to illness, and he hopes that he will have the opportunity to interact with you during hearings on St. Croix.

We thank you for the opportunity to offer these brief remarks.

Mr. RADANOVICH. Thank you very much, Mr. Jackson. Yes, indeed, we'll hear from Mr. Plaskett on Monday morning, and it will be in St. Croix.

Mr. RADANOVICH. I now, for questioning, turn my time over to Mrs. Christensen.

Mrs. CHRISTENSEN. Thank you, Mr. Chairman. I will be looking forward to asking Commissioner Plaskett some questions.

I just wanted to say for the record, that as we looked at and were briefed on how the determination of this ownership of the submerged lands was made by the previous administration, I, too, felt, and in consultation with the Congressional Research Service that there was adequate question about the ownership of those lands, and in my submission, in my request for the opinion from GAO—and we have to remember that GAO is not a final arbiter. They are looking at the facts, and they're just giving their opinion based on their looking at the issue.

But we also stated that we felt that the case had not been made that those were Federal lands in our request for their opinion.

I guess I would turn my first question to Senator Liburd. Again, thanks for doing us the honor of allowing us to use this facility even before you had a chance to use it. That's a real honor, and we appreciate it very much.

Have any of the inholdings been resolved in any instance?

Mr. LIBURD. To the best of my knowledge, there have been some discussions with a couple of them, but you know what happens, is that after many years of trying and not getting anywhere, some of the folks, some of them pass away. They move on from generation to generation, and it became— "So wait a minute. Well, what's going to happen? I'm not going to get anything done anyhow." So some people even gave up.

And that's the unfortunate thing that happened, that we have, as a government, as a people, allowed our people to be placed in that position.

And so, you know, what happens now is that some of the properties have gone from generation to generation, and their heirs, some of them were forced to go away. Some were forced to try to sell their property, et cetera, and that's the status of where we are.

But there has been some contact. I don't know exactly how far it has been but you know that the beating that they have taken over the years really has placed a burden on them.

And because they feel like we have meetings over and over. The Senate has—we don't have the authority to really make changes, and those who have the authority haven't done so.

Mrs. CHRISTENSEN. Senator Cole, you have a list of landowners here. Is that a full list of all of the landowners, to the best of your knowledge, or is this just a sample? As I count them, there's somewhere in the area of 25 of them.

Mr. COLE. Madam Congresswoman, yes, those are the ones that we were able to research, and the documentation here provides that these are the ones who were affected. And a lot of them don't have the resources to fight big brother, per se, but these are the—

Mrs. CHRISTENSEN. So we have to work it out on their behalf?

Mr. COLE. Definitely.

Mrs. CHRISTENSEN. Right. My staff was just reminding me that in our correspondence and our discussions with the Park Service this is one of the issues that we want to work with you to resolve as well. We've indicated that to them, and we've started some discussions with the Superintendent already.

Are the closed roads, Senator Liburd, that you refer to, are they usable now? Are they in usable condition, if they are open?

Mr. LIBURD. They are not. As a matter of fact, let me just say, Congresswoman Christensen, that the roads were closed for some time now, and recently, because of the storms and hurricane, they even got worse. If you go to the list of—the area, and that's over by Annaberg, you can't pass there anymore.

But prior to that, the place called Johnny Home which is by the Emmaus Moravian Church, there were some boulders placed in the middle of the road that no one could pass, and when you ask who put them there, well, nobody ever really knew, you know, but they just happened to just roll there and stay there for a while, you know, and this is the situation that we're facing.

Mrs. CHRISTENSEN. So if they had an—have you been in discussions with the Park Service—let me just follow up on the same question—asked about the sort of a compromise that you have suggested, one that you may have suggested, that—

Mr. LIBURD. Well,—

Mrs. CHRISTENSEN. —in the case of emergency,—

Mr. LIBURD. —yes.

Mrs. CHRISTENSEN. —if those roads would be open, they still would not be passable?

Mr. LIBURD. Well, to me, personally, and I want to say this, that, you know, we look at the environmental issues. And I, personally, I was one as a youngster growing up here, knowing that we could go out and fish and go all over the place. And I recall my father and I would set fish traps, and we would put them out in the morning like 6 o'clock and by 12 o'clock we can go and bring them back up full of fish.

You put them out now six o'clock, you probably have to go back six o'clock the next day to see if you find something, and you may find something.

I'm saying that that happened then. And so when the discussion came about protecting our environment and setting up these areas of concern for Fish & Wildlife, I agreed with that. I believe it's something that's appropriate that we should do.

In that vein I looked at our roads, and I said, you know, we can't have everything, but at least we need to have at least an access that can take us out from the Coral Bay area in the event of emergency because, like I said, if you are blocked off from over by Kingshill, and that area is blocked off to go to the North Shore, you cannot get out.

The Bordeaux Road which is a road that's very steep— as a matter of fact, Bordeaux Road is one of our worst roads that we have here on the island. And that area you can't pass, and so my suggestion to the Park, and I've discussed it with Mr. King and with other superintendents.

Mrs. CHRISTENSEN. Previous superintendents?

Mr. LIBURD. Oh, yeah, hundreds of them, I mean, you know. But, you know, I think it's beyond the Superintendent, you know, and that's why I see my good friend there shaking her head, the Director. We're going to work something out here.

But I'm saying that I think that what would be appropriate, if we can look at one of those roads, whichever one that's feasible that's not going to create that much environmental harm to the property, and open it up.

And I look at the Steven Mandahl area going to Fish Bay but not only it would open up for access, it would also provide an opportunity to see our parks. You know, that's another tour, a part of a tour that our taxi drivers can take.

They can go around the island, come around the other way, and so it's another part of an area of our tourism that they don't see, and they would not be able to see because they're all blocked off. And that's my compromise.

Mrs. CHRISTENSEN. I'll come back again but my time—my initial time is up.

Mr. RADANOVICH. OK. Well, we'll make sure all of the questions are asked.

Ms. McCollum.

Ms. MCCOLLUM. Thank you, Mr. Chair. I have a follow-up on the roads.

Interesting point that you bring up, sir, that if we had more roads that were accessible, more people could get around the Park. Who pays for maintaining the roads?

To get you to your private property, who pays? You know, let's say we get them opened up.

Mr. LIBURD. Yes.

Ms. MCCOLLUM. Who's going to pay for the maintenance?

Mr. LIBURD. Based on the Legislature's Act, it's a joint effort between the Government of the Virgin Islands and the National Park. While the roads are through the Park, the Government of the Virgin Islands will maintain, along with the joint agreement with the National Park.

So, it's not that the person or the private owner has to maintain the road.

The Government maintains those roads but the problem is that those were the same roads that were used to access the property of these private inholdings, and if they are not open they cannot access them.

Ms. MCCOLLUM. OK. Thank you for answering my question.

So your vision, if these roads are opened up, is that it would be the Virgin Islands and the Federal Government who would jointly pay for maintaining the roads?

Mr. LIBURD. Exactly.

Ms. MCCOLLUM. It just wouldn't be the Park Service in and of itself?

Mr. LIBURD. Right. Just like, right now, Honorable Betty McCollum, is that there are roads right through the Park right now as we speak, and it's a joint maintenance effort between the Park—in some place the Park takes a certain portion, and if the local Government works with them, then there's—there can be collaboration between us.

As a matter of fact, I have always said we can get along.

Ms. MCCOLLUM. Oh, I'm certainly feeling that in this room. I feel great optimism and hope in this room.

Mr. LIBURD. Very well. Thank you.

Ms. MCCOLLUM. As I'm reading through the testimony that is here today from the Commissioner, I'm going to go back and do a little more history here. Some of this dispute actually happened in 1975 when President Ford did some interpretation.

I have some letters here which are totally public and a copy of the statute about extending the protection of the land because it's adjacent to Federal land.

Do you—and maybe—and if this is an unfair question to you because of your length of service, I wish to—I don't—you know, I understand.

In 1975 did the Virgin Islands, when President Ford first started talking about his vision of making sure that the adjacent land—in fact, it was like, more like a buffer zone around some of the Federal lands—did the Virgin Islands at that time contact the National Park Service and say, whoa, wait a minute; we need to talk about this?

Has this been going on since 1975? Or has this just been brought to attention since President Clinton made his proclamation?

Mr. JACKSON. Honorable Betty McCollum, I reserve the right to allow those questions to be directed specifically to Commissioner Plaskett during the hearing on St. Croix.

However, I do think that Senate President Rocky Liburd can answer that question.

Ms. MCCOLLUM. You're on. Educate me. Mr. Liburd.

Mr. LIBURD. I was just listening to— Please just repeat again.

Ms. MCCOLLUM. In 1975 President Ford wanted to—he told the Park Service that they needed to extend out the boundaries, and so in 1975 the Federal Government started saying, you know, we are responsible out a little farther here because of some of the public laws that had been passed in 1994, which said "All submerged lands adjacent to property owned by the U.S. Government."

And then we have letters from the Department of Interior dated 1975 saying the Park Service would continue to have administra-

tion and responsibility for submerged lands adjacent to the Park land.

My question was—this is my first time in the Virgin Islands. I've only been in Congress for a year—

Have you been—since 1975 has the Virgin Islands been on top, being aggressive about this issue, or did it just recently come to light when President Clinton went forward?

Mr. LIBURD. Well, let me just say that the Virgin Islands over the years—and we have some advocates. One is in the back, former Senator Browne, who has been an advocate of submerged lands, and he has been in the forefront of this issue.

But in all honesty, a lot of the attention was brought about recently with the enactment of President Clinton.

But I want to—just to elaborate some more, and someone who's done much more extensive study than I have on it, refer to the Chairman of the Environmental Committee, Senator Cole.

Mr. COLE. Yes. Thank you, Mr. President.

A lot of the research is there, and it's in my written presentation to you. And Senator Browne, who has much more knowledge and understanding even than I have, will be testifying in St. Croix.

But as it pertains to that, the fact remains, the issue that we believe we're going to have to take to the courts, and I'm behind it 100 percent, is that every place in the Virgin Islands is next to Federal land.

Every place that's here in St. John, every other property is next to the land. So is this how the Federal Government is going to be utilizing this tool and its language to come back and say we want to protect everything that is next to the Federal land, and that is why we are definitely in a position, utilizing that logic and that thing in the law that if it's next to the land, we can come in and take it.

These lands were turned over to the Federal—to the local Government for operation. The Department of Planning and Natural Resources has put in place provisions. The Virgin Islands Legislature has passed laws to protect these lands, and we believe they were taken illegally.

And I don't adhere to the fact because they're next to that you have the right to do it. Not you, yourself, but the President, under the Antiquities Act, has the right to do that.

We have the authority to do it, and we are able to do it, and the whole entire Virgin Islands is next to Federal lands.

Ms. MCCOLLUM. Thank you, Mr. Chair.

Mr. RADANOVICH. Thank you very much.

I have a brief question. What happens when a hurricane hits? Do you go to high ground or do you leave the islands?

Mr. COLE. We pray.

Mr. RADANOVICH. Say what?

Mr. COLE. We pray.

Mr. RADANOVICH. You pray?

Mr. COLE. And you hide and, you know, it's really a—

Mr. RADANOVICH. Do you actually go to high ground? On occasion you would have to.

Mr. LIBURD. Well, you—there are a number of shelters. There's a number of shelters around, and you try to find probably one of

the most suitable areas but with a hurricane there's really no suitable area. You know, you never know.

And as Senator Cole just mentioned, you pray, and sometimes you go and hide, and, you know, it's a very traumatic experience.

Mr. RADANOVICH. But at the same time you do need roads to get around?

Mr. LIBURD. Oh, definitely. As a matter of fact, that's why, Mr. Chairman, I spoke about this road in Coral Bay. Because so often whenever there's a storm—well, it doesn't even have to be a hurricane. A strong rain, and a whole bunch of stuff washes in the road and blocks off the roads, you know, because of the terrain it is.

And so during a hurricane it's even worse than that. And like I said, folks over on that end, and it's a fast developing area, will be blocked off. You know, there's no if's, and's, or but's, and don't talk about going around in boats. You can't get around in the water.

Mr. RADANOVICH. I guess that doesn't work.

Mr. LIBURD. No, it doesn't work. So that's the concern I have, and I believe, Mr. Chairman, that we can come to a compromise. It's not a big deal to me if we are serious about our people, and if we want to do what is right on their behalf.

[Senator Lorraine Berry now present.]

Mr. LIBURD. And I ask you, again, on behalf of all of—as a matter of fact, let me just welcome you on behalf of all of our members of the Legislature, and just Senator Berry, who is one of our colleagues who just joined us here, along with Senator Cole.

And I say that, from time to time we want to be able to have a much better relationship with your Committee as it pertains to these issues.

And like Congresswoman McCollum said, she's feeling the vibes already. I just want the vibes to translate into some relief. Then we'd be all right.

Mr. RADANOVICH. Well, I think Mrs. Christensen's getting us here is a real—

Mr. LIBURD. That's a beginning. It's a good start.

Mrs. CHRISTENSEN. A start.

Mr. RADANOVICH. Before I turn my time over to Mrs. Christensen I want to recognize Senator Lorraine Berry who has joined us as well. Welcome, Senator. We're happy to have you here.

Donna?

Mrs. CHRISTENSEN. Well, thanks.

Welcome, Senator Berry.

Two short questions. The first one I would ask to Senator Cole, because you did mention the issue of the taxi drivers, and we're going to get to that, again, hopefully in the next panel.

What would you like to see happen with regard to the taxi drivers who do business in terms of tours within the Park? I'm not talking about the taxi drivers who do pickups and drop-offs, who have no fee, and for whom some lookout points have been offered without a fee.

But for those who are doing actual business, a concession business within the Park, what would you like to see the outcome be?

Mr. COLE. I would basically want to see that the taxi drivers, those who make a living doing it, that at a minimum, whatever fee is charged has to be minuscule because they have other expenses

that they have to take care of. They have insurance for their vehicles. They have to maintain those vehicles, and they're engaging in business.

Whatever impact is placed upon the Park itself, that anything that is minuscule, but not something that is overbearing that is going to cut into the revenues that they are going to get from this because the people who come in here, they come here basically to see the Park. The land tours are set up to do that, and I believe that anything minuscule to take care of whatever they're going to do in the Park should be done, but not overburden them.

Mrs. CHRISTENSEN. So you understand that if they're picking up and dropping off there's no fee?

Mr. COLE. Definitely.

Mrs. CHRISTENSEN. Not that there is—

Mr. COLE. There shouldn't be any fee for picking up and dropping off.

Mrs. CHRISTENSEN. There is none.

Mr. COLE. Right. And none should be imposed. There shouldn't be any fee for them going in, going doing that. None should be imposed. They are conducting a business, and the Park takes care of that.

Mrs. CHRISTENSEN. Right.

And, Senator Liburd, one last question for you. From your knowledge, having grown up here, lived here, and your knowledge of where this proposed monument is supposed to be, is that an area that is heavily utilized or well utilized by commercial fishermen?

Mr. LIBURD. Oh, yes. Let me say this, that that places the fishermen in a precarious position. Because what has happened is that all of the areas, the majority of the areas where they are accustomed to using, are now going to be placed under this jurisdiction.

You have to remember that St. John and the Territory is a very small area. The range, the three-mile range is just right around—you know, it's just right out there, and it falls within a lot of the major stomping grounds for our fishermen.

And that's one of the concerns that they have, and I don't think that was even taken into consideration.

And so I agree that we ought to look at how we're going to develop a plan, and I believe that the fishermen are ready to work with that plan but there has to be some give and take. It can't be all one way and forget about them, and that's the concern that I see has been happening.

And just to piggyback, Congresswoman, on the taxi situation, you know one of the big issues around here that has been like a mind-boggling situation for us is that we grew up going to Trunk Bay and going to all of the beaches free.

Mrs. CHRISTENSEN. Absolutely.

Mr. LIBURD. You could just go there anytime. You didn't have to pay a dollar, and so when the changes came forward where there was a fee charged for it, it created some kind of feeling that you just don't experience until you have lived it. You know, and it's difficult.

As a matter of fact, sometimes a lot of our local folks don't even go there, and I personally believe that we shouldn't be paying.

Mrs. CHRISTENSEN. Right.

Mr. LIBURD. I understand how, with the situation and what has happened with the Park. But I believe that you're here, and the free beach actually wipes it out as far as I'm concerned because of the charging of a fee.

Mrs. CHRISTENSEN. Absolutely.

Mr. LIBURD. And I think that maybe you guys need to revisit that sometime.

Mrs. CHRISTENSEN. That's why I asked the question to Director Mainella because we are trying to address it. We've been addressing it, and we started with the Superintendent. We went to the Regional Director. We're now at her level.

Mr. LIBURD. Good. Because—and if it comes out that—you know, I know that everything has a cost to it, but if it comes out that we have to pay, then some of that should go back to try to help this community develop this infrastructure because it's part of here.

Yes, the Park has some but I believe that there should be some compromise where a portion of that should be coming directly to this community for some development, infrastructure or something here, and so that there wouldn't be that great concern about it because at least we're helping out each other.

And I think that somewhere along the line we're going to have to look at that issue in that respect because it's difficult to know as a youngster you could just drive to the beach, and then tomorrow you go, hey, you got to take out some money and pay.

I mean, you know, hey, that was one of the things that we were noted for, our beautiful beaches free.

And they use it against us to campaign, those in advertisement. The Virgin Islands, you got to pay to go to the beach. Come to our island. It's free. You know what I'm saying?

So it's a large repercussion beyond just what we see here.

Mrs. CHRISTENSEN. Thank you.

Mr. RADANOVICH. Thank you very much. Any further questions?

Mrs. CHRISTENSEN. I think that that clarifies a lot for me. Yes, it does.

Mr. RADANOVICH. OK, great. Thank you very much, Gentlemen.

Senators Liburd and Cole, please join us. There are chairs that are available right here.

And, again, Mr. Jackson, thank you.

And we'll move on to our third panel. Mr. James Penn, St. John, independent taxi driver; Ms. Lorelei Monsanto, landowner; and Ms. Alicia Wells, landowner as well.

Mrs. CHRISTENSEN. Does Mr. Randolph Thomas belong to the other panel?

Mr. RADANOVICH. Is Mr. Randolph Thomas here?

Mr. THOMAS. Yes, I'm here but I'm not going to testify.

Mrs. CHRISTENSEN. I would say to you, though, Mr. Chair, that even though Ms. Monsanto is going to testify primarily on the landowner issue, she's very familiar with the taxi issue, and you could probably ask her, if she would be willing to—

Ms. MONSANTO. I would also like to ask that the attorney for the Taxi Division, Mr. Vincent Colianni, if he could join me at the table.

Mrs. CHRISTENSEN. What is the response?

Mr. RADANOVICH. If there is room. Is there a Mr. James Penn or a Ms. Alicia Wells here today?

Mrs. CHRISTENSEN. No.

Mr. RADANOVICH. OK. Then I'm going to go ahead and call the members of the panel forward as well. Mr. Joe Kessler, President of the Friends of Virgin Islands National Park; Ms. Carla Joseph, President of St. Thomas-St. John Environmental Association; and Mr. Dave Berry, as the fisherman.

Mrs. CHRISTENSEN. Mr. Berry is here. He may have stepped out for a minute so—

Mr. RADANOVICH. OK.

Mrs. CHRISTENSEN. —when he comes in we'll bring him up here.

Mr. RADANOVICH. How about Carla Joseph? Is she here today?

Mrs. CHRISTENSEN. No.

Is there a chair for Mr. Colianni?

Ms. MONSANTO. Yes.

Mr. COLIANNI. Thank you.

Mr. RADANOVICH. Sure.

Good morning. Thank you very much for being here.

Ms. Monsanto, if you would begin, please, we'd appreciate it, and, again, everybody is aware that we're in the 5-minute rule. We'll hear from every member of the panel, and then open it up for questions from members here.

Welcome to the Committee.

STATEMENT OF LORELEI MONSANTO, ST. JOHN TOUR OPERATOR

Ms. MONSANTO. Thank you. Good day. Good day to the Congressional Committee, Delegate to Congress, and distinguished guests.

I would like to begin with the acknowledgment that I am pro the National Park Service. However, St. John needs to be managed by the Park effectively. Through the Regional Office, not various outside forces, namely the Friends of the National Park.

Presently the Friends of the National Park appears to be the major force behind the Virgin Islands National Park Service operations.

The Friends of the National Park, along with former Superintendent Russ Berry, developed a commercial service plan as it pertains to the Virgin Islands. The planner, a gentleman by the name of Jim Owen, was on the Friends' payroll and on the National Park's payroll. This appears to be a conflict of interest.

Does the National Park not have plans of its own?

The degree of apparent power or control with which the Friends of the Park operate, has left the community of St. John at a loss. The popular opinion is that the Friends manages the National Park System with their own special interests.

The NPS of the Virgin Islands is unlike any other park system under the United States flag. We have an Organic Act which grants us certain rights. It would have been appreciated—

Mr. RADANOVICH. I hate to interrupt you but you have to pretend like you're going to eat that thing in order for people to hear you up there, unfortunately.

Ms. MONSANTO. It would have been appreciated if the local law of the Organic Act was intertwined within the commercial service

plan. The commercial service plan is premised with the terminology of a user fee, not an entrance fee. However, the program would support an entrance fee.

Recently the NPS website has been updated to request that a holder of a Golden Age membership card can enter the Virgin Islands National Park for half price. Why is a fee of half price given if it's not an entrance fee?

Many Golden Age members were told previously that his or her card was not accepted in the Virgin Islands. I am sure that several of these members have voiced their outrage to Members of Congress.

Since the inception of this temporary commercial program in the Virgin Islands, monies have accumulated from this venture.

Have any audits been conducted on the appropriation of these funds?

The National Park boasts that it welcomed a million plus visitors into our system. So in my calculation of $4 a person, that figure should reflect $4 million.

Please note the current National Park website states that approximately 700,000 visitors came into the Park for the Year 2001. That figure reflects a $2 million-plus intake.

The current Superintendent states only 750,000 has been collected since the program's installation.

It is my understanding that revenues are collected—that monies collected are to be used for maintenance. Are the revenues from this program used for maintenance in the Virgin Islands or elsewhere?

These figures reflect a huge profit margin. I have several issues as it pertains to the U.S. Virgin Islands and the United States—and the National Park Service: Roads, land, employment, profitability, culture, quality of life, and the water Monument, just to name a few.

It has been said the pen is mightier than the sword. I wrote the Secretary of Interior in November of 2001, expressing then, and still expressing, that this pot is filling, till they look to the policy they themselves agreed to. It is quite apparent that nothing happens in this Territory unless the natives get restless.

I am also an indigenous person to these islands. They are the only home I know, and I vow to fight and protect my home.

To date, the National Park Service of the Virgin Islands has commandeered roads, landlocked individuals, and has blatantly disrespected residents of the Virgin Islands. The NPS has erected gates which keep the residents from fully accessing their land.

They have gone as far as to invoke a so-called user fee on public roadways. However, this issue will be addressed in Federal court in August.

In the 40 years since the National Park Service took over management, they have failed to train the local populace for management positions within the NPS system. It is highly inconceivable that no one has the education or promise for upward mobility.

According to the National Park mandate, Title 16, Subsection B, the Secretary is authorized and directed, to the maximum extent feasible, to employ and train residents of the Virgin Islands to develop, maintain, and administer the Virgin Islands National Park.

When will this happen?

The Department of Interior, as well as the residents of the Virgin Islands, has not made the National Park accountable. As we all know, there are several concerns and major issues that surround us in the National Park system of the V.I.

However, I would like to offer some solutions to the Committee to consider. One, the NPS needs to demonstrate to Congress and residents alike where their true boundaries are. This would eliminate what has been misconstrued as thievery of residents' lands.

The NPS needs to immediately train their local workforce for upward mobility. The constant influx of outside management negates the importance of the community surrounding them.

They also need to promote a friendly environment with residents. Currently it is hostile.

Meetings should be held in strategic locations. Example: The Legislature Building that we're currently in, for issues that deal about St. John.

Also, a percentage of local residents' participation should be required before change is implemented, "local" meaning one who is domiciled in the Virgin Islands.

The National Park needs to itself become part of the solution. They isolate themselves from the community, and more interaction is needed.

The Virgin Islands also has to shoulder some of this responsibility. We, the people, demand accountability by our Delegate to Congress, and Congress, to implement change.

In conclusion, it may be time for a change of management. There might be another agency that could manage this area. In the 40 years the National Park system has failed, so let's consider other alternatives, or let's work to get the National Park system back on track for the betterment of all of us.

I welcome any of your questions. Thank you.

Mr. RADANOVICH. Thank you very much, Ms. Monsanto.

[The prepared statement of Ms. Monsanto follows:]

Statement of Lorelei Monsanto, Landowner, U.S. Virgin Islands

Good Day to the Congressional Committee, Delegate to Congress and distinguished guest. I would like to begin with the acknowledgment than I am pro National Park Service however St. John needs to be managed by the park effectively through the Regional Office not various outside forces, namely the Friends of the National Park. Presently the Friends of the National park appear to be the major force behind the Virgin Islands National Park Service's operations.

The Friends of the National Park, along with the former Superintendent Russ Berry, developed the Commercial Service plan as it pertains to the Virgin Islands. The Planner a gentleman by the name of Jim Owen, was on the Friends payroll and not the National Park's payroll. This appears to be a conflict of interest. Does the National Park not have planners of its own? The degree of apparent power/control with which the Friends of the Park operate has left the Community of St. John at a lost. The popular opinion is that the Friends Manage the NPS with there own special interests.

The National Park of the Virgin Islands is unlike any other park system under the United States Flag. We have an Organic Act, which grants us certain rights. It would have been appreciated if local law (Organic Act) were intertwined with this new Commercial Service Plan.

The Commercial Service Plan is premised with a terminology of a usage fee not an entrance fee. However the verbiage supports an entrance fee. Recently the NPS web site has been updated to reflect that a holder of the Golden Age Membership card can enter the Virgin Islands National Park for ° price. Why is a fee of ° price

given if it is not an entrance fee? Many Golden Age members were told previously that his/her card was not accepted in the Virgin Islands. I am sure that several on these members have voiced their outrage to member of Congress.

Since the inception of this temporary commercial program in the Virgin Islands monies have accumulated from this venture. Has any audits been conducted on the appropriation of these funds. The National Park boasts they welcome a million plus visitors into our system, so at four ($4.00) dollars per person the figures should reflect about Four Million Dollars. Please note that the current NPS web page states that approximately Seven Hundred thousand visitors came into the park for the year 2001. That figure reflects an approximate fee intake of Two Million Dollars Plus. The Current Superintendent states only $750,000.00 has been collected each year since the program's installation. It is my understanding the revenues collected are to be used for maintenance. Are the revenues from this program used for maintenance in the Virgin Islands or elsewhere? These figures reflect a huge profit margin.

I have several issues as it pertains to the United States Virgin Islands and the National Park Service Roads, Lands, Employment, Profitability, Culture, Quality of Life, the Water Monument just to name a few.

As had been said, "the pen is mightier than the sword," I wrote the Secretary of Interior in November of 2001 expressing then, and still expressing that this park is failing to live up to the policy they themselves agreed to (exhibit Title 16–Conservation page 220–223). It is quite apparent that nothing happens in this territory unless the natives get restless. I am an indigenous person to these islands. They are the only home I know and I vow to fight and protect my home.

To date the National Park Service of the Virgin Islands has commandeered roads, land locked individuals and has blatantly disrespected residents of the Virgin Islands. The NPS has erected gates (laesperance exhibit picture), which keeps the residents from freely accessing their land. They have gone as far as to evoke a so-called user fee on public roadways however this issue will be addressed in the Federal Court in August.

In the forty plus years, since the National Park took over management they have failed to the train the local populous for management positions within the NPS system. It is highly inconceivable that no one has the education or promise for upward mobility. According to the National Park's mandate Title 16 subsection b "The Secretary is authorized and directed to the maximum extent feasible to employ and train residents of the Virgin Islands to Develop, Maintain and Administer the Virgin Islands National Park". When will this happen? The Dept of Interior as well as the residents of the Virgin Islands has not made the National Park accountable.

As we all know there are several concerns and major issues that surround us in the National Park System of the Virgin Islands. However, I would like to offer some solutions for this Committee to consider.

1. The NPS needs to demonstrate to Congress and Residents alike where their true boundaries are. This would eliminate what has been misconstrued as thievery of residents' land.

2. The NPS needs to immediately train their local work force for upward mobility. The constant influx of outside Management negates the importance of the community surrounding them.

3. Promote a friendly environment with the residents. Currently it is quite hostile. Meeting should be held in strategic location (e.g. Legislature Bldg.), for issues that deal about St. John. Also, a percentage of local resident participation should be required before change is implemented. (Local mean one who is domiciled in the Virgin Islands.)

4. The NPS needs to sincerely become part of the solution. They isolate themselves from the Community and more interaction is needed.

5. The Virgin Islands also has to shoulder some of the responsibly. We the people demand accountability by our Delegate to Congress and Congress to implement change.

In conclusion it maybe time for a change of management. There may be another agency that can manage this area. In forty years the NPS has failed, so lets consider other alternative or work to get the NPS back on track for the betterment of us all.

I welcome any questions that the Committee may like to address at this time.

Mr. RADANOVICH. Next is Mr. Joe Kessler, who's President of the Friends of Virgin Islands National Park.

Joe, welcome to the Committee.

Mr. KESSLER. Thank you very much.

Mr. RADANOVICH. Please begin your testimony. And you really have to speak into that mike.

Mr. KESSLER. I'll try my best.

Mr. RADANOVICH. There you go.

STATEMENT OF JOSEPH KESSLER, PRESIDENT, FRIENDS OF VIRGIN ISLANDS NATIONAL PARK

Mr. KESSLER. The Friends of Virgin Islands National Park welcome the Honorable Members of this Subcommittee—

Mr. RADANOVICH. You need to get closer.

Mr. KESSLER. —Subcommittee to St. John. Your visit honors our islands and it honors our Park.

As President of the Friends of Virgin Islands National Park, I'm before you representing 3,121 members of this organization. About 20 percent of our members are from the Virgin Islands, and we are proud to have members hailing from all 50 states plus ten foreign countries.

Members of the Friends are bound together by our love for Virgin Islands National Park, our commitment to the preservation and protection of the cultural and natural resources of the Park, and our appreciation for what the Park means to St. John and the Virgin Islands.

Our appreciation is based on the conviction—

Mr. RADANOVICH. Excuse me, Joe, but—can you hear in the back?

AUDIENCE. No.

Mr. RADANOVICH. You really—Joe, it's almost like you have to eat it.

Mr. KESSLER. Is that better?

Mr. RADANOVICH. There you go. But you have to stay there.

Mr. KESSLER. Members of the Friends are bound together by our love for Virgin Islands National Park, our commitment to the preservation and protection of the cultural and natural resources of the Park, and our appreciation of what the Park means to St. John and the Virgin Islands.

Our appreciation is based on the conviction that it's because of the Virgin Islands National Park that St. John is a world-class tourist destination, that St. John is a unique and safe place to live, and that St. John enjoys considerable prosperity.

St. John is prosperous in the context of the Virgin Islands and prosperous in the context of the Caribbean. St. John has one of the highest per capita incomes in the Caribbean, one of the highest rates of private homeownership in the Caribbean, and just about anyone on St. John who wants a job can find one. And we could witness hundreds of people who arrive every morning from St. Thomas to work here.

However, is everything perfect and is everyone happy about the Park? We've heard lots of testimony and lots of comments that that's clearly not the case.

There are, using a local euphemism, issues that need to be addressed, and you heard about many of them, the issues of inholding, commercial services, a new educational complex, provisions related to the Coral Reef National Monument, and in a more

general sense, the Park's relationship with the community with which it is so inextricably entwined.

We see some of these issues date back to when the Park was created, and some are of much more recent vintage. The Friends strongly commend Virgin Islands National Park leadership for their willingness to address these issues and for the professionalism and openness with which they have entered into discussions and sought to find solutions.

We believe that instead of our differences that it should be the strengths and opportunities of Virgin Islands National Park that form the basis for searching for solutions. We urge all parties, the Park, the Territorial Government, and the groups or individuals with grievances to be creative and flexible in finding solutions to these problems.

The Friends stand ready to assist in any way that we can. However, we must all be cognizant of the fact that the National Park Service is legally mandated to preserve unimpaired the natural and cultural resources and values of the National Park system, in this case, the Virgin Islands National Park and Virgin Islands Coral Reef National Monument, for the enjoyment, education and inspiration of this and future generations.

This will be, as it rightly should, the foundation upon which the Park will stand in discussions.

The Friends would also like to take this opportunity to express our strong support for the immediate implementation of the provisions of the Presidential proclamation that established Coral Reef National Monument. The monument, as we've heard, was proclaimed more than a year and a half ago yet its implementation and protection has languished.

The Friends has been and continues to be an ardent supporter of the Monument. We are convinced that the effective management of the Monument is the best solution to stop the decline in the marine ecosystems around St. John. These are precious resources that are deteriorating at alarming rates.

The need for protection and management is urgent. With the marine reserve in place and enforced, the underwater resources will be given a chance to restore themselves and then flourish.

Research in other marine reserves is overwhelmingly conclusive, and demonstrating that fish size, diversity, and overall population will increase within the protected area, and then spread to adjoining waters.

Virgin Islands residents will reap the substantial long-term benefits, not the least of which will be economic, of a fully functional V.I. Tropical marine system.

To put the Monument in context, the submerged lands of the Monument represent only 2 percent of the entire submerged lands in the Virgin Islands. And so it is a very small area.

And we believe that there should be no further delay by the National Park Service. At a minimum, internal regulations should be published and implemented as soon as possible.

We need this Monument protected and managed now to be sure that resources will be there for the future. Otherwise, we will witness increasingly barren reefs and increasingly empty fish pots.

As noted above, the Friends is a staunch supporter of the Monument. However, we do recognize that implementation of no-anchoring and no-take provisions will create certain hardships for traditional users of monument waters.

In partnership with the Park the Friends is implementing several mooring projects that will help mitigate some of these hardships. We called on the Federal Government and the Territorial Government to recognize what other hardships there are and consider measures to alleviate them.

We believe that the need to implement the fully protected marine reserve in the Monument is an issue of national importance. In March hundreds of our members and members of the St. John business community wrote to Director Mainella, urging immediate action.

I invite the members of this Subcommittee to join our members and use your good offices to encourage Secretary Norton and Director Mainella to begin the protection and management of this unique Monument now.

I thank you for the opportunity to testify before you today. On behalf of the members of the Friends of the Virgin Islands National Park, we greatly appreciate your commitment to Virgin Islands National Park and the Coral Reef National Monument.

Your visit to the Virgin Islands and holding these hearings onsite is a clear demonstration of this commitment, one that is shared by all Friends of Virgin Islands National Parks.

Thank you.

Mr. RADANOVICH. Thank you very much, Mr. Kessler.

[The prepared statement of Mr. Kessler follows:]

Statement of Joe Kessler, President,
Friends of Virgin Islands National Park

The Friends of Virgin Islands National Park welcomes the honorable members of the United States House of Representatives Subcommittee on National Parks, Recreation and Public Lands to St. John. We are greatly encouraged by your visit and the importance that these oversight hearings convey on Virgin Islands National Park and Virgin Islands Coral Reef National Monument.

As President of the Friends of Virgin Islands National Park I stand before you representing the 3,121 members of this organization. About 20% of our members are from the Virgin Islands and we are also proud to have members hailing from all 50 states, as well as ten foreign countries. Members of the Friends are bound together by our love for Virgin Islands National Park, our commitment to the preservation and protection of the natural and cultural resources of the Park and our appreciation of what the Park means for St. John and all of the Virgin Islands.

Our appreciation is based on the conviction that it is because of VI National Park that St. John is a world class tourist destination, that St. John is a unique and safe place to live, and that St. John enjoys considerable prosperity. St. John is a prosperous little island. Prosperous in the context of the Virgin Islands and prosperous in the context of the Caribbean:

- St. John has one of the highest per capita incomes in the Caribbean;
- St. John has probably the highest rate of private home ownership in the Caribbean; and,
- Just about anyone on St. John who wants a job can find one particularly in the hospitality industry, with retail businesses or in the building trades. Just witness the hundreds of people who arrive every morning from St. Thomas to work here.

We really have the Park to thank for this it is what makes St. John so special!

However, is everything perfect, and is everyone happy about the Park? Of course not; there are, to use the local euphemism, "issues" that need to be addressed. There are issues concerning:

- Private in-holdings within Park boundaries

- Regulation of commercial services in the Park
- Control of feral animals and invasive species
- Public nudity on Park beaches
- A site for a new education complex
- The no-anchoring and no-take provisions within the Coral Reef National Monument
- And, in a more general sense, the Park's relationship with the community with which it is so inextricably entwined

Some of these "issues" date back to when the Park was created and some are of more recent vintage.

The Friends strongly commend VI National Park leadership for their willingness to address these issues and for the professionalism and openness with which they have entered into discussions and sought to find solutions.

We believe that instead of our differences, that it should be the strengths and opportunities of VI National Park that form the basis for searching for solutions. We urge all parties: the Park, the Territorial Government, and the groups or individuals with grievances to be creative and flexible in finding solutions to these issues. The Friends stand ready to assist in any way that we can.

However, we all must all be cognizant of the fact that that the NPS is legally mandated to: "preserve unimpaired the natural and cultural resources and values of the national park system [in this case, Virgin Islands National Park and Virgin Islands Coral Reef National Monument] for the enjoyment, education and inspiration of this and future generations". This will be, as it rightly should, the foundation upon which the Park will stand in discussions.

The Friends would also like to take this opportunity to express our strong support for the immediate implementation of the provisions of the Presidential Proclamation that established the Virgin Islands Coral Reef National Monument. The Monument was proclaimed more than a year and a half ago, yet its implementation and protection has languished.

The Friends has been, and continues to be, an ardent supporter of the Monument. We are convinced that the effective management of the Monument is the best solution to stop the decline of the marine ecosystems around St. John. We have tropical marine ecosystems that are some of the most diverse and biologically complex on earth. These precious resources are deteriorating at alarming rates the need for protection and management is urgent.

With a marine reserve in place and enforced, the underwater resources will be given a chance to restore themselves and then flourish. Research in other marine reserves is overwhelmingly conclusive in demonstrating that fish size, diversity and overall population will increase within the protected area and then spread to adjoining waters. Virgin Islands residents will reap the substantial long-term benefits, not the least of which will be economic, of a fully functional VI tropical marine ecosystem.

We believe that there should be no further delay by the National Park Service. At a minimum, interim regulations should be published and implemented as soon as possible. We need this Monument protected and managed now to be sure the resources will be here for the future. Otherwise we will witness increasingly barren reefs and increasingly empty fish pots.

As noted above, the Friends is a staunch supporter of the Monument. However, we do recognize that the implementation of the no-anchoring and no-take provisions will create certain hardships for traditional users of the Monument's waters. In partnership with the Park, the Friends is implementing several mooring projects that will help mitigate some of these hardships. Specifically we will be installing a storm mooring system in Hurricane Hole that will allow the continued use of these bays as a storm refuge while respecting these provisions. In addition we will be installing moorings to facilitate fishing for blue runner and moorings at popular dive sites. Again, these will allow traditional uses to continue while respecting the provisions of the monument. We call on the Federal Government and the territorial government to recognize the other hardships and consider measures to alleviate them.

We believe that the need to implement the fully protected marine reserves in the Monument is an issue of national importance. In March, hundreds of our members and members of the St. John business community wrote to Director Mainella urging immediate action. I invite the members of this Subcommittee to join with our members and use your good offices to encourage Secretary Norton and Director Mainella to begin the protection and management of this unique Monument NOW.

Lastly, the Friends of Virgin Islands National Park has joined a coalition of more than a hundred other environmental, community, business and trade organizations representing millions of Americans, called Americans for National Parks. This coali-

tion is working to encourage Congress and the Administration to address the full needs of the National Park System. I am sure that you are well aware of this campaign and I trust that you are strong supporters.

The impact of the significant shortfall in funding of operations for VI National Park is representative of the threat to national parks nationwide. Based on data from the business plan developed for VI National Park last year, the Park has a 31% budget shortfall in basic operations. This is the overall shortage and the situation for certain critical areas is much worse. For example, "Resource Protection" has a shortfall of 46%, and "Visitor Experience and Enjoyment" has a shortfall of 37%.

I encourage you to take the opportunity of your visit to discuss this issue with VI National Park staff to fully understand the implications of this shortfall for the Park and for the million plus Americans that visit this Park annually. Hopefully this on-the-ground experience will further strengthen your support of this campaign and provide you with first-hand knowledge and examples to help you convince your colleagues to provide VI National Park, and all national parks, with the funding they desperately need.

I thank you for the opportunity to testify before you today. On behalf of the members of the Friends we greatly appreciate your commitment to Virgin Islands National Park and Virgin Islands Coral Reef National Monument. Your visit to the Virgin Islands and holding these oversight hearings on-site is a clear demonstration of this commitment one that is shared by all Friends of Virgin Islands National Park.

Mr. RADANOVICH. Mr. Dave Berry, welcome to the Committee, and, again, I really need you to keep—stay close to that mike, because—and, again, if somebody can't hear in the back, if you just raise your hand I'll make sure that you do. That way we'll make sure that you'll be able to hear everything that goes on.

So, Mr. Berry, welcome. I may interrupt you to tell you to speak louder or more directly into the mike but other than that, the time is all yours.

STATEMENT OF DAVID BERRY, FISHERMAN

Mr. BERRY. Thank you very much, Representatives, Committee on Resources, the Congress Lady, Senators, and the general public.

I have one little correction to make in my paper. In the section where it says "charter boat" it was supposed to be saying "longline fishing boats." My apologies for the mistake.

Good morning. The closure of the Coral Reef Monument and the Buck Island Monument was not only sudden, but it did not take into consideration the impact closing would have on the people who use the area. I feel that the decision to take—excuse me—

Mr. RADANOVICH. Dave, would you rather just speak because you don't have to read—you don't have to do your—you know, that's already part of the record, so if you just want to tell us your story, and don't worry about that, you're welcome to do that but it's your choice.

Mr. BERRY. OK. Please. I have a bad eye problem especially with—

Mr. RADANOVICH. Sure.

Mr. BERRY. Anyhow, by coming and just closing the area suddenly, it has a drastic effect on us.

It happened before in the British Virgin Islands where they draft up a treaty between longliners and the United States and Great Britain, and when they closed it we find ourselves in the British Virgin Islands water, fishing, and end up being taken to prison.

It wasn't a good feeling to find yourself in jail caught between a treaty between two countries and no negotiation between our is-

lands, which is the British Virgin Islands and the Virgin Islands share very close ties.

It took us a year and a half to get out of that system in the British Virgin Islands. We ended up pleading guilty and setting a precedent for the treaty against us, the fishermen in the Virgin Islands.

So when the National Park comes here and—came here and decided not—the Presidential Coral Reef Monument came here and decided they're closing off X amount of waters, it drastically has an impact on us socially, physically, mentally, everything. Because we end up being thrown aside again.

The area, this is a fishery.

The biggest problem in the fishery in all of the regulations is that they're using juvenile fish as the breeding stock. And I'm going to give you a good example. There is no livestock farmers worldwide using juvenile animals as a breeding stock.

So here it is we use all juvenile fish as a breeding stock, depleting the fishery. And going around and saying the fishermen deplete the fishery. They are right they deplete the fishery but we follow regulations, and the regulations call for leaving juveniles as a breeding stock.

And if you have to go to the wild, to the Great Plains of Africa and the tundra in Canada, you will see the big herds of animals really is a big herd of adults, not juveniles.

Just think about what would happen if it was all juveniles in those big herds going to livestock farmers. All those big herds are all adults, not juveniles.

So here we are managing a fishery with all juveniles, and I'm seeing a lot of national fisheries groups coming out against fishing, and closing and banning and everything, and the problem is not fishing and fishery. It's the regulations, the regulation calling for juvenile fish to be the breeding stock.

If the National Park really want to cooperate with the Virgin Islands fishermen, they would have called meetings with the fishermen and cooperate.

What I mean by cooperating, they'd have asked us to be part of the system of restocking the closed areas. What restocking closed areas would have do, automatically it would not take 50 years or 70 years to build back a stock. It wouldn't have take—it would have take within 3 years, and then they would have had the fishermen feeling proud that we know there's a stock of groupers, snappers, lobsters out there that's building up, and eventually will be coming out in the area that we fish.

The main point is that there is like five other agencies trying to close out areas in St. Thomas. There's Planning and Natural Resources, Caribbean Fishery, Fish & Wildlife—there's a number of agencies, and all of them are closing, and using the term depletion of fisheries, and they throw the fishermen out.

The world ban prohibits the use for commercial fishing all around. Example: As in St. Croix they're going to close off the whole eastern end of St. Croix but they're not telling you the tip that—they're not showing a reef further outside the three miles is already closed by Caribbean Fishery.

Would it be too hard to cooperate with the fishermen to restock areas out there with fish, and say within 5 years' time the areas we're fishing now would be functional and more fish to harvest?

Food is one of the most important weapons or strength of a country. We already have a severe problem with agriculture and fishing here that we don't provide any type of infrastructure to support fishing or farming.

Example about fishing. For us to anchor a fishing boat in a marina for 20 years—most fishermen own the boats—it would cost approximately a hundred thousand dollars, or $30,000 to fish. If you have 20 boats anchored at the marina, just figure how many fish you have to catch just to pay the marina bill. There's no support for infrastructure.

Right now in the Caribbean the Japanese are dominating five main Caribbean islands, securing the harvesting of fish worldwide.

Not to be mean, but the United States also allowed the Japanese to train off the coast of Hawaii, the U.S. Hawaiian Islands. There was an accident with a submarine and the large training vessels.

The Japanese right now have power to harvest whales using Caribbean boats against sanctuary for whales and everything dealing with the whales. And they're setting up an infrastructure in all of the Caribbean islands.

And here we sit under the United States, and we have no infrastructure. And I think we need super support for the industry called farming and fishing in the Virgin Islands because there's a budget. And money is being spent directly to these agencies and departments involved in farming and fishing.

And that's all I do for a living. I have a wife and four kids. I'm a descendant of four generations from the Virgin Islands and the Caribbean, and I believe in supplying my country with food.

Thank you.

Mr. RADANOVICH. Thank you very much, Mr. Berry.

[The prepared statement of Mr. Berry follows:]

Statement of David Berry, Fisherman

The closing of the Coral Reef Monument and the Buck Island Reef Monument was not only sudden, but it did not take into consideration the impact the closing would have on the people who use these areas. I feel that when a decision like this is made, the people who are most affected should be made well aware of what is to take place, given adequate time to prepare for that change, and even compensated for their losses. This is a perfect example of what happens when people make decisions about things they know little about.

I was a victim of this kind of policy making before. I grew up fishing around these islands, including Little Tobago, Big Tobago, and Jose Van Dyke. The B.V.I. fishermen used to sell their fish on our waterfront. We found out that there was a treaty only allowing charter fishing boats, not local fishermen, in the B.V.I. waters. We learned about this treaty while we were in the B.V.I. prison. If we had been aware of such a treaty, we would not have been fishing in the B.V.I. waters. In this case you can see where not only the people most affected were not aware of the policy, they were never even represented when the treaty was being written. We were never helped by any U.S. representatives either.

The closing of these monuments without sufficient warning to the parties most effected puts the National Park at odds with those parties. I feel that these two parties should be working together for the betterment of both sides. There are also a number of other government agencies that are closing some areas around these islands. Fishing and farming are extremely important industries for a nations independence. Especially here in these islands, where we are so far away from the mainland, food production should be promoted and supported by the government. In my

experience, the government has been unsupportive and at times hostile. There are many laws and regulations, but no incentives or even support.

At the present time, our fishing and farming industries are suffering from extreme mismanagement. There is a Bill 3330 that was suppose to establish shipping lanes as well as fishing lanes, but it was never put into effect. The present regulations of restocking the fishery using juvenile fish as the breeding stock is only going to destroy the fisheries. Again we have people who are in charge who have limited knowledge of what they are doing.

Mr. RADANOVICH. And thank you all for your statements.

I now turn my time over to Mrs. Christensen.

Mrs. CHRISTENSEN. A lot of questions. Maybe I'll just start with Mr. Berry since he was the last.

Thanks for your testimony, and I just wanted to reiterate that both your written statement and your oral statement are both in the record.

You've been fishing a long time. How many years? All of your life?

Mr. BERRY. All my life. Yes.

Mrs. CHRISTENSEN. Do you see any difference yourself in the size of the fish, the amount of fish?

Do you see from your own personal experience that there is a depletion of the fish stock?

Mr. BERRY. I would have to say yes, and one of the reasons why is because when you put regulations on seasons, you create hyper fishing, and that means everybody runs out to fish as fast as you can, as quick as you can, and running the size limit to the max.

And I'll give you an example. If you have a herd of sheep, and you have only lambs out there, what kind of stress is the harvest level on the lambs?

And the same thing goes to chicken farms. If you are running out of chickens are you going to close down the farms? I don't think so. You need to develop the stocks. And that's the same thing happening to the fishery right now.

Mrs. CHRISTENSEN. There are different ways to manage and to conserve the fisheries. Two other ways might be to have a fixed number of licenses for commercial fishermen or one might be rolling closures.

What would you think about those as possible management tools?

Mr. BERRY. I won't get into the licensing too much because if you limit the man to what his intent, it hurts a lot because you're the one who is supposed to eat.

I would say this. Eight years ago I went to a non source point pollution meeting, Caribbean Fishery meeting, proposing four closed areas in St. Thomas, St. Croix and St. John, approximately three square miles in each, including National Park waters, to form closed areas and restocking areas, to eventually form a developing stock of fish to supply us, and nothing ever came through with that. And I felt like I waste a lot of time.

Mrs. CHRISTENSEN. You think we should look at what came out of that meeting again?

Mr. BERRY. I think we need to get all of the parties involved in closing areas and developing fisheries to get together with the intention of developing a fishery to sustain and feed the country.

Mrs. CHRISTENSEN. There were two exclusions that Superintendent King talked about. He talked about two kinds of fish, hardnose and some other kind of fish that I don't remember what it was—

Mr. BERRY. Bait fish.

Mrs. CHRISTENSEN. —that could be fished. Does that help at all, or is that just a negligible, of negligible worth to you?

Mr. BERRY. It's good because the hardnose and the bait fish are migratory fish, and exactly the hardnose fishing grounds that we know, as example, is one of the main fishing grounds for hardnose right here in the southeast of St. John or south of St. John.

But we have over 60 different species of fish, and I'm in favor of closing areas but I think they should be smaller, and we should be part of restocking because, example, for whelks, conch, lobster, if we only develop a stock of each of those, the eggs would automatically—not using juveniles. We're talking of using adults. Automatically going from first year on, the eggs get in the water column and start going up and down the water column into all the other islands and stuff, and automatically we have new stocks coming all over.

Mrs. CHRISTENSEN. I have a question for Mr. Kessler before—and this would be my last question in this round.

Well, I was not aware that the Friends of the Park had such a large membership or that your members were from other states and even other countries, and your membership almost equals the population of St. John?

Mr. KESSLER. Yes, it does.

Mrs. CHRISTENSEN. Does everybody in that organization vote on positions that the Friends take?

Mr. KESSLER. No, they don't. It's the Board of Directors that would vote on positions.

Mrs. CHRISTENSEN. Are they all residents of St. John?

Mr. KESSLER. They're all residents of St. John at least for the majority of the year.

Mr. RADANOVICH. Joe, let me ask you a question.

Mrs. CHRISTENSEN. You could see why there's a problem with maybe some of the residents of St. John and the Friends, then, because they're people who don't live here who would be making the decisions that would impact the people who live here.

Mr. KESSLER. Allow me to clarify that. There are 13 board members. Only one of them—one of them resides here about 8 months out of the year and is gone for about 4 months. All of the others reside here virtually year round.

Mrs. CHRISTENSEN. I'll probably come back to that later.

Mr. RADANOVICH. Thank you.

Ms. McCollum.

Ms. MCCOLLUM. I want to thank you for the testimony, and it's wonderful to hear the diversity of opinion, and I really appreciate it but I'm going to take my limited time and ask Mr. Berry some questions.

But I thank you all for your testimony. I'm just learning how international waters work.

I served and do a lot of work with fisheries in Minnesota where you're restocking a lake and you're dealing with DNR and maybe

with tribal councils, and it's pretty easy to get a grip and a handle on it because it's defined.

Who currently is stocking the juveniles? Is it—because I kind of did a real quick question up here, and it is—to the best of our knowledge, it is not the National Marine Fisheries that's doing it.

Is it—who is doing the current stocking?

Mr. BERRY. Well, the stocking is actually done by the fishermen. They're releasing the small fish and not catching them because the regulations call for certain size fish not to be caught.

Ms. MCCOLLUM. So you're doing your own stocking on this? And—

Mr. BERRY. Excuse me. We're actually following the regulations.

Ms. MCCOLLUM. Well, I wouldn't think that you would do anything otherwise from your testimony, seriously.

Do the fishermen from—you talked about how there's a Caribbean zone, the British Islands zone, and the Virgin Islands zone.

Is there a council where the different protected zones that impact fishermen such as yourself, where they get together and do any kind of round tabling and talk about how these patchworks are overlaying one another?

Mr. BERRY. Well, that's one of the main problems we have right now. There are so many different groups having meetings, it's hard for even the fishermen to follow because we actually keep going to meeting after meeting and repeating ourselves, and that becomes frustrating after a while because we're going to a new group of people all the time.

And that's why I mentioned before that we need all of the parties involved in closing areas to come together with the fishermen and let us know their point, and we could have a plan to let them know what we need to help develop the stocks, and I myself have been going to an endless amount of Caribbean Fishery meetings, and it's extremely frustrating.

Ms. MCCOLLUM. Well, Mr. Chair, what Mr. Berry has brought up is a significant problem, not only for the Virgin Islands, not only for the Atlantic States, Pacific States, but for the world in general.

As more and more sophistication comes forward small family fishermen like Mr. Berry find themselves competing with huge corporations from around the world with sophisticated boats, with crews that travel and go out to sea for weeks on end, go wherever they can go, sometimes skirting around the law to catch what they want to catch.

And the pressures that we're putting on our fisheries is just huge, and, in fact, this isn't the—this doesn't directly relate to the Virgin Islands, but I think it paints a picture in Somalia where people are starving to death. There are fisher people who can only take their boats in Somalia and get out so far to get the fish to feed their families.

And they watch international vessels scoop the fish in international waters right away from them as they watch their families starve.

So, thank you very much for sharing what is a worldwide situation, and I know that from the discussions that we've had in one Committee meeting that I was in last week it is something that Congress is taking very, very seriously, sir.

And I thank you so much for coming and representing not only the fishermen and women of the Virgin Islands but of the United States.

Thank you.

Mr. BERRY. Thank you.

Mr. RADANOVICH. Mr. Kessler, I want to ask you a question about the—some of the comments that you made about the declining fish populations within the fisheries around these islands.

Do you have scientific data that you can provide this Committee that would evidence that? Can you make that available to this Committee?

Mr. KESSLER. Yes. The Friends doesn't have that data themselves but the Park certainly has that data, and USGS which developed most of the plans for the monument would certainly have that data readily at hand.

Mr. RADANOVICH. So your comments are relying on what the Park Service, the data that they have?

Mr. KESSLER. And reports and data that I read from other sources, correct.

Mr. RADANOVICH. OK. Because we have asked the Park Service to provide that information, and, again, what we want is as much scientific data as possible. So if you can think of any other sources of information outside the Park Service to determine this or to show this, then if you would submit it to the Committee, I'd sure appreciate it.

Mr. KESSLER. I'll be very happy to.

Mr. RADANOVICH. OK.

Mrs. Christensen?

Mrs. CHRISTENSEN. Thank you.

Ms. Monsanto, we didn't forget about you. Coming back to you, I wanted to ask you if you would elaborate on maybe two areas, maybe starting with the St. John Taxi Association issue with the Park?

What is the position of the Taxi Association?

Ms. MONSANTO. The National Park started a commercial service plan on the Island of St. John wherein they wanted to apply a user fee for transporting—

Mr. RADANOVICH. Excuse me, Lorelei. Because I have hands in the back.

Ms. MONSANTO. Eat it. Eat it.

Mr. RADANOVICH. I'm sorry. What is it?

Ms. MONSANTO. Eat it.

Mr. RADANOVICH. Eat it?

Ms. MONSANTO. You said we should eat it.

Mr. RADANOVICH. Oh, eat it. Yeah, eat it.

Ms. MONSANTO. The National Park developed a commercial service plan that stated that effective the beginning of the year they would charge a user fee to drive from Cruz Bay into the Park, going as far as Annaberg. The fee started out at 800-plus dollars. We met with them several times, and they dropped the fee in reference to so-called negotiations.

We took the position that the roads are public roads, and we didn't feel it was fair that we were picking up customers to take to their beaches for them to collect all this revenue, and we get

nothing. We get wear and tear on our vehicles. We get wear and tear on the land. We get—we just get wear and tear.

So after much ado we have filed suit, and that is supposed to be heard in August.

Mrs. CHRISTENSEN. Now, to pick up and drop at the beach, there should not be a fee.

Ms. MONSANTO. There was and there still is. I guess they were trying to determine that, the Park's definition—

Mrs. CHRISTENSEN. Of what's a tour?

Ms. MONSANTO. —of a tour, correct.

Mrs. CHRISTENSEN. So that has not been clearly defined as to what a tour is?

Ms. MONSANTO. Not by the National Park. The local Government mandates what a tour is. The National Park has a different description.

Mrs. CHRISTENSEN. Is it your understanding that it's a user fee or a concession fee for doing business within the Park?

Ms. MONSANTO. It is a so-called user fee.

Mrs. CHRISTENSEN. I thought it was a concession.

And you are also listed as a landowner?

Ms. MONSANTO. Correct. We have several people who are indigenous to St. John who have lands within the National Park. As you heard from prior testimony, there are several issues as it pertains to accessing your property.

And in the order of time and being redundant, there are clear concerns. You have heard them.

Mrs. CHRISTENSEN. Could you give us a little bit of an example of what, either from your own experience or from another family's experience, so we get a little more personal—

Ms. MONSANTO. I submitted an additional testimony onto my testimony that I hope that you all have read in reference to a cousin, family of mine, who owns property at Maho Bay.

I don't know if you've had the pleasure of driving around St. John since you've been here. Maho Bay is located on the North Shore of the island.

They have had several issues with the National Park in reference to their estates. My great, great grandfather's son owns that estate, and there are several problems.

They're in litigation right now. The Park has an interest in Maho Bay that has not been decided upon, which actually belongs to them.

As a result, the remaining family members can't develop their lands, and do what they need to do in order to grow and pay their taxes, what have you.

I did hear Ms. Mainella mention that there should be a degree of—they want to control. My interpretation when she said that was, control what I wanted to build or develop on my property. And I don't think the Park has the right to tell me what I can build, what I can grow, what I can do there, if it's legal.

So, I do ask you to read that testimony because it's very in detail, and it's too much to read at this point.

But the hardships that the Park—we all want to be friends with the Park. The Park has done good for St. John, as said before, but we need to learn to respect each other and discuss things with each

other before we just say, OK, I'm big brother. I own this island. You're going to do as I say.

It has been said to us before.

Mr. RADANOVICH. Ms. McCollum?

Ms. MCCOLLUM. No. Thank you, Mr. Chair.

Mr. RADANOVICH. OK.

Mrs. CHRISTENSEN. If we could just—does everyone feel that they had a chance to cover the main points in the last panel? This is the last chance.

Mr. RADANOVICH. Donna, you have to speak louder.

Mrs. CHRISTENSEN. This is the last panel because, as I understand it, several of the people who were to testify are not here.

Did you feel that you were able to bring your major points forward?

Ms. MONSANTO. If you have concerns in reference to more issues in reference to the lands, if you don't mind, if it would be permissible, if I could have the—Mr. Kean, whose testimony I submitted with mine, if he can give you more pertinent information, more so than myself, in reference to the land.

Mrs. CHRISTENSEN. But it's submitted, isn't it?

Ms. MONSANTO. And it's in the record. Yes, it is.

Mrs. CHRISTENSEN. Then we'll accept it—

Ms. MONSANTO. OK.

Mrs. CHRISTENSEN. —for the record.

[The prepared statement of Mr. Kean follows:]

Statement of James Kean, Representing the Natural Heirs of H.M. and Grace Marsh, Owners of Maho Bay Estate: Alva Marsh, Jewel Moolenaar Marsh, Warren Marsh, Ernest O. Kean Jr., James Kew, Patricia Looney, Joseph Adler*, and the Heirs of Douglas Nelson, Deceased, Valentino and Nelinda Nelson (*Joseph Adler is missing, and may be deceased)

1. The Park is wrongfully preventing the owners of 8/11ths of Maho Bay estate from using their property by obstructing a partition from the 3/11ths held by the Park, and is trying to acquire their property by an indecent and unacceptable strategy.

2. The Park's strategy to acquire Maho Bay and its actions to frustrate the heirs' request for partition are improper, abusive, shameful, indefensible and find no basis in its legislative mandate. The Park will not openly admit that such is its strategy but this Committee has only to examine the Park's actions over the past four years to discover the truth.

3. This strategy is simply to do any thing it can to obstruct and delay partition, discourage, wear down, and exhaust the heirs financially while waiting for the local government to seize and sell the heirs' interest for non payment of taxes, at which point the Park will be sure at last to have found a willing seller.

4. Congress mandated the Park to preserve what it could acquire through purchase, not to immobilize what it cannot acquire by obstructing an owner's right to enjoy his property, not to take actions aimed at denying owners the possibility of paying property taxes so as to be able to buy their property at a tax sale.

5. We, heirs of H.M. Marsh have an indisputable legal and moral right to partition from the Park. We have a right not to sell to the Park We will not allow this property to be seized for taxes, we will not sell it on the Park's terms or under pressure by the Park. We will not have the Park dictate to us what we may or may not do with it after partition.

6. The National Park needs to understand that though it may have acquired some of Maho Bay by deceit, it will not acquire all of Maho Bay where the heirs' parents were all born, lived, and worked.

7. It also needs to abandon the attitude that its objectives, that in its arrogance it somehow imagines more "noble" than those it imputes to the heirs, justify its wrongful opposition to the exercise of the rights of landowners in St. John.

Request made to the Committee

We ask the Committee to pose the following questions to Park Management.

1. Is the Park opposed to a partition of Maho Bay Estate as requested by the heirs, if so, why, and on what principle or basis?

2. Has the Park taken any actions or refused to take any action the purpose or the effect of which has been to delay or prevent partition? If so what are they, and why?

3. Given the Park's knowledge of the tax situation, what are the foreseeable consequences for the owners if partition is delayed?

4. Explain and justify the Park's actions, and explain how its actions in this matter are consistent with its legislative mandate.

We also ask the Committee to bring the facts stated below to the attention of senior officials in the Interior Department so that local Park management can be directed to abandon its present strategy of obstruction and to enter into good faith discussions with the heirs leading to partition.

Background

W.H. Marsh and Lucretia Marsh nee Titley, acquired and operated a number of estates in St. John following economic decline and estate bankruptcies in the late 1800's. Their children, who inherited their properties, were among the last to carry out significant agricultural activity in St. John, in Estates Reef Bay, Carolina, and Maho Bay.

W.H. Marsh acquired Maho Bay in 1900, comprising some 350 + acres deeding it to his youngest son H.M. Marsh (1870–1970) who continued agricultural production there (Cattle, sugar cane, fruit orchards, honey). His eight children two of whom survive, were born in Maho Bay between 1904 and 1920.

All areas of Maho Bay usable for agriculture under techniques then available had been under cultivation and habitation for 150 years before 1900; in no sense therefore, is Maho Bay Estate, untouched or pristine land.

In 1957 at age 87 H.M. Marsh deeded Maho Bay Estate to his eleven grandchildren, with a life interest to himself, his wife, and their children.

When or shortly after the VI National Park was created, the Park planners for reasons best known to themselves, designated Maho Bay as a property to be acquired by the Park. The owners, H.M. Marsh's grandchildren, were not consulted in this designation.

In 1969 or 1970, a land buyer for the National Park Foundation approached a number of H.M. Marsh's grandchildren, including three of them born and having lived exclusively in the mainland U.S. and offered to buy their remainder interest in Maho Bay, an interest that the three had never seen, and were even unaware of. He represented falsely to them that the National Park could in any event acquire the land by condemnation at a lower price than he was offering, and that by a sale they could avoid inheritance taxes due upon the death of their grandfather, that they would have no means to pay.

Agreeing to the sale before getting a good understanding of the facts, they found the legal costs of extracting themselves from their agreement to be too high when they later tried to cancel the sale, and finally sold their remainder interest, 3/11ths of the total to the National Park Foundation.

Problem facing the heirs of H.M. Marsh

The other heirs, composed of the life tenants and the grandchildren were thus thrown into joint ownership of undivided land with the National Park. The undivided joint ownership has since effectively prevented the heirs from engaging in any business activity in Maho Bay, more particularly activity capable of providing funds to pay real estate taxes assessed on their 8/11ths interest.

The National Park has perpetual existence; it has a legal mandate not to disturb nature as it finds it; it pays no taxes. The heirs are mortal; what they own in Maho Bay is subject to property taxes; they would naturally not like to lose their property for non payment of taxes, and would like to be able to use, enjoy, or dispose of what they own as they see fit without interference from the Park. They have objectives, irreconcilable with those of the Park.

It is clear that the existence of joint ownership of undivided property with the National Park places the heirs in an untenable position.

For a long time the expected cost and of a suit and partition and other complexities tied to deed granted by H.M. Marsh prevented the grandchildren from taking action to separate their property from that of the Park. Most lived on the Mainland, all had families to support.all or had other demands on their attention.

Suit for Partition from the Park

In 1998, however, the heirs, now aged for the most part in their 60's and 70's, faced with an unendurable situation and an ominous property tax bill sued the National Park for partition of the property. This matter is now in 2002 still before the District Court of the Virgin Islands.

In the 29 years elapsing between the purchase of 3/11ths interest, and the filing of the suit, the National Park (or anyone acting for the National Park) at no time offered to buy any of the remaining eight 1/11ths shares, or to partition the property, or to pay taxes on the 8/11ths owned by the heirs or in any way to mitigate the problems caused the heirs by the Park's ownership of an undivided interest. These problems did not escape the Park's notice. On the contrary, the Park expressed satisfaction that the purchase of 3/11ths "tie up" the entire property. i.e. make it impossible for the heirs to exercise any right of ownership.

In answer to this suit for partition the Park has over the past four years: (listed not necessarily in chronological order):

- made an offer to buy the heirs' interest (rejected by the heirs who would buy back the 3/11ths sold in 1970 at the price per interest offered)
- suggested that the heirs could donate their property to the Park raised legal objections to the partition request,
- claimed uncertainty as to the boundaries of the property to be partitioned,
- argued that the Park Superintendent had retired and no action could be taken until his successor arrived. (no action was taken after his successor arrived)
- made partition "proposals" unsupported by any rationale, the last of which would confer upon the Park a number of non contiguous parcels totaling far more than 3/11ths of the value and of the acreage of the property
- demanded to know as a pre-condition to discussion of partition, what the heirs proposed to do with the property after partition
- refused to enter a dialogue on partition, even on the principles to be used as a basis for partition
- continued and continues to this day to oppose partition and to engage in dilatory tactics in Court (continuances, motions, appeals) to obstruct and delay and frustrate partition.

The Park's strategy is simply to do any and everything to delay partition and wear down the heirs while waiting for the local government to seize and sell the heirs' interest for non payment of taxes, at which point the Park will be sure at last to have found a willing seller.

In the meantime, the Park exercises negative control over the 8/11ths that it does not own.

We do not know at what level in the Park this shameful strategy has been devised. We do know that it is being carried out at the local level by the present Park Superintendent and assistant U.S. attorneys in the U.S. attorney's office.

Mrs. CHRISTENSEN. And I would apologize because I stopped at your—the testimony that you read, and that there were some documents at the back but I did not look beyond those.

Mr. RADANOVICH. All right. Any other questions of the panel? This being our last panel, I want to thank you very, very much for taking the time to be here.

I hope that it's helpful in resolving some of the issues that the Park has with the National Park Service and with the community.

So, again, I want to thank Mrs. Christensen for inviting us into the area and for setting up this hearing.

I want to thank the community of this island for making this hearing room available, the Senators, and I think that this will go a long ways in beginning to address some of the problems in the area.

So I want to thank you very much. And with that, this hearing is ended. That's it.

[Whereupon, at 12:25 p.m., the Committee was adjourned.]

[A letter submitted for the record by The Honorable Donna M. Christensen from Craig Barshinger, St. John, U.S. Virgin Islands, follows:]

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Saturday, July 20, 2002

Congressional Subcommittee on National Parks, Recreation and Public Lands
St. John Hearing

Dear Honorable Representatives,

Thank you for journeying here to witness first hand the beauty of Virgin Islands National Park, and for engaging your oversight responsibilities and congressional powers to assist us with some of the problems we face.

I am writing to alert you to problems with enforcement with Virgin Islands National Park. This knowledge comes from personal experience as well as reports from other St. Johnians .

The enforcement here is heavy-handed and capricious. I have witnessed excessive use of force, enforcement officers lying under oath, and park brass supporting such behavior. I have witnessed officers abandoning their FLET-C training in favor of conduct that is outside the permitted envelope for a law enforcement officer.

It is not confined to a few rogue Rangers: The top management will one week ticket St. Johnians for practices we have followed for decades, and the next week, the new rules are suspended, only to return again. Specifically, this happened on January 20 and 27 of this year.

The operative principle for any Park should be to use the *minimum amount of force necessary to ensure the safety of the visitors and the protection of the natural and cultural resources.* This is not what is happening. In fact, the Park appears to being trying to "rule by intimidation". St. Johnians are not to be intimidated; one can look to 1733 as testimony to this fact.

Efforts to obtain information about enforcement patterns through discovery requests and Freedom of Information Act met with a stone wall.

Having served as a Park Ranger in Yellowstone and Grand Teton National Parks in 1978-79, I still retain a deep respect for the Park Service and its mission. I organized the Cruz Bay Gateway Community Partnership.

There is still hope, but not without some adjustments.

I am going to keep my comments to one short page. I have been gathering this information for six months, in the hopes that your committee can offer and administrative solution to the heavy-handed and capricious law enforcement. It is not necessary to go to the press with the details if an administrative remedy is possible.

Thank you again for your attention to St. John and Virgin islands National Park.

Sincerely,

Craig Barshinger

Craig Barshinger

OVERSIGHT HEARING ON CHRISTIANSTED NATIONAL HISTORIC SITE, BUCK ISLAND REEF NATIONAL MONUMENT, AND THE SALT RIVER BAY NATIONAL HISTORIC PARK AND ECOLOGICAL PRESERVE

Monday, July 22, 2002
U.S. House of Representatives
Subcommittee on National Parks, Recreation, and Public Lands
Committee on Resources
Frederiksted, St. Croix, Virgin Islands

The Subcommittee met, pursuant to call, at 10 a.m., at the United States District Court, St. Croix, U.S. Virgin Islands, Hon. George Radanovich [Chairman of the Subcommittee] presiding.

STATEMENT OF THE HON. GEORGE P. RADANOVICH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. RADANOVICH. Good morning. Thank you for waiting. We needed to wait till 10 o'clock straight up to begin our hearing. We didn't want to start ahead of anybody coming in the door. So I want to welcome you again, and again, to let you know, my name is George Radanovich and I represent the 19th District of California, which includes Yosemite National Park and Kings and Sequoia National Parks in California.

I'm also Chairman of the Subcommittee on National Parks, Recreation and Public Lands. And like St. John, St. Croix is a gorgeous island, and it—and it gives me very great pleasure to be here.

Again, I want to thank Delegate Donna Christensen for inviting me down in order to conduct this hearing. And I wanted to thank Judge Raymond Finch for allowing us the use of the courtroom. It's just beautiful, and I understand the building is named after a pretty incredible man who's related (laughter), and it's a gorgeous, wonderful setting. So I appreciate the use of this courtroom, Judge. Thank you.

Similar to the issue at St. John is—the most important issue for today's hearing is the legality of the former President Clinton's national monument designation of the Buck Island Reef National Monument. According to the Antiquities Act of 1906, all monument designations must be made on lands "owned or controlled by the

Government of the United States." Furthermore, all the designations must be "confined to the smallest area compatible with the proper care and management of objects to be protected." With the Buck Island expansion, Clinton seemingly violated both provisions of these laws. Of great importance is the question of who actually owns the submerged lands because the ownership of the lands were transferred to the Government of the Virgin Islands pursuant to the Territorial Submerged Lands Act of 1974. Because the submerged lands were claimed by the Federal Government per the Clinton Administration, we need to ask what is actually transferred to the Virgin Islands.

Another issue particular to Buck Island concerns the legality of a sitting president making modifications to an earlier Presidential monument proclamation. It is unclear at this time whether any sitting president has the authority under the Antiquities Act to make these modifications. Such a situation developed specifically for the Buck Island Reef National Monument expansion when former President Clinton abolished the fishing rights that were granted to these residents of the Virgin Islands in the original proclamation made by President Kennedy. In fact, the original Buck Island destination was conditional on the continuation of the fishing rights, as the Government of the Virgin Islands relinquished this area to the Federal Government on the understanding that fishing rights would be retained. Former President Clinton, in his proclamation, simply superseded this conditional right. The legality of this is highly questionable, especially by the local resident fishermen who depended on these fishing grounds for their livelihoods.

I want to thank the witnesses for being here; Director Fran Mainella, who is very, very much welcome. We also have with Fran is Mr. Joel Tutein, who's the Buck Island National Park's superintendent. Joel, welcome. And also Regional Director Jerry Belson here with us with his Deputy Director Sandy Hooks. Thank you very much for being here part of this hearing.

And for the sake of the audience, if I can explain the way a hearing operates, generally members of the panel hear from witnesses. They're usually given about 5 minutes, although I'm not real super strict about it. If you go a minute beyond that we'll kind of tap, you know, we'll tap you on the head. But the purpose is to get the information into the record verbally, as well as written testimony that's submitted. And when this is done, then the panel will be opened up for questions from us up here.

We like to make sure that the composition of those that give testimony represent all sides of the hearing or the issue, and I think that you'll find that with this slate of panelists we have before us.

I also want to also recognize Betty McCollum, who will be here a little bit later and had to make a visit to the doctor this morning with an ear problem that seems to be affecting more than one of the people on this trip. So Betty is from Minnesota and will be joining us shortly.

So with that, thank you again for being here, and Mrs. Christensen, thank you so much for the invitation to come to your beautiful islands, and I'm turning my time over to you.

[The prepared statement of Mr. Radanovich follows:]

Statement of The Honorable George P. Radanovich, Chairman, Subcommittee on National Parks, Recreation, and Public Lands

Good morning everyone. At the risk of repeating myself from the hearing on St. John and for those who don't know, my name is George Radanovich, and I represent the 19th District of California. I am also the Chairman of the Subcommittee on National Parks, Recreation, and Public Lands. Like St. John, St. Croix is a beautiful island and it gives me great pleasure to be here. Again, I want to thank Delegate Donna Christensen for inviting me down in order to conduct this field hearing.

Similar to the issue at St. John, the most important issue for today's hearing is the legality of former President Clinton's nation monument designation of the Buck Island Reef National Monument. According to the Antiquities Act of 1906 all monument designations must be made on lands "owned or controlled by the Government of the United States".

Furthermore, all the designations must be "confined to the smallest area compatible with the proper care and management of the objects to be protected". With the Buck Island expansion, Clinton seemingly violated both these provisions of law. Of great importance is the question of who actually owns the submerged lands because ownership of these lands were transferred to the Government of the Virgin Islands pursuant to the Territorial Submerged Lands Act of 1974. Because the submerged lands were claimed by the Federal Government per the Clinton Administration, we need to ask what was actually transferred to the Virgin Islands.

Another issue particular to Buck Island concerns the legality of a sitting President making modifications to an earlier Presidential monument proclamation. It is unclear at this time whether any sitting President has the authority under the Antiquities Act to make these modifications. Such a situation developed specifically for the Buck Island Reef National Monument expansion, when former President Clinton abolished the fishing rights that were granted to residents of the Virgin Islands in the original proclamation made by President Kennedy. In fact, the original Buck Island designation was conditional on the continuation of the fishing rights, as the Government of the Virgin Islands relinquished this area to the Federal Government on the understanding that the fishing rights would be retained. Former President Clinton, in his proclamation, simply superceded this conditional right. The legality of this is highly questionable, especially by the local resident fisherman who depended on these fishing grounds.

I want to thank our witnesses for being here today to testify and will now turn the time over to Mrs. Christensen.

STATEMENT OF THE HON. DONNA M. CHRISTENSEN, A DELEGATE IN CONGRESS FROM THE VIRGIN ISLANDS

Mrs. CHRISTENSEN. Thank you, Mr. Chairman. I think we all had a very good hearing—and good morning to everyone. I think we had a very good hearing on St. John and I'm very happy and honored to welcome you to St. Croix, my home, and the larger of the three major islands of the Virgin Islands.

As was the case in St. John, and I'm sure you've all experienced that already, you'll find that we Crucians, as well as all of the people of the Virgin Islands, are among the most hospitable people in the world. So I know you're enjoying yourselves.

Let me again also express my appreciation to you, Mr. Chairman, for your willingness to come to the Virgin Islands to conduct 2 days of public hearings, and our colleague, Congresswoman McCollum, who will be joining us shortly. My constituents do not generally have the wherewithal to travel to Washington to make their views known to the Members of the Congress who make decisions about issues that affect their lives.

And I also recognize that if you were not here you would be in your own respective districts tending to the needs of your own constituents, so we really are grateful to both of you for being here instead to listen to mine as it relates to the national park units and

our own community. And I also want to thank the staff that's with us for the hard work in putting this trip together.

Let me also welcome and thank all of the witnesses who are here to offer testimony this morning. I express my thanks to the Director of the National Park Service, Fran Mainella, for her willingness to join Chairman Radanovich and I at these hearings on St. John, but I want to repeat that again today.

As someone in our government who has the responsibility over more land than many Governors of some of the fifty states, it's not often that our Subcommittee has the pleasure of having the Director appear before us either in Washington or here, and of course here. Not only are we grateful for the testimony we'll receive from you again today, Director Mainella, but also for your willingness to sit and listen to the testimony of all of the witnesses that will speak after you. You often won't have that privilege either, because in many instances the representatives of the Administration come, give their testimony, and leave. So we're very fortunate.

And I want to thank and welcome our Regional Director Belson, the Deputy Regional Director Hooks, and of course our own Superintendent Joel Tutein. We look forward to working with you and your staff to see if we can bring to closure some of the issues that we have been wrestling with here on St. Croix.

I want to now welcome our local witnesses as well. Please to welcome a panel of local government witnesses. I'm not sure if Senator Roosevelt David will be joining us, but Dean Plaskett, our Commissioner of Planning and Natural Resources, who was unable to be with us in St. John is here. I'm also pleased to welcome Mr. Bill Turner of the St. Croix Environmental Association and Attorney Max McIntosh of the Salt River National Historical Park Commission.

And finally, and I'm not sure—oh, yes, they've arrived—let me welcome witnesses from our third panel, former Senator Virdin Brown, the Chair of the Caribbean Fisheries Council; Mr. Robert McAuliffe of the St. Croix Fishermen's Cooperative; Michelle Pugh, the owner of Dive Experience, a concessionaire within the Buck Island National Monument.

Mr. Chairman, today's hearing will focus on the issues addressed in H.R. 5097 adjusting the boundaries of the Salt River Bay National Historic Park, as well as issues around the monument. And that's a park that Ms. McCollum's predecessor, Bruce Vento, had a lot to do with making sure that it happened. And we'll also, of course, talk around issues on the proposed expanded Buck Island Reef National Monument.

I truly hoped that we would have had the legal opinion on the ownership of the submerged lands from the General Accounting Office for use in advance of this hearing. And to recap briefly, after my attempts to stop or amend the monument declaration, we wrote to the General Accounting Office stating our disagreement with the determination that the submerged lands in question were Federally owned, and also recounting that the enabling legislation specifically stated that fishing rights were not to be denied the people of the Virgin Islands.

I did receive a promise from Director Mainella on Saturday that, should the opinion support that of the Clinton Administration, that

there wouldn't be an immediate closure, but that a period of consultation on management would be the course to be taken.

So let me again pledge today to my constituents that when the opinion is completed and released, I will come back, present it to you, and we can discuss then how we should proceed from there.

And although it's not specifically before us, Mr. Chairman, I also want to remind you of H.R. 5096, which would authorize a study to determine the suitability of St. Croix for a National Heritage Area. I'm sure that as you travel around the island, you will become convinced that there is much here of national as well as local significance.

In closing, as best as my staff and I could determine, this is the very first time that the Subcommittee with direct authority over our national parks has held public hearings in our Territory. So I once again thank you, Chairman Radanovich, for agreeing to hold these here, and I want to say thank you once again to everyone, to Congresswoman McCollum who will be joining us, to Director Mainella and her staff, to our testifiers, and those in the audience, as well, for taking the time to come out and be here this morning. Thanks.

Mr. RADANOVICH. Thank you very much, Donna.

We'll go ahead then and introduce our first panel, which is Ms. Fran Mainella, Director of the National Park Service. Again, welcome, Fran. Good morning to you.

STATEMENT OF FRAN P. MAINELLA, DIRECTOR, NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR

Ms. MAINELLA. Good morning, Mr. Chairman, and good morning members of the Committee. I just want to say thank you for the opportunity to be here, and Delegate Christensen, thank you for opening up the arms of the Virgin Islands to us and making us feel so welcome. It's really an opportunity to better be able to understand the issues and meet so many wonderful people. I've had a chance to do so, and I think that gives us a much better opportunity than when we're sitting in Washington and always trying to understand those issues from afar. So thank you for this opportunity, and for the hospitality you've provided to all of us.

I am here again appearing before you not only dealing with our monument issues, but dealing with we have three units here that are in St. Croix that are part of the national park system. You have the Christiansted National Historic Site, which I had a chance to visit yesterday, and what a wonderful site that is. If you've ever gone—yeah, I think some you had a chance also to hear Bill, our historic—our interpreter from the site, give us such a great story about the fort, and it's the original park in the Virgin Islands, as well as the new post office, or the old post office that has now been renovated and are being worked on, and the great opportunities that provides. And the story tells about black history, and it's such a great, great area.

Also Buck Island Reef National Monument, which is probably a lot of the focus of comments that may come today, and again, having a chance to actually see some of the coral out there and some of the issues certainly was a great advantage for us in under-

standing, and seeing the brown pelicans flying, and all the issues that are of concern certainly is a great experience.

Also we had a chance yesterday to visit Salt River Bay National Historic Park and Ecological Preserve. Again, that is a partnership park, and again hopefully one of the messages that I want to bring in my attendance here, the importance for all of us to work together in partnership. Doesn't mean that—in fact, I saw Rocky, the Senator, excuse me, I don't know if he's still back there—you know, it doesn't mean we can't—sometimes we may not always exactly agree, but we always need to be talking with each other and communicating. And that's the message I've heard loud and clear from all the folks I've met here, and I do think that is the message that Joel and others want to send, and through me, hopefully, we'll continue that message going forth.

I do want to recognize, I have Daniel Smith with me, he's my congressional affairs person from Washington, and thank you, Dan, for being here with us today.

Again, as we look at these different sites, and in particular the monument, which I know has been of probably most discussion, it is something, as Congressman Radanovich indicated, the monument was established by President Clinton's proclamation in January 17th, 2001—or at least the expanded, I know the monument has been here, Buck Island has been here, but has been expanded through this proclamation.

One of the things that, since that designation, I think it's real clear, and I think all of us know that there is concerns that have been expressed, and I want to make sure that everyone in this room knows we are aware of those concerns, and that also the Virgin Islands Government has issued many questions about, and in fact passed a resolution, 1609, expressing concern over the lack of adequate public participation in the expansion of the monument, ownership of the submerged lands, the size of the monument, and potential impacts on fishing and marine industries.

While we share concerns about the way in which this monument was created, our job though is to insure the development of management plans in an open, inclusive and comprehensive way. And again, this goes back to the partnership approach, and I think those of you who know Joel know that he has used that approach and will continue to further enhance that in his leadership here, as has the region under Jerry's leadership.

But as Secretary Norton, our Secretary of the Interior, has said on many occasions, the planning that she expects us to follow in anything that we do should involve what she calls the Four Cs. And that's Consultation, Cooperation, Communications, and all in the service, though, of Conservation. The Department of the Interior is committed to management and protection of monuments consistent with the four Cs, and the purposes established in those proclamations.

In response to these commitments, she has already published some notice to, through the Federal Register, to some of the monuments that are in the west. She will look to this more aggressively, as Delegate Christensen has indicated, if it is determined through the GAO and others that this is—the legal aspects of the submerged lands, and we're going forth with the monument, then that

will be a time where we will again need more input. But these hearings help us in that endeavor, and we'll be looking for that input as we go forth to make sure that we do consider all factors as we go forth. Again, I think the GAO report, when that comes out, will give us more guidance and we will move forward from that area.

With regard to the impact on fishing and marine industries, although there is a loss of fishing territory and it could have an impact on the industry, we are really going to be aggressively working to try to work with regeneration of stock of fish, and that we will hopefully enhance the fishing nurseries that makes possible the fishing industry at a better level than has been in the past, and what we'll be looking at is what we call "fishing forever," in hopes to further enhance that industry in a way that will benefit everyone.

Tourism I think we all know is a mainstay, and I know my light is on so I'll quickly come to a summary—

Mr. RADANOVICH. Fran, go ahead, take a few minutes. You've got three separate issues to talk about. I'm giving you some more—

Ms. MAINELLA. Thank you so much. I appreciate it.

Tourism is a mainstay of the economy here, and it is something that we want to continue to move forward with. In fact I spoke with the commissioner on tourism last night and asked her involvement to make sure that not only here, in St. Croix, but also in St. John, that we all do more to work together in the tourism role. And we will be looking at the economic impact that our parks provide to this area as we do our management planning, and we do that management planning any time that we do parks, and of course we will be stressing public involvement in all that we do there. So I just want to make sure you know we will be moving forward in that area as best as we can.

And again, we talked about Salt River Bay and National Park and Preserve, and again I want to just continue to reach out to the Territory and ask for our help, all our help to move forward. I mentioned I spoke to Dean this morning, and I asked that somehow we continue to further enhance our working relationships so that it is—because what we make clear is if the part doesn't succeed, then it's not a good success measure for the Virgin Islands. And if Virgin Islands doesn't succeed, it's certainly not a good reflection on the park. We must be together, working well together in order for these things to go forward.

I think I know, again, I'm near the close of my comments, but again I appreciate the leadership that this Committee provides in looking at all our national parks, and the fact that we are an important part of the economy, and I know in most places everyone rushes to have a national park in their backyard because of the economic impacts, as well as the environmental benefits that come forth.

But I do want to make sure everyone knows we are very aware, and we truly are here to listen and understand, so that we can better make determinations. And I know this is the process that the Secretary and our park staff wish to move forward with.

Again, we also, I mentioned to you, Delegate Christensen, we also plan to have a video that might be able to help in different

areas, and maybe we can do more. Again, back to the tourism and that aspect, I think the heritage area also is something, in our experience with heritage areas, that has been very positive to communities. It connects things together and I think has a real positive, both a tourism and economic impact.

I'd like to close at this point, but I do want to be available for questions. And I do have a great staff around me, and I do want to recognize our staff in the back. I don't always get the chance to say, but it's wonderful cultural and natural resources that we have in our parks, but nothing more important than our staff, they being a resource, and all of our partners sitting in this room. Thank you.

[The prepared statement of Ms. Mainella follows:]

Statement of Fran P. Mainella, Director, National Park Service, U.S. Department of the Interior

Mr. Chairman, thank you for the opportunity to appear before your Subcommittee at this oversight field hearing on Christiansted National Historic Site, Buck Island Reef National Monument, and Salt River Bay National Historical Park and Ecological Preserve. I am accompanied by Joel A. Tutein, superintendent of these three units.

We appreciate having the opportunity to learn more about the national park units here and to discuss the various issues associated with the St. Croix national park units, as we did two days ago with the St. John national park units. My statement will focus on the expansion of Buck Island Reef National Monument that occurred in 2001, the potential expansion of Salt River Bay National Historical Park and Ecological Preserve, and an update on the planning process that will set forth future management goals.

Buck Island Reef National Monument was established by Presidential proclamation in 1961 to preserve one of the finest marine gardens in the Caribbean Sea. Located one and a half miles off of St. Croix, it has become the number one destination for visitors to St. Croix. The 176-acre island and surrounding coral reef ecosystem support a large variety of native flora and fauna, and provide haven to several endangered and threatened species, including the hawksbill sea turtle and the brown pelican.

Buck Island Reef National Monument was significantly expanded on January 17, 2001, by proclamation of President Clinton under the Antiquities Act. The proclamation added 18,135 acres of submerged lands to the monument, bringing the total acreage to just over 19,000 acres, all of which consist of submerged lands except for the 176-acre Buck Island. It eliminated all extractive uses, prohibited boat anchoring except by permit, and directed commencement of the planning process that will set forth the future management and use of the monument.

Since the designation of the expanded Buck Island Reef National Monument last year representatives of the Virgin Islands government have raised numerous questions and concerns. In fact, on April 9, 2001, the Legislature of the Virgin Islands passed a resolution (No. 1609), expressing concern over the lack of adequate public participation in expansion of the monument, ownership of the submerged lands, the size of the monument, and potential impacts on the fishing and marine industries. I would like to briefly address those concerns.

While we share concerns about the way in which these monuments were created, our job now is to ensure that we develop management plans in an open, inclusive, and comprehensive way. As stated by Secretary Norton on numerous occasions, the planning for the future management of these monuments will be a model of what we call the four C's: Consultation, Cooperation, and Communication, all in the service of Conservation. The Department of the Interior is committed to management and protection of the monuments consistent with the four C's and the purposes established in the proclamations. In response to this commitment, we published a notice in the Federal Register on April 24, 2002, initiating a formal scoping period seeking public comment to identify issues to consider and analyze regarding management at the monument designations in the western states. The Department is currently reviewing the public comments. After reviewing all the comments on each monument, I believe most of the issues can be addressed through the management planning process, which will also include comprehensive public input. With regard to the monuments we are discussing today, we anticipate a similar public review process as soon as the issue of submerged lands ownership is resolved.

We agree that Federal ownership or control of the l1and is necessary for an area to be designated as a national monument under the Antiquities Act. The General Accounting Office (GAO), at the request of Delegate Christian–Christensen, has reviewed the question of Federal ownership or control of the submerged lands in the expansion of Buck Island Reef National Monument. We understand that GAO will issue its opinion shortly.

As to the size of Buck Island Reef National Monument, the Clinton Administration determined that an additional 18,135 acres was the smallest area needed to ensure the proper care and management of the resources to be protected and their long-term sustainability. The expansion area is large enough to provide a fish nursery that, in theory, should help assure that fishing will remain viable as an industry and a recreational activity here.

With regard to the impact to the fishing and marine industries, although the loss of fishing territory could have an impact on the industry, we believe that it should be offset by the regeneration of stocks of fish that occur from the enhancement of the fish nurseries made possible by the expansion.

The expanded Buck Island Reef National Monument should help provide for a recovery of coral reefs and associated habitats, facilitate an increase in the abundance of reef fish, sustain commercial and recreational fishing outside the monument, and enhance snorkeling and diving opportunities, which should contribute to economic growth from tourism. As with the Virgin Islands Coral Reef National Monument, the biological communities of the Buck Island Reef National Monument comprise a fragile, interdependent environment consisting of such habitats as coral reefs, sea grass beds, sand communities, algal plains and mangroves that are essential for sustaining and enhancing the tropical marine ecosystem.

Just as the marine ecosystem around St. John is under chronic stress, so too is the ecosystem around Buck Island. Damage has been caused over the years from a variety of both natural forces and human activities. The ecosystem has been affected by hurricanes, diseases of various kinds, and coral predators. Years of coral diseases such as the White Band and Black Band disease, coral bleaching, and other coral predators have adversely affected the reef. Activities that contribute to the degradation of these marine resources include improper fishing, boating, and diving practices.

Research over a long period of time has provided evidence that fish are not only smaller than in the past, but also that there has been a serial depletion of certain species, including the commercial extinction of the Red and Mutton Snappers, Nassau Grouper, Triggerfish (oldwife), and Rainbow and Midnight Parrotfish.

Tourism is the mainstay of the economy here, and the national park units on both St. Croix and St. John contribute significantly to the tourism revenues generated on those islands. By implementing a collaborative approach to long-term management and protection for the spectacular resources managed by the National Park Service which lures tourists to the Virgin Islands, the monument designations provide an important way to help improve and sustain the Virgin Islands' economy. As stated earlier, the National Park Service has been preparing to undertake the planning process that will set forth the future management and use of the expanded monument, and we look forward to working collaboratively with the territorial government, our gateway communities, and other interested stakeholders in this endeavor.

Mr. Chairman, I would now like to discuss Salt River Bay National Historical Park and Ecological Preserve. The park was established by Congress in 1992 to preserve and protect Salt River Bay's outstanding cultural and natural resources, to interpret the significance and value of those resources to the public, and to encourage scientific research. Consisting of 946 acres, the park contains some of the most important archaeological sites in the Virgin Islands, and has been designated a National Historic Landmark and National Natural Landmark.

Since as early as 1880, Salt River Bay has been the focus of major archaeological investigations. The area was inhabited by the three major pre–Columbian pottery-making cultures in the Virgin Islands: the Igneri (AD 50–650), Taino (AD 650–1425), and Kalima or Carib (AD 1425–1590). During his second voyage to the New World, Columbus sent soldiers ashore at Salt River Bay to search for fresh water and to make contact with natives. Beginning in the mid–1600's, there were successive attempts to colonize the island by the Dutch, English, French, French chapter of the Knights of Malta, and Danes. The site includes Fort Salé, an earthwork fortification from the Dutch period of occupation.

The enabling legislation calls for Salt River Bay to be managed jointly by the National Park Service and the Government of the Virgin Islands. Management Objectives (1994) and a Land Protection Plan (1995) were approved by both the Governor of the Virgin Islands and the National Park Service. Land purchases in the last

three years have brought the total proportion of the area within the park boundary that is under government ownership to about 87 percent. However, despite success in acquiring property for the park, neither the Federal Government nor the territorial government has established an operational presence at Salt River Bay because we have not yet identified a suitable site for that purpose.

The Land Protection Plan identifies the waterfront as the most suitable area for establishing visitor services and most of the park's operations. However, there is no waterfront property available for that purpose at this time. Because we believe it is essential for us to establish a presence at the park, we have begun looking at sites that would serve as an initial base of operations. Recently, we have become aware of a willing seller of a parcel that includes a house large enough to serve as an interim administrative facility for the park. However, the property is partially outside the boundary of the park. Its acquisition would require boundary adjustment legislation and, of course, the appropriation of sufficient funds to acquire it. We appreciate the efforts Delegate Christian–Christensen has made toward that end, and we look forward to working with her on this matter.

Finally, I would like to say a few words about Christiansted National Historic Site, the third national park unit on St. Croix. This site, which was established in 1952, was the first unit of the National Park System in the Virgin Islands. Christiansted was the capital of the Danish West Indies during the 18th and 19th Centuries, the height of the sugar industry on St. Croix. The seven-acre site consists of the wharf area and related historic buildings as examples of the town's economy and way of life in Danish times. It contains the oldest and largest former slave-trading complex under the U.S. flag. The wharf and its connection with international trade provided the practical education of the young Alexander Hamilton. This unit is an important draw for tourists to the Virgin Islands, not only for its history but also because it is a centerpiece for historic preservation in the territory.

Mr. Chairman, this concludes my remarks. Superintendent Tutein and I will be happy to answer any questions you or your colleagues may have.

Mr. RADANOVICH. Thank you very much, Fran.

I guess there's a number of issues, and I again, I think that the main one is regarding the legality of the designation of the monument. And we had an incredible opportunity yesterday to go out scuba diving, seeing the reef, and enjoying it firsthand and recognize obviously the need to preserve and protect a beautiful national treasure.

However, one of the things I've experienced personally in my district with these monument designations, it seems that some of them have been made too large or there were other agendas that were involved in the defining of the lines of the monument, and I'm wondering if that might not be the case in this one. As I understand here, the monument designation goes beyond—if you, to me, the picture on the left is a—I looked at that and I thought, well, you know, everything that is bright and shiny around that island ought to be protected. But when I looked to the actual designation it goes far beyond that into some pretty deep water.

And I, after seeing the resource and seeing the information, I do believe that the monument lines should be adjusted. I have some concern about why does it go out so far? What's the intent there? And the example that I would use would be in the Sequoia monument that—this was in my district in California—was designated to protect about sixteen thousand acres of Sequoia trees that were included in the Sequoia National Park when it was originally designed, and so they took 340,000 acres to protect the 16,000 acres of growth.

Well, even in that case, if you even counted the watershed, if you were going to look for the minimum number of area that it would take to preserve it, that would be 120,000 acres. And many people feel that the reason that it was 340,000 acres was to exclude mul-

tiple use basically out of the entire Sequoia National Forest and use it as a tool to do that, beyond what was necessary to protect the monument, but rather had the agenda of doing other things.

And I'm wondering if that's the case and the design of this monument here, and I know that we had a GAO study going on. I know in the Virgin Islands there's a possibility of lawsuits that follow that, depending on how the Park Service responds to the GAO's report, depending on what it says.

I'd like to get your feelings on that, Fran, and maybe with your staff as well as—I can justify going beyond the—I don't know—

Ms. MAINELLA. The current boundaries? The current monument size? Maybe just—

Mr. RADANOVICH. The current, yeah. Once it drops off in deep water, I think it takes a little—it's a little more difficult to justify. And I'd like to get your response.

Ms. MAINELLA. Well, as you know, I was not present during the time of this proclamation coming forth, and I have also asked that question of staff of why did it go quite as far? And again, we had some involvement. A lot of that was done, though, as you heard my testimony, I don't know that everyone had the full knowledge of all the rationale behind it. But there is some—definitely some, certainly beyond the boundaries that we currently have—

Could you show, Joel, our current boundaries are right in that area—OK. Right there.

And as you said, where you look into where that shelf is at—

Mr. RADANOVICH. Which is the gray boundary.

Ms. MAINELLA. Gray area, which is beyond which goes, I don't know the distance beyond there, but that certainly is a very, as we saw yesterday, a very sensitive area for protection, and the need of the great coral that we saw and everything of that nature.

I'm going to ask Joel, the larger area that goes all the way out almost a 3-mile area I believe, and I'm not sure if that's a 3-mile—

Mr. TUTEIN. Yes.

Ms. MAINELLA. Because we didn't get into those waters, and most of those waters are quite deep as I understand it, but there is some—there is some issues there as well that probably were taken into consideration.

And I ask Joel, would you please speak to that as best as you know. But again, I know that you were not—you know, that was—a lot of that happened in Washington.

STATEMENT OF JOEL A. TUTEIN, SUPERINTENDENT FOR CHRISTIANSTED NATIONAL HISTORIC SITE, BUCK ISLAND REEF NATIONAL MONUMENT AND THE SALT RIVER BAY NATIONAL HISTORIC PARK AND ECOLOGICAL PRESERVE

Mr. TUTEIN. Good morning.

Mr. RADANOVICH. Joel, state your name for the record.

Mr. TUTEIN. Good morning. My name is Joel A. Tutein. I am the superintendent for Christiansted National Historic Site, Buck Island Reef National Monument and Salt River Bay Ecological Park.

For the record, the question was asked, Why go out to the 3-mile limit? I was part of the planning team that worked with the Department of Interior, and we felt at the time that's the smallest area to protect the migratory whales, migratory sea turtle that

travel back and forth in that area. We know that there are pelagics that frequent that area because there are some fish-attracting device that's in there that has enhanced the pelagics coming to that area. There is no place on St. Croix currently where these animals are protected from taking. So it was the consensus that this area should be an area that was off limit to fishing to protect these migratory species from being caught.

Mr. RADANOVICH. OK. Thank you, Joel.

Ms. MAINELLA. So it's not the coral issue out there. It is—

Mr. TUTEIN. Other species.

Ms. MAINELLA. Other species.

Mr. RADANOVICH. Other species.

Mr. TUTEIN. Yes.

Mr. RADANOVICH. And mainly the turtle I guess is what the—is it other than the turtle?

Ms. MAINELLA. The whale I think is the big issue, as I understand it. Migratory whales.

Mr. RADANOVICH. Migratory whale as well? OK, thank you.

With that, Donna, I think I'm going to turn it over to you for questions. We'll go round and round.

Mrs. CHRISTENSEN. OK, thank you. Thank you, Mr. Chairman, and that was actually my first question.

The monument is to protect shoals, rocks undersea coral reef formations. So this actually goes beyond the actual proclamation.

Fish-attracting device, could that be moved out of that area?

Mr. TUTEIN. Again, as Director Mainella said, we would have to utilize the four Cs. Once the GAO report is out, we will then formulate a committee. It will take some time, but we will come to consensus as to what is done with those devices.

Mrs. CHRISTENSEN. I have a question that is more related to the Salt River area, because as I looked over some of the testimony of some of the other people who will be testifying, I saw that at least one person, in referring to the Salt River Historical Park and Ecological Reserve, said that little or no attention was being given to the concept of helping the Virgin Islands Government—and I'm reading it here—establish its Territorial park system administrative management and enforcement apparatus in a meaningful way in terms of training and so forth.

And I wondered how you would respond to that.

Mr. TUTEIN. Well, thank you.

Mrs. CHRISTENSEN. Because it's supposed to be a cooperative agreement. There are supposed to be cooperation and support.

Mr. TUTEIN. Absolutely.

Mrs. CHRISTENSEN. And I'd like you to add to that while you have the mike.

Mr. TUTEIN. The legislation back in 1992 that created Salt River spoke of joint management. As a matter of fact, the National Park Service is supposed to pay for 50 percent of the training. The Park Service has been very involved in Salt River. We've been very active in our land purchasing. We purchased approximately 87 percent of the acreage that needs to be purchased. We had a commission that expired I believe February 24th of this year. The commission had a life of 10 years.

We have written four separate Cooperative Agreements that we have submitted to the Government of the Virgin Islands in hope that this Cooperative Agreement would be the vehicle in which the Territory would identify the personnel that they want to train so that the National Park Service could then go ahead and enter into a partnership of training.

The congressional legislation only talks about that the Park Service is responsible for 50 percent of the training. The Cooperative Agreement would be the vehicle that we would use to funnel the money to the Territory once the employees are identified for training.

Mrs. CHRISTENSEN. So you're saying that you've attempted to make that kind of training and support available, but it's depending on that signing of that MOU?

Mr. TUTEIN. The signing of the Cooperative Agreement would be very beneficial because it's not the Park Service's responsibility to identify the employees in the Territorial Government for training. It is their responsibility to come to us and say, These are the employees that we want trained. And then it's our responsibility to fund 50 percent of that training.

Mrs. CHRISTENSEN. And the Commission is made up of—because now you have to have new nominees to the Commission—

Mr. TUTEIN. I believe that the director and the secretary would have to take that under advisement since the Commission has expired, and an evaluation will probably be done. But if that was to be implemented again, what would happen is the Government would appoint four members and the Secretary of the Interior would appoint four.

Mrs. CHRISTENSEN. Thank you. Let me go on to another question, back to Buck Island again. How, in your view, would the Buck Island Monument impact fishing and the fishermen on St. Croix? How would you respond to the fishermen who say—many of whom are in your family—

[Laughter.]

Ms. MAINELLA. He's a fisherman himself.

Mrs. CHRISTENSEN. —who say it would harm their way of life, or kill their way of life?

Mr. TUTEIN. Well, my father's here today, and my brother, sitting in the audience behind me, and I hope by the time I am finished with this response I will still be part of the family.

[Laughter.]

Mr. TUTEIN. You know, I'm 51 years old. I've been a part of the marine scene all my life, and my father has supported his family through fishing and through marine resources, and also through the Government of the Virgin Islands as a coxswain of the Virgin Islands Port Authority. We have seen the decline in fishing over the years; size of fish, species of fish. We need to have an area that would allow fish stock to regenerate. Currently in St. Croix there is no area to support a nursery for regeneration of fishing.

It will impact the fishermen, yes, absolutely. But the long-term benefits I think will outweigh the short-term losses. And at some point, and I think we've reached to the point, where we have to bite the bullet. We cannot allow continued serial depletion of our fish stocks.

Mrs. CHRISTENSEN. Are there—just as follow-up—are there fishermen that only use that particular area? How many fishermen are affected, and do they fish solely in that area?

Mr. TUTEIN. Based on my 25 years of experience with the National Park Service, I've patrolled for 19 years, I got to know firsthand the fishing community at Buck Island, and I can only speak to the 880 acres monument that still exists, and I would say perhaps about twelve families fish in that area. The expanded area, I couldn't answer that. I really don't know. But I can tell you that when the monument designation first came out, a lot of fishermen were upset because they thought that we were going out to Scotch Bank, which is to the east of—

Ms. MAINELLA. I'll point. You showed me. I'll be your assistant today.

Mr. TUTEIN. Right in there.

The fishing community believed that we were going to take over Scotch Bank, which is the upper long bank, which is a very popular fishing area. But I think that once they found out that it was just this area—and you know, that area might look big, but it's only really 5 percent of the total fishable shelf in St. Croix. Five percent that we want to protect. And that 5 percent will regenerate, we think, the fish stock for the entire St. Croix shelf.

Mr. RADANOVICH. OK. It seems to make—the thing that concerns me is that, at least by my observation of what the Antiquities Act is supposed to be used for, is that it's supposed to be used to protect historic and scientific objects in the monument. Now, I can justify expanding the monument to protect the reefs. I mean that makes sense to me. But I'm not sure it's within the jurisdiction of a monument to be protecting species, unless somebody can further illuminate this for me.

And then that does bring the issue about the Territorial Government of the Virgin Islands being responsible for the fishing off their own waters. Has there been what you would then conclude, is it that there's been a failure of the Territorial Government to protect the fish off its waters, and that's why it's necessary for the park to come in and do the job that they failed to do? Is that—

Ms. MAINELLA. At this point I could not answer any of that aspect, you know, as far as even the legal determination on what can be in a monument as far as the purpose, and we can take that back to our legal—

Mr. RADANOVICH. If you can give me an answer.

Ms. MAINELLA. I will be glad.

Danny, if you'll help me? Thank you so much.

Again, we want to continue to work in wonderful partnership with the Virgin Islands to further enhance that partnership, and I don't know how all the fishing relationships worked in that regard.

Mr. RADANOVICH. Right.

Ms. MAINELLA. So again, that would be something I hope that we can all look into in the future.

Mrs. CHRISTENSEN. If the Chairman—

Mr. RADANOVICH. Sure.

Mrs. CHRISTENSEN. You know, we're a relatively resource-poor government, so any failure would not be for lack of trying or applying the resources that we have. But we're very resource limited.

Mr. RADANOVICH. Uh-huh.

Mrs. CHRISTENSEN. And probably the Commissioner will speak to that.

Mr. RADANOVICH. OK. And I'm not casting blame on anybody. I'm just trying to understand this thing.

Again, it's been my experience on monument designations is that sometimes they far overreach the idea of the monument that they're designed to protect. And I think perhaps, on maintaining fisheries, if there can be a relationship that the Park Service, I know, seeks in communities that are involved in every monument across the country, that perhaps what can be done on that—again, I don't understand fishing communities that well because I represent a land-locked district, but—and I understand that there's more than just the Territorial Government of the Virgin Islands fishing in these waters, so it's probably a little more complex than I know. But it seems to me that there ought to be perhaps a more—I hate applying the law in areas where it shouldn't be applied for other purposes, and that may be what's happening here.

Ms. MAINELLA. Again, I think the best thing, one of the things that this trip is such a great opportunity, that we get to know people here, those of us in Washington in particular, and be able to go back and communicate and of course further enhance all our understanding of what everyone's role should be and can be, and how we can work better together.

Mr. RADANOVICH. Very good. If I may, I'm going to ask one more question. I know—this is on Salt River, on the Salt River project, which we visited yesterday, and again a very beautiful site and a historic site.

Is the purpose of the Salt River—what do you call it, the project or the monument?

Ms. MAINELLA. Preserve.

Mr. RADANOVICH. Historical—

Mrs. CHRISTENSEN. We are expanding the boundaries of that.

Mr. RADANOVICH. Is it a monument or preserve?

Ms. MAINELLA. It's a historical park and ecological preserve.

Mr. RADANOVICH. OK. OK. Now, the historical part, of course, Christopher Columbus landed there in his second voyage to this part of the world, and that's the historic element. And the settlements that were there, was it the Carib Indians.

Mr. TUTEIN. Carib.

Ms. MAINELLA. All the different Indians, archeological history.

Mrs. CHRISTENSEN. If the Chairman would yield, I believe that just about every nation that came here had a settlement in that area.

Mr. RADANOVICH. Oh, is that right? OK, so it's, in addition to Columbus, many more.

What is the nature of the wildlife protection element of this project? Are there reefs that need to be protected out there as well, or is it—

Ms. MAINELLA. My understanding, there's reefs and everything, but I want to turn it to Joel to—but I know that again, Bill that

was here with us gave us some interpretation on the archeological aspects going back to 50 A.D., and I know that's a big impact. And I'll turn it to Joel on more than that.

Mr. TUTEIN. Thank you, sir.

The protection, we have one of the deepest reef formation right off the Salt River Bay. You can see it here on your map on the photograph that—

Ms. MAINELLA. That one I can't point well to.

Mr. RADANOVICH. That will be coral reef formation?

Mr. TUTEIN. Yes, it's also coral reef formation. It's one of the oldest studied areas along with Buck Island for marine research. NOAA had a submarine canyon based where aquanauts performed experiments until 1989 when Hurricane Hugo came and destroyed the facility.

So the natural resources are plentiful. You also have nesting of brown pelican. You have sea turtle nesting, as well, that takes place on the beach on both side, on the Judith's Fancy which is on the left side, and on the Salt River Bay side, which is on the right side.

Mr. RADANOVICH. And the issue there really is not any land acquisition other than a bill regarding the building there that we visited yesterday.

Mrs. CHRISTENSEN. Yeah, it would expand the boundaries to provide the visitors center and management offices.

Mr. RADANOVICH. Correct. And that building would be used as a visitors center, not just a residence? Because if it's going to be used as a residence, I want it to be my residence.

[Laughter.]

Ms. MAINELLA. We would, if that is able to move forward, with the help of the delegate and all of you, with boundary expansion so that could possibly be included, because it's just outside of our boundary right now, I believe, it would allow us to make that as an interpretive center, and also have a chance to—but again, we want input from the community before we make a final determination, but our goal was to help us better interpret an area, and that would be what we would be seeking. I don't think it's—

Joel, it's not your home, is it? No. OK, I just wanted to check. Thank you.

Mr. RADANOVICH. OK. Thank you very much. Any other questions?

All right. Thank you very much. I think we're done, and we're going to move on to the next panel.

[Recess.]

Mr. RADANOVICH. OK. Good morning. I want to welcome Mr. Maxwell McIntosh, the Salt River National Historic Park Commission; the Honorable Dean Plaskett, who's the Commissioner of the Department of Planning and Natural Resources.

Mr. Plaskett, welcome. We appreciated your written testimony submitted the other day at St. John, and we're glad to have you here for questions. I understand that you need to be out of here by 11 o'clock, so I'm going to adjust the way we do things a little bit by allowing you to give your oral testimony now, and then we will question you and then move on to Mr. McIntosh, and that will give you the opportunity to leave when you need to.

STATEMENT OF DEAN PLASKETT, COMMISSIONER OF THE DEPARTMENT OF PLANNING AND NATURAL RESOURCES

Mr. PLASKETT. Thank you very much, Mr. Chair. Good morning, honorable representatives to Congress and to all present or otherwise listening. My name is Dean Plaskett and I—

Mr. RADANOVICH. Dean—

Can people hear? And I need help with the audience. Raise your hand if you can't hear.

Dean, if you'd speak more directly into that mike it would help.

Mr. PLASKETT. I'm sorry. I am Dean Plaskett, Commissioner of the Department of Planning and Natural Resources.

I have been invited here today to render testimony on behalf of the Government of the Virgin Islands with regard to former President Clinton's creation of national monuments here in the United States Virgin Islands.

Pursuant to the Antiquities Act, the President of the United States has the authority to designate national monuments on land "owned or controlled by the Government of the United States." This is found in 16 U.S.C.A. Section 431. However, because the Virgin Islands owns virtually all of the submerged lands that President Clinton designated as national monument lands, he did not have the authority to make such designations under the Antiquities Act. Furthermore, President Clinton's proclamation regarding the Buck Island Reef National Monument breaches a contract between the Virgin Islands and the United States entered into in 1961. In addition, the Department of Planning and Natural Resources and the Territory as a whole believe that President Clinton's proclamation also violated several other Federal statutes and the Constitution.

We feel President Clinton acted beyond the authority conferred by the Antiquities Act. Since June 8th, 1906 the Antiquities Act has authorized the President of the United States to declare by public proclamation "objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments." Thus because the U.S. Government did not own the land designated by President Clinton as national monument lands, President Clinton did not have the authority to designate such lands, and such designations should be void ab initio. As authority we refer to the United States v. California, 436 U.S. 32, page 35n.7, which holds that, "because tidelands within the monument were not owned or controlled by the United States in 1938 or in 1949, Presidents Roosevelt and Truman could not have reserved them by simply issuing proclamations pursuant to the Antiquities Act.

Of course this was another instance where national monuments had been created.

In 1974 Congress passed, and the President signed the Territorial Submerged Lands Act which provides in part: "Subject to valid existing rights, all right, title and interest of the United States and land permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line of three geographical miles distant from the coastlines of the territories of Guam, the Virgin Islands and American Samoa, are hereby conveyed to the governments of Guam, the Virgin

Islands, and American Samoa, as the case may be, to be administered in trust for the benefit of the people thereof."

That is found at 48 U.S.C.A. Section 1705(a). Thus, pursuant to the Territorial Submerged Lands Act, the United States transferred certain submerged lands to the Virgin Islands. However, the Territory acknowledges that such transfer had its limitations:

"There are excepted from the transfer made by subsection (a) hereof: All submerged lands adjacent to property owned by the United States above the line of mean high tide; All submerged lands designated by the President within 120 days after October 5th, 1974; All submerged lands within the Virgin Islands National Park established by Section 398 to 398(b) of Title 16, including lands described in Sections 398(c) and 398(b) of Title 16. All submerged lands within the Buck Island Reef National Monument as described in Presidential Proclamation 3448 dated December 28th, 1961."

This dispute over ownership of the submerged lands underlying the Virgin Islands Coral Reef National Monument and expanded Buck Island Reef National Monument rests in these exceptions.

Specifically, the U.S. Government believes that it owns the newly designated submerged lands based upon the exception contained in 48 U.S.C.A. 1705(b)(ii). In a September 6th, 2000 memo from the Department of Interior senior counsel Karen Kovacs to Secretary Babbitt, Ms. Kovacs wrote that, "in 1974 the Department of the Interior reserved 37,000 acres of submerged lands pursuant to the exception regarding adjacency of Federally owned upland." However, in our opinion, such reasoning is substantially flawed.

On February 1st, 1975, President Ford signed Proclamation 4346 which withheld from transfer to the Virgin Islands 30 acres of submerged lands contiguous to the Buck Island Reef National Monument, thereby expanding the monument pursuant to the exception contained in 48 U.S.C.A. Section 1705(b)(vii). As set forth above, this exception allowed the President to withhold additional submerged lands from being transferred to the Virgin Islands if the President designated such lands within 120 days of October 5th, 1974. If submerged lands were excepted from transfer under one of the other paragraphs of Section 1705(b), there would be no need for President Ford to act pursuant to Section 1705(b)(vii) to withhold such lands.

Mr. RADANOVICH. Mr. Plaskett, could I remind you that the red light is on. If you could sum up briefly. I don't know how many more pages you have there.

Mr. PLASKETT. Certainly. The concern that I have, Mr. Chairman, I respect your position here, but the legal case the Government has made has never been presented to the people of the Virgin Islands. This is the first opportunity that we're having to state on the record our full concern with regards to this particular issue. We have heard a number of issues being raised with regards to the position of the Government, and I thought that it would be important for us to detail specifically what our position is in this regard. However, I respect your position on this and we will—

Mr. RADANOVICH. And your written testimony does, but I'm getting lost in all the bill title numbers.

Mr. PLASKETT. I understand. And again, you know, I think we're doing this for posterity. The record must reflect what our position is clearly. And, you know, I understand your position that you have my testimony in writing.

The only thing I will add, because I think that the legal argument needs to be made in this regard, and the people need to understand what our position is. Our position is not one of emotion, or one just saying the land belongs to the people of the Virgin Islands, and that's that. We have done substantial research with regards to this, and we think that our position ought to get the airing that it deserves.

With regards to our resources, I understand that there have been discussion with regards to the size of the monument, and I would only like to add that the Virgin Islands Government has made some substantial steps with regards to preserving our resources, the most important of which in my opinion is our creation of the Territorial Marine Park System, which in fact will provide for some of the protections that I heard you asking the Park Service about. And in fact—

Mr. RADANOVICH. Territorial park system?

Mr. PLASKETT. Territorial Marine Park System. That's part of the presentation that we made. We've started out with the east end of St. Croix, and we have received some significant funding. As a matter of fact, we had some startup funding of close to $200,000, $225,000 from President Clinton's Coral Reef Task Force for the creation of this Territorial Marine Park System. And we are—our Coastal Zone Management Commission has just last week approved the plans that we have put in place for the Territorial Marine Park System.

You also talked about management of our fisheries. I'm sure that some of the other speakers will be able to enlighten you more with regards to the efforts that the Territory has undertaken over many years with regards to the protection of our fisheries and our fish resources. And so there has been a significant local effort in that regard, and so I think that those issues ought to be considered.

I'd like to thank you for coming to the Virgin Islands and taking the time out of your busy schedules to listen to our concerns. I hope that we would have the opportunity to present our entire case at some other point maybe. I think that, again, while there may be a lot of quotations on here, this matter transpired back in the late sixties. I think, if I recall correctly, the proclamation signed by President Ford was in 1975. I'll admit at that time I was 10 years old, so, you know, the only way that we can put a face on what actually transpired is by going through this thing meticulously and explaining what we've been able to find.

Mr. RADANOVICH. Can I ask you a question? I know you don't—you officially represent the Territory of the Virgin Islands, but there's more people involved in that as well, but if this doesn't work out and this boundary line holds, do you think that it would be the—do you think the Territory's going to sue the Federal Government over it?

Mr. PLASKETT. We would have to take a look at the opinion that is rendered by the GAO and consult with the Governor and all of

the state codes to make a determination as to what our next step would be.

I think that, you know, I feel personally that we have presented a very strong argument, and I think that that is one of the reasons that the GAO has now taken over a year to review this matter. If it was a clear-cut matter, it would have been—the decision would have been rendered some time ago. But the fact is this is a complicated matter. It goes over decades, and we had to do research in President Ford's library to come up with some of these things. We've got quotations and citations to letters from Antonin Scalia, who was the—I think he was solicitor at the time, or Assistant Attorney General or something at the time, regarding this very same matter.

Mr. RADANOVICH. Is it your—do you object to any expansion of the monument whatsoever, or do you think that there's—you just don't think it should be as big as it is or—

Mr. PLASKETT. There's a baseline issue. If the land belongs to the government, the people of the Virgin Islands, then I object to any formation of a national monument. But if it's Federal lands, we would just ask that consideration be given to local fishermen and to the concerns that we have raised, particularly with the Territorial Marine Park System. We have prepared the park system, prepared both alternatives. That is, if it is determined that the land belongs to the people of the Virgin Islands, there is plans to include that as part of the Territorial Marine Park System. If not, we have come up with a mechanism to entertain the park with regards to what they're trying to accomplish and what we're trying to accomplish.

Mr. RADANOVICH. Donna?

Mrs. CHRISTENSEN. Thank you.

Just a few questions, because the Chairman did ask some of the questions that I had also wanted to ask you. But shortly after assuming office, Secretary Norton did write to all of the Governors of the states where monuments had been declared asking for their recommendations regarding those monuments, and Governor Turnbull did respond. I'm assuming that your office had some role in preparing that response. Were all of the issues that you raised here today also included in that letter?

Mr. PLASKETT. I—

Mrs. CHRISTENSEN. Maybe it does?

Mr. PLASKETT. As a matter of fact, no. I think these issues were raised in a letter that we sent to the GAO—

Mrs. CHRISTENSEN. OK.

Mr. PLASKETT. —in defense of our position.

Mrs. CHRISTENSEN. That was my next question. You were able to submit these same arguments to the GAO—

Mr. PLASKETT. Yes, we were.

Mrs. CHRISTENSEN. —in preparation for their response.

Going back to the Section 1705(b)(ii) of the Territorial Submerged Lands Act, what, in your view, what was the purpose of that exception, and do you think it has no effect, or is it just poorly drafted language? What—how do you see that?

Mr. PLASKETT. That section particularly concerns us, because as we argue in our brief, the term the "line of mean high tide" ap-

pears to have been neglected in the consideration of the government, the Federal Government, in the creation of these monuments. Because particularly in the situation with Buck Island, there's no line of mean high tide anywhere close to that creation. The only adjacent lands around the Buck Island expansion are submerged lands. And the actions of the Clinton Administration rendered that particular requirement superfluous, because again, they talk about the line of mean high tide. But except for certain—except for the instances of Chocolate Hole and some other situations in St. John, there is no line of mean high tide adjacent to these monuments that have been created.

Mrs. CHRISTENSEN. Assume for a moment that it was determined at some point, either just by through the collaboration or through a court decision, that the lands were determined to be Federal. How does the restricting, the prohibition against restricting existing fishing and recreational privileges of the Virgin Islands inhabitants in and around Buck Island, how does that then affect the management of that?

Mr. PLASKETT. Well, we also refer to in our brief a 1936, we consider it to be contract, that prohibited any further implementation of restrictive rules and regulations surrounding Buck Island. It has been my experience, and I've been able to learn since this issue has come to the fore, that there are a significant number of fishermen who utilize that area.

We have registered, as I think Mr. Tutein was correct, that there's only a certain number of families who do this on a regular basis, and this is their traditional fishing grounds. However, there is indication in our Fish and Wildlife Division that a number of other fishermen utilize that area.

So if there is going to be the sort of no-take restrictions that have been proposed, you know, I agree with the Park Service that we're along way from a management plan on this. And so I would—I would caution people not to overreact to the possibility of there being a no-take. But if in fact there was a no-take, I think this would be a significant no-take area.

And we have, as part—for example, as part of our creation of the Territorial Marine Park System, we have addressed and spoken with a number of fishermen and they have participated in the meetings and so forth that led to the creation of the Territorial Marine Park Plan, and they indicated to us that this area is an important part of their fishing grounds.

Mrs. CHRISTENSEN. Thank you. I would just—I realize we're time limited, our time is limited here. There may be some further questions that we would want to submit to the Commissioner in writing.

And I wanted to assure you, again, that everything, even though you were not able to orally give your full testimony, it's all included in the official record.

Mr. PLASKETT. Again, you know, I think that the concern that we—that I have is that we have not had the opportunity to—at least the Administration has not had the opportunity to fully air our position with regards to this. A number of the people that you heard speak about this issue are not necessarily government officials per se, and are only reporting what they may have heard. I

wanted an opportunity to completely state what the Government of the Virgin Islands' position is with regards to this issue, because I think that it is a complex situation. It's not as simple as, you know, some would have us believe.

Mrs. CHRISTENSEN. Are you saying that this is the full position of the Government, or that there remains still further issues that you want to raise?

Mr. PLASKETT. Well, I think at this time this is the full position of the Government of the Virgin Islands. However, again, it depends on what the GAO response would be.

Mr. RADANOVICH. Right.

Mr. PLASKETT. If they raise issues that we think are incorrect, or that needs to have additional light shed upon, we would like the opportunity to at least—and then I guess that will be part of our consideration as to what our next step would be because, you know, dependent upon what their opinion is.

[The prepared statement of Mr. Plaskett follows:]

Statement of Dean C. Plaskett, Esquire, Commissioner, Department of Planning and Natural Resources

Good afternoon Honorable Representatives to Congress and to all present or otherwise listening. My name is Dean C. Plaskett, Esquire, Commissioner of the Department of Planning and Natural Resources.

I have been invited here today to render testimony on behalf of the Government of the Virgin Islands with regard to the former President's creation of National Monuments here in the United States Virgin Islands.

Pursuant to the Antiquities Act, the President of the United States has the authority to designate national monuments on land "owned or controlled by the Government of the United States." 16 U.S.C.A. § 431. However, because the Virgin Islands owns virtually all of the submerged lands that President Clinton designated as national monument lands, he did not have the authority to make such designations under the Antiquities Act. Furthermore, President Clinton's proclamation regarding the Buck Island Reef National Monument breaches a contract between the Virgin Islands and the United States, entered into in 1961. In addition, the Department of Planning and Natural Resources ("DPNR") and the Territory as a whole, believe that President Clinton's Proclamations also violated several other Federal statutes and the Constitution.

A. President Clinton Acted Beyond The Authority Conferred by the Antiquities Act

Since June 8, 1906, the Antiquities Act has authorized the President of the United States to declare by public proclamation "objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments." Id. (emphasis added). Thus, because the United States Government did not own the lands designated by President Clinton as national monument lands, President Clinton did not have the authority to designate such lands and such designation should be void ab initio. See United States v. California, 436 U.S. 32, 35n.7 (1978)("[b]ecause tidelands within the Monument were not 'owned or controlled' by the United States in 1938 or in 1949, Presidents Roosevelt and Truman could not have reserved them by simply issuing proclamations pursuant to the Antiquities Act").

In 1974, Congress passed and the President signed the Territorial Submerged Lands Act ("TSLA"), which provides:

> Subject to valid existing rights, all right, title, and interest of the United States in lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coastlines of the territories of Guam, the Virgin Islands, and American Samoa are hereby conveyed to the governments of Guam, the Virgin Islands, and American Samoa, as the case may be, to be administered in trust for the benefit of the people thereof.

48 U.S.C.A. Sec. 1705(a). Thus, pursuant to the TSLA, the United States transferred certain submerged lands to the Virgin Islands. However, the Territory acknowledges that such transfer had its limitations:

> There are excepted from the transfer made by subsection (a) hereof-

(ii) all submerged lands adjacent to property owned by the United States above the line of mean high tide;

* * *

(vii) all submerged lands designated by the President within one hundred and twenty days after October 5, 1974;

* * *

(x) all submerged lands within the Virgin Islands National Park established by section 398 to 398b of title 16, including lands described in sections 398c and 398d of title 16; and

(xi) all submerged lands within the Buck Island Reef National Monument as described in Presidential Proclamation 3448 dated December 28, 1961.

48 U.S.C.A. § 1705(b). The dispute over ownership of the submerged lands underlying the Virgin Islands Coral Reef National Monument and expanded Buck Island Reef National Monument rest in these exceptions.

Specifically, the United States Government believes that it owns the newly designated submerged lands based upon the exception contained in 48 U.S.C.A. § 1705(b)(ii). In a September 6, 2000 memo from DOI senior counsel Karen Kovacs to Secretary Babbitt ("Kovacs Memorandum"), Ms. Kovacs wrote that "'[i]n 1974, DOI reserved approximately 37,000 acres of submerged lands pursuant to the exception regarding adjacency of Federally owned upland.'" Chris Larson, Sen. Cole Plans Hearings on Ownership of Monument Land, The Daily News, Feb. 20, 2001, at 4 (quoting Kovacs Memorandum). However, in our opinion, such reasoning is substantially flawed.

On February 1, 1975, President Ford signed Proclamation 4346, which withheld from transfer to the Virgin Islands thirty acres of submerged lands contiguous to the Buck Island Reef National Monument, thereby expanding the Monument pursuant to the exception contained in 48 U.S.C.A. § 1705(b)(vii). As set forth above, this exception allowed the President to withhold additional submerged lands from being transferred to the Virgin Islands if the President designated such lands within one hundred twenty days of October 5, 1974. If submerged lands were excepted from transfer under one of the other paragraphs of Section 1705(b), there would be no need for President Ford to act pursuant to Section 1705(b)(vii) to withhold such lands. It is clear that President Ford believed that the submerged lands contiguous to Buck Island Monument were not excepted from transfer under any other provision of Section 1705(b):

[t]hese thirty acres of submerged lands are presently owned in fee by the United States. They will be conveyed to the Government of the Virgin Islands on February 3, 1975, pursuant to [48 U.S.C.A. § 1705(a)], unless the President, under Section [48 U.S.C.A. § 1705(b)(vii)] of that Act, designates otherwise.

* * *

The aforementioned thirty acres of submerged lands are contiguous to the site of the Buck Island Reef National Monument.

Proclamation No. 4346, 40 Fed. Reg. 5,127 (Feb. 4, 1975). Moreover, this view also was shared by others in his Administration, including Assistant Attorney General Antonin Scalia:

Unless the proclamation is issued by Sunday, February 2, 1975, the lands to be added to the National Monument will automatically be transferred to the Government of the Virgin Islands pursuant to Section 1(a) of Public Law 93–435 (88 Stat. 1210).

Letter from Antonin Scalia, Assistant Attorney General, Office of Legal Counsel, to President Ford, dated Jan. 31, 1975; see also Letter from William M. Nichols, Acting General Counsel, Office of Management and Budget, to Attorney General, dated Jan. 29, 1975; Letter from Rogers Morton, Secretary of Interior, to President Ford, dated Jan. 22, 1975 ("It is essential that title to these lands be reserved. Under the provisions of P.L. 93–435 (October 5, 1974), these lands will automatically be transferred to the government of the Virgin Islands."). These very submerged lands that President Ford and his Administration expressly interpreted as being subject to transfer to the Virgin Islands without the President's intervention do not differ in character from the vast majority of lands the Clinton Administration claimed were never transferred to the Virgin Islands in 1975. Thus, there appears to be a direct contradiction between the Ford and Clinton Administrations with regard to how the exceptions to the TSLA should be interpreted. However, it is

President Ford who signed the TSLA on October 5, 1974, not the DOI employees in the Clinton Administration who are apparently now trying to rewrite history. "The President, after all, has a part in the legislative process except as to bills passed over his veto, and his intent must be considered relevant to determining the meaning of a law in close cases." United States v. Tharp, 892 F.2d 691,695 (8th Cir. 1990). This is not simply a matter of Presidential interpretation of a Federal law. It is a matter of Presidential interpretation where Congress explicitly delegated to a particular President, for a one hundred twenty day period, the authority to interpret the TSLA and to except from transfer additional submerged lands pursuant to Section 1705(b)(vii). President Ford's interpretation is unambiguous. He believed that lands similar to those he withheld in 1975, now claimed to be Federal lands by the Clinton Administration, were transferred to the Virgin Islands in 1975 when he decided not to except them from transfer.

Perhaps even more significant than the Ford Administration's interpretation of the TSLA is the weakness of the Clinton Administration's rationale for Federal ownership of the submerged lands. According to the Kovacs Memorandum, DOI believed that the submerged lands around the Buck Island Reef National Monument and the National Park around St. John were withheld from the Virgin Islands pursuant to the TSLA provision that excepts from transfer "all submerged lands adjacent to property owned by the United States above the line of mean high tide," 48 U.S.C.A. § 1705(b)(ii). The problem with this theory is that almost all of the lands designated by President Clinton are not adjacent to uplands owned by the United States. In fact, all of the submerged lands designated to enlarge the Buck Island Reef National Monument are adjacent to other submerged lands, not uplands. With the exception of certain designated submerged lands in Hurricane Hole, Coral Bay, and Round Bay, none of the submerged lands designated as the Virgin Islands Coral Reef National Monument are adjacent to uplands owned by the United States. These submerged lands all border other submerged lands within the Virgin Islands National Park. The flaw in Ms. Kovacs' analysis is that it would render superfluous the "above the line of mean high tide" language contained in § 1705(b)(ii). As you know, the Federal courts follow the "well-established maxim of statutory construction that courts should avoid interpretations that render a statutory provision superfluous." Davis County Solid Waste Management v. EPA, 101F.3d 1395, 1404 (D.C. Cir. 1996)(citing Pennsylvania Dept. of Pub. Welfare v. Davenport, 495 U.S. 552,562,110 S.Ct. 2126, 2132,109 L.Ed.2d 588 (1990); Alabama Power Co. v. EPA, 40 F.3d 450,455 (D.C. Cir. 1994)); see Appalachian Power Co. v. EPA, 135 F.3d 791,819 (D.C. Cir. 1998); Asiana Airlines v. FAA, 134 F.3d 393,398 (D.C. Cir.1998)(cardinal principle of interpretation requires us to construe statute 'so that no provision is rendered inoperative of superfluous, void or significant'")(citations omitted).

President Clinton violated another requirement of the Antiquities Act as well. The President is required to confine the designation to the smallest area compatible with the proper care and management of the objects to be protected." 16 U.S.C.A. § 431. Much of the area designated by President Clinton has no relationship with the proper care, management and protection of the reef resources. In fact, President Clinton simply included within his designations all lands the United States claimed it owned and controlled in the vicinity. Thus, it does not appear that the Clinton Administration even considered the size of the area.

B. President Clinton's Expansion of the Buck Island Reef National Monument Breached a Contract Between the United States and Territory and Constituted Takings

In 1936, the United States gave the Virgin Islands control, but not title, to Buck Island. See 28 U.S.C.A. § 1405c. In 1961, the Governor of the Virgin Islands, as authorized by the legislature of the Virgin Islands in an Act of December 5, 1961, relinquished its control over Buck Island to facilitate the establishment and management of the Buck Island Reef National Monument. In exchange for this relinquishment of control by the Virgin Islands, however, the United States agreed not to adopt any regulation restricting the existing fishing and recreational privileges of Virgin Islands inhabitants in and around Buck Island. See Presidential Proclamation No. 3443 (1961). In January 2001, President Clinton reneged on this promise by restricting extractive uses within the Buck Island Reef National Monument. Accordingly, the Territory is entitled to damages for the United States' breach of contract.

Moreover, when President Clinton designated the Virgin Islands Coral Reef National Monument and expanded the Buck Island Reef National Monument in January 2001, he effectuated a taking of the fishing and boating rights of the residents of the Virgin Islands without just compensation. Furthermore, to the extent that the

President designated territorial, as opposed to Federal lands, as monument lands, the Territory view this as a takings as well.

C. Procedural Requirements

We believe that the Territory also may be able to pursue arguments challenging the procedures followed by the Clinton Administration in designating and expanding the monuments. In this regard, the National Environmental Policy Act ("NEPA") and the Coastal Zone Management Act ("CZMA") would apply. For example, the procedural requirements of NEPA and the CZMA apply to the actions of agencies and departments who advised President Clinton. See e.g., State of Alaska v. Carter, 462 F. Supp. 1155,1160 (D. Alaska 1978)(NEPA); 16 U.S.C.A. Sec. 1456(c) (the CZMA requires each "Federal agency activity to be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs"). Thus, to the extent DOI failed to follow required procedures, the Proclamations are invalid.

For the foregoing reasons, DPNR and the Territory believe that President Clinton's Proclamations designating the Virgin Islands Coral Reef National Monument and expanding the Buck Island Reef National Monument are invalid.

If there is any concern, whatsoever with the manner in which we have protected our resources, in particular our marine resources, we feel that our creation of the Territorial Marine Park System addresses any such concern.

St. Croix East End Marine Park Management Plan—Key Points

The East End of St. Croix has long been recognized for its unique marine resources and biodiversity. In 1960 it was recommended that the East End of St. Croix be designated as a Nature Preserve. During 1979 and 1980 it was designated as an Area of Particular Concern, an Area for Preservation and Restoration and nominated as a significant Natural Area.

The process that led to the development of the St. Croix East End Marine Park Management Plan grew out of the U.S. Coral Reef Task Force recommendations to protect coral reef ecosystems and the lifestyles and economies that are dependent on them. The primary recommendation is that states and territories with significant coral reefs place 5% of them under protection by 2002, 10% of them under protection by 2005, and 20% of them under protection by 2010. Of these figures, it is recommended that 20% be "no-take" areas.

At the Third Coral Reef Task Force Meeting held on St. Croix, Governor Turnbull announced that it is his desire to establish and underwater park that can be enjoyed by residents and visitors alike, while protecting the unique resources and biodiversity of the park.

The Department of Planning and Natural Resources/Division of Coastal Zone Management (DPNR/CZM) applied for and received a $225,000 grant for its Marine Park Project. A Virgin Islands Marine Park Committee was formed with members composed of personnel from DPNR (CZM, Division of Environmental Enforcement, Division of Environmental Protection, and the Division of Fish and Wildlife), the University of the Virgin Islands, nonprofit organizations, for profit organizations, fishermen, dive shop operators, and Federal Government agencies to facilitate development of this Plan.

Four documents have been prepared under this grant:

1. The St. Croix East End Marine Park Management Plan;
2. A Resource Description Report;
3. A Management Framework for a System of Marine Protected Areas for the U.S. Virgin Islands; and
4. A Socio–Economic Assessment of Marine Resource Utilization in the U.S. Virgin Islands.

To develop the St. Croix East End Marine Park Management Plan, the Nature Conservancy Virgin Islands Program facilitated a series of scoping meetings in September and October 2001 and public meetings in January and February 2002. This plan was reviewed by DPNR during March and April 2002, and is currently being put forth by the Coastal Zone Management Commission for comments and input.

The Plan outlines the purpose and manner in which the area is to be used. It sets the management objectives, policies, and strategies to achieve the stated objectives. It also addresses the administrative structure, resource use, zoning boundaries, financial support, staff needs and monitoring plans. The management plan is a working document that would be updated periodically, and should be used to actively and appropriately manage the park.

Upon legislative adoption of the Marine Park, rules and regulations will be developed, with public input, to effectively implement the park's plan.

Key points of the plan include:

1. The Marine Park surrounds the entire East End of the island. On the north shore the boundary begins at the western border of Chenay Bay and extends out to the 3-nautical mile territorial boundary. The Park extends around the eastern tip of St. Croix, with the southern boundary extending to the western border of Great Pond Bay.
2. The landward side of the boundary is the high-tide line.
3. The Marine Park is composed of 4 zones: No–Take Areas, a Turtle Wildlife Preserve Area, Recreational Areas, and Open Fishing Areas.
4. No–Take Areas are designed to encompass large, contiguous diverse habitats. They are intended to provide natural spawning, nursery, and permanent residence areas for the replenishment and genetic protection of marine life, and to protect and preserve all habitats and species; particularly those not protected by fisheries management regulations. Commercial and recreational fishing activities will not be permitted within these areas. Other uses, such as swimming, diving, and boating will be permitted. However, anchoring and jet skiing will not be permitted within the No–Take Area.
5. The Turtle Wildlife Preserve Area will be established to minimize disturbance to sensitive wildlife populations and their habitats and to ensure protection and preservation of wildlife resources in the Park. In particular, this designation will be applied to the primary turtle nesting beaches and near shore resting areas. Regulations governing access will be designed to protect the endangered turtles and their habitat, while providing opportunities for public use.
6. Recreational Areas are designed to provide areas for snorkeling, diving, and boating while prohibiting any activities that would compromise the recreational values for which the area may be designated. Catch and release fishing and baitfish collection will be permitted in recreational areas. Commercial fishing of any sort will not be permitted in recreational areas. Mooring of boats will be permitted in recreational areas, but only with the use of mooring buoys. General shipping will be restricted.
7. Open Fishing Areas are areas in which there are no restrictions on fishing, boating, and diving activities. These areas are governed by all the rules and regulations pertaining to commercial and recreational fishing in the Virgin Islands Code. These areas will be used as a control to monitor and evaluate the effects of resource zoning in the Park. Trawling and general shipping are prohibited, as well as those activities inconsistent with the Park's long-term conservation (e.g., mining and oil drilling).

In Fiscal Year 2001, DPNR secured an additional $390,000 from the National Oceanic and Atmospheric Administration (NOAA) to hire staff, purchase equipment and begin implementation of non-enforceable management measures for the proposed Marine Park. DPNR is in the process of executing this work-plan and has already hired new staff, purchased a vehicle and is nearing completion of the procurement process for the acquisition of a marine vessel. A comprehensive education and outreach program is also included in this budget and DPNR is on schedule to complete the required tasks.

For Fiscal Year 2002, DPNR has requested $400,000 in Federal funding from NOAA to proceed with implementation of the Marine Park Plan. NOAA has indicated to DPNR that approval of this additional funding is contingent upon legislative approval of the East End Marine Park. DPNR plans to utilize these funds to refurbish the building at Cramer's Park and put the relevant boundary markers in place.

It is expected that as this Marine Park matures, it will not only provide a protected area for the ecosystems and the marine life they support, but it will also become a nursery for depleted fish stocks. Other benefits are the continued preservation of traditional uses for Virgin Islanders, the increase of St. Croix's tourism products through the restoration of the Visitor's Center, and possibly, the creation of alternative or expanded tourism products (i.e. guided fishing, scuba/snorkeling tours, daily sailing, etc.). A final benefit that is well-established throughout the United States is that lands abutting protected or preserved areas generally command a higher resale value relative to lands that do not. This extra value could allow the Virgin Islands Government to receive increased revenues from higher stamp taxes, increased property taxes and more income and business taxes from realtors, surveyors, and others involved in the real estate industry.

I would like to take this opportunity to thank the Subcommittee for bringing this hearing to the United States Virgin Islands, and we offer sincere welcome to all.

Mr. RADANOVICH. And your written material certainly does do that, and I thank you very much for your testimony here.

The Committee is pleased to have with us, again, Ms. Betty McCollum representing the District and the State of Minnesota.

Betty, welcome back. Do you have any questions?

OK. Very good.

Mr. Plaskett, thank you very much for being here.

Mr. PLASKETT. Thank you.

Mr. RADANOVICH. And you're free to leave at any time, as Mr. McIntosh is not, though, because he's got to begin his testimony.

So Mr. McIntosh, welcome to the Committee. And again, if you'd like to begin your testimony, please keep the clock—red means—or green means go, yellow means speed up, and red means stop, just like a traffic light.

STATEMENT OF MAXWELL McINTOSH, SALT RIVER NATIONAL HISTORICAL PARK COMMISSION

Mr. MCINTOSH. Good morning, Chairman Radanovich, Delegate Christensen, Delegate McCollum. My name is Maxwell McIntosh. I'm an attorney in the private practice of law here in the Virgin Islands. I also served on the Advisory Commission of the Salt River Bay National Historic Park and Ecological Preserve.

I'd like to thank you for inviting me today to testify before the Subcommittee on National Parks, Recreation and Public Lands of the U.S. House of Representatives Committee on Resources.

The Salt River Bay Commission was established on February 24th, 1992 by then President George Bush, and the Commission expired 10 years after the establishment of that law. I unfortunately was only able to serve on the Commission for 1 year, because I was appointed in January of 2001 to the Salt River Bay Commission. The other individuals who also served on the Commission with me are Roy Adams, Jessica Thompson, Gerville Larsen, Commissioner Dean Plaskett who was just here, Commissioner Pamela Richards of the Virgin Islands Department of Tourism, District School Superintendent Terrence Joseph of the St. Croix District, and Senator Vargrave Richards.

There were other individuals who have served on the Commission prior to the new Commission that was installed in January of 2001, and those individuals have provided significant service to the Virgin Islands.

The National Park Service performs important and vital functions in the United States Virgin Islands. Among other things, the National Park Service provides protection of our natural resources, preservation and restoration of our historic structures, and interpretation of historical and cultural resources. In the Virgin Islands we are fortunate to live in one of the most beautiful areas in the world. Unfortunately, often through our actions and inactions, we damage and destroy the natural beauty of our environment.

The National Park Service helps to protect our natural environment so that future generations can also enjoy the beauty of these islands. The National Park Service also helps to preserve and restore our historical structures. If this preservation and restoration did not take place, we would lose these structures to weather and time, or they would be in very poor condition.

Finally, the National Park Service provides interpretation of our historical and cultural resources. Through interpretation, both

residents and visitors gain a better understanding of what they see before them and what may have occurred in the past in that location.

As I indicated, I'm proud to have served on the Salt River Bay National Historic Park and Ecological Preserve Advisory Commission. Salt River Bay is truly a unique area that contains nationally significant resources. Salt River Bay is a rich area because of both its natural and ecological resources, and also because of historical and cultural resources. The mangroves at Salt River, which is the largest remaining mangrove within the Virgin Islands, serve as the nursery for scores of marine plants and animals. The area also serves as a rookery for many birds, and other birds either populate the area or utilize the area as an important resting stop for their period of migration. Many endangered and threatened species also inhabit Salt River Bay, and numerous plant species can also be found within Salt River.

As to the historical and cultural resources, the history of this area encompasses thousands of years of human history on St. Croix. As was mentioned earlier, just about every group of people that came to St. Croix attempted to establish a settlement at Salt River. Salt River is the site of the only ceremonial ball court that has been located in the Lesser Antilles. It also contains one of the few earthwork fortifications in the world. The Spanish, French, English, Dutch and Danish all attempted settlements at Salt River.

Unfortunately, many residents and visitors to the island do not know of the rich natural, historical and cultural resources at Salt River Bay. The education and interpretation of the area is greatly lacking, and signage of the area will go a long way in enlightening individuals regarding these resources. Unfortunately, the earthwork fort is used as a jumping ramp for all-terrain vehicles, and that has further deteriorated this earthwork fortification. And unfortunately some of these individuals don't even know what they're destroying. They don't even know that the fort is there, the ball court, and all the other rich historical and cultural resources.

Salt River Bay is a park that is to be jointly managed between the Virgin Islands Government and the National Park Service. I'd like to thank the House of Representatives and the U.S. Senate for its financial support for the continuing acquisition of property within the park boundaries of Salt River Bay, and I also know the discussion is to extend the boundaries to include an additional acquisition, and I'd be in full support of doing so.

Finally, congratulations are in order for Superintendent Joel Tutein for his hard work, dedication and vision in moving St. Croix forward.

I'd like to thank you for this invitation today, and I'm available for any questions.

[The prepared statement of Mr. Mcintosh follows:]

Statement of Maxwell D. McIntosh, Esq., Attorney, Advisory Commission Member, Salt River Bay National Historic Park and Ecological Preserve

Good Morning. Chairman Radanovich, the Honorable Donna Christensen and the Honorable Betty McCollum. Thank you for inviting me to testify today before the Subcommittee on National Parks, Recreation and Public Lands of the U.S. House of Representatives' Committee on Resources. My name is Maxwell D. McIntosh and I am an attorney in the private practice of law in the United States Virgin Islands.

I also served on the Advisory Commission for the Salt River Bay National Historic Park and Ecological Preserve.

The National Park Service performs important and vital functions in the United States Virgin Islands. Among other things, the National Park Service provides protection of our natural resources, preservation and restoration of our historic structures and interpretation of our historical and cultural resources. In the Virgin Islands, we are fortunate to live in one of the most beautiful areas in the world. Unfortunately, through our actions and inactions, we damage and destroy the natural beauty of our environment. The National Park Service helps to protect our natural environment so that future generations can also enjoy the beauty of these islands. The National Park Service also helps to preserve and restore our historical structures. If this preservation and restoration did not take place, we would lose these structures to weather and time or they would be in very poor condition. Finally, the National Park Service provides interpretation of our historical and cultural resources. Through interpretation, both residents and visitors gain a better understanding of what they see before them and what may have occurred in the past.

I am proud to have served from January of 2001 as a member of the Advisory Commission of the Salt River Bay National Historic Park and Ecological Preserve. Other members who served on this Advisory Commission with me are Roy Adams, Jessica Thompson, Gervile Larsen, Commissioner Dean Plaskett, Commissioner Pamela Richards, District School Superintendent Terrence Joseph and Senator Vargrare Richards. Salt River Bay is truly a unique area that contains nationally significant resources. Salt River Bay is a rich area because of both its natural and ecological resources and because of its historical and cultural resources. The mangroves serve as the nursery for scores of marine plants and animals. The area also serves as a rookery for many birds and other bids either populate the area or the area serves as an important stopping point for many migratory birds. And many species of animals also inhabit the area and many plant species can also be found within Salt River Bay.

As to the historical and cultural resources, the history of this area encompasses more than 4000 years of human history on St. Croix. Some of the earliest inhabitants on St. Croix settled at Salt River Bay. Salt River Bay is the site of the only ceremonial ball court that has been located in the Lesser Antilles. It also contains one of the few earthwork fortifications in the world. Unfortunately, many residents and visitors to the island do not know of the rich natural, historical and cultural resources at Salt River Bay. The education and interpretation of the area is greatly lacking and signage of the area will go a long way in enlightening individuals regarding these resources.

Through joint management with the Virgin Islands Government and the National Park Service, Salt River Bay National Historic Park and Ecological Preserve will become a gem of a park. I would like to thank the House of Representatives and the United States Senate for its financial support for continuing acquisitions within the park boundaries. These acquisitions will go a long way in making an excellent park at Salt River Bay. Finally, congratulations are in order to Superintendent Joel Tutein for his hard-work, dedication and vision on St. Croix.

Thank you for you for this invitation and your expected continued support of the National Park Services' efforts at Salt River Bay.

Mr. RADANOVICH. Thank you, Mr. McIntosh.

Donna, do you want to start off?

Mrs. CHRISTENSEN. Well, just a couple of questions. You kind of answered the first question I was preparing to ask you about losing some of the historical and cultural resources.

Do you see the acquisition of the property as helping to control that loss, and prevent some of the loss? Is it important to preserving the structures?

Mr. MCINTOSH. Yes, I think it would be a significant step toward that process, and for the very reason that it would have a presence, a permanent presence of individuals who will be there to look at the activities that are going on. Also give an interpretation, because a big part of the problem is people don't even know, individuals don't know that the earthwork fort is there. They don't know

that the walls they're jumping off of, they just think it's a high mound of dirt, unfortunately. So they don't know.

But through that interpretation, knowledge to the school children, I think the loss and deterioration will come to—at least it will slow it down.

Mrs. CHRISTENSEN. I'm not sure in your 1 year if you are able to answer this question, but apparently there have been four versions of a Cooperative Agreement submitted. Do you know what the issues are that have precluded us signing that Cooperative Agreement?

I guess I should have asked Mr. Tutein but—

Mr. MCINTOSH. No, I don't know. I think that would be a question for Superintendent Tutein to answer.

Mrs. CHRISTENSEN. And one last question for you, Attorney McIntosh. Do you have concerns that the local government is not getting the kind of support from the Federal Government that they should be getting in this joint management situation?

Mr. MCINTOSH. I would actually say that the issue is the opposite; that the local government hasn't sought the support of the Federal Government, and I think that's where some of the issues have come up. Even as to the establishment of the Commission, there had to be a waiting period for the local government to designate the individuals who would serve on the commission, and that actually created—it was necessary to wait for the local individuals to join the Commission in order for it to fully function. So it may be an issue more that the local government is not utilizing the resources that are available to them from the Federal Government.

Mrs. CHRISTENSEN. St. Croix is, of the three islands, St. Croix is the most economically depressed, and do you think that being able to fully interpret and protect that and really make Salt River a show piece would enhance our economic conditions here? Would it help tourism? Do you think that it would be a boon to our economy here if we were able to really put that plan, management plan in place and make Salt River the showplace that it has the potential to be?

Mr. MCINTOSH. It would definitely do so. I think it would attract individuals to St. Croix to come and learn. And even as far as the educational component, I know that there is some discussions in having both the scientific study of Salt River, as well as the archeological, historical and cultural study of Salt River. And more and more individuals are actually traveling to learn more about the history. It's no longer a travel just to sit on the beach and to relax, but actually to have a sense of the place.

And so Salt River would certainly be the location that would attract individuals to come, learn, and right now it's not occurring because people don't know. You drive down to even where the ball court is located, and you don't see signs or anything telling you what is there. You know, you have different areas within there where Columbus' landing party came aground, but there's no indication to someone who goes there what is exactly there. So they may go, but they have no sense of really what they're seeing.

Mrs. CHRISTENSEN. And do you feel that it's an educational tool as well for our children and for our enhancement of our own self-image and well being?

Mr. MCINTOSH. Oh, definitely. And I think that's what the even greater part of it is for the individuals of the Virgin Islands to know of what is at Salt River. It would actually enhance them, and once they gain that knowledge, because even some of the natural, the cultural historical artifacts and items that are present at Salt River are so unique to anywhere in the world, that it would actually enhance the educational system of the Virgin Islands.

Mrs. CHRISTENSEN. Thank you.

Mr. RADANOVICH. Thank you, Donna.

I have a question—first of all, let me state that I applaud the efforts of you and the Federal Government in this area of the Salt River Project. I think it's very interesting, I think, and applaudable.

Let me ask you, though, once there becomes Federal land ownership in the area, and let me know if this is not your area of expertise, but I do consider, I would be concerned about the continuous claiming of 3 miles off the shore and us getting into fishing issues as a result of more Federal land ownership that's bounded by the edge of the island and the water.

Is that a likely possibility in something like this or—

Mr. PLASKETT. It is, quite honestly, Mr. Chairman, not my area of expertise. I don't think that it is likely to create a problem at Salt River just because of there being the joint management of the park there, so that even on the water side of it, I think that will also, because of that joint management between the Virgin Islands Government and Federal Government, I don't think it would be as much of an issue there.

Mr. RADANOVICH. If I—I may submit that to—

Mrs. CHRISTENSEN. If the Chairman would yield, I believe that as written it applied to Federal land that existed and was owned as Federal land in '74. I would like to get the opinion on that as well. I believe—

Mr. RADANOVICH. Yeah, because I—

Mrs. CHRISTENSEN. I believe it cannot apply to something was not Federal land at the time that the law was enacted.

Mr. RADANOVICH. I see.

Mrs. CHRISTENSEN. I'd like to see that as well.

Mr. RADANOVICH. OK, that's fine.

Ms. McCollum, any questions? All right.

I think I have no further questions either, Mr. McIntosh. Thank you very much.

Mr. PLASKETT. Thank you, and thanks for coming.

Mr. RADANOVICH. With that we'll call for our third panel which consists of Mr. Bill Turner, who's the Executive Director of the St. Croix Environmental Association; Mr. Virdin Brown, the Chairman of the Caribbean Fisheries Council; Mr. Robert McAuliffe, a fisherman; Ms. Michelle Pugh, owner of Dive Experience.

[Recess.]

Mr. RADANOVICH. Ladies and gentlemen, welcome to the Committee. I appreciate you taking your time from your busy morning to come testify. As you know, the rules are we'll go through each person to deliver a 5-minute testimony. I will keep you as close as I can to the 5-minute rule, but please know that your written testimony is already a part of the record. And if you can, what we're

more concerned about is your verbal presentation of those written information. If there's something that you didn't cover, there'll be a lot of questions and answers afterwards. So we'll make sure that we get all your full views in on the record before we're done.

So Ms. Pugh, welcome to the Committee. If you'd like to begin, we'll work from left to right from me up here and get all of your verbal testimony in the record.

STATEMENT OF MICHELLE PUGH, OWNER, DIVE EXPERIENCE

Ms. PUGH. All right. Thank you. Good morning. My name is Michelle Pugh.

Mr. RADANOVICH. Michelle, you already need to bring that mike closer to you. I'm sorry, it's—

Ms. PUGH. I'm sorry. Good morning. Can you hear me?

Mr. RADANOVICH. OK. That's better. Yeah, I see no hands.

Ms. PUGH. My name is Michelle Pugh. I'm the owner of Dive Experience, Incorporated in Christiansted. I'm also a member of the Fishery Advisory Committee since 1989 on St. Croix, and also on the Board of Directors of the Island Conservation Effort.

Basically my testimony is the—the change I've seen over the years with the fish life and marine life on St. Croix. I came here in 1997—excuse me—1977, 24 years ago, and we had a lot of fish life, beautiful coral reefs, and it has changed over the years. We have very small fish, and very sickly type fish. I'm not a scientist, but I can just tell by looking at the animals they're not very healthy. We have a lot of problems on St. Croix. We have a lot of pollution from businesses, but also basically from sewage. We have over fishing. We have great laws here, but they're not enforced. So this is causing animal life to change here.

That's basically it.

[The prepared statement of Ms. Pugh follows:]

Statement of Michelle Pugh, Resident, St. Croix

I, Michelle Pugh, have been a resident of St. Croix USVI since October 1977. 1 have been employed as a PADI open water SCUBA instructor and I have logged over 10,000 dives in the waters of St. Croix. I am also on the St. Croix Fisheries Advisory Committee representing sport diving.

Over the past 24 years I have noticed a very large change in both the coral reefs and fish populations as well as size of the fish. Most of our reefs close to shore are covered in algae and are barely alive. Many fish in these areas are covered in strange growths and are sickly in appearance. I am not a scientist but I would guess that these areas have been destroyed by over fishing, sewage spillage, land bulldozing and some very strong hurricanes. On the deeper areas the coral life is much better, but large fish are rare.

My first years of diving on St. Croix, I recall seeing large groupers, sharks and lots of reef fish. The coral and sponge life was very healthy. I do not know if we have gone beyond the point of no return.

I have dived many other Caribbean islands; some have great coral and marine life. These islands have marine parks and many "no dives" or "no take" areas, which are rotated and protected. Other islands do not have such protection and you can tell by the coral damage and lack of marine life. It is very obvious that if an island has protected "no take" areas, the marine life could return.

St. Croix has many, many laws regarding the fisheries; unfortunately there is no enforcement to speak of. Our local government has failed. The Federal Government will take a more serious stand on laws and perhaps bring life back to our waters surrounding the island of St. Croix.

Mr. RADANOVICH. OK. All right. Thank you very much. Again, we'll ask questions when we get everybody's testimony.

Mr. McAuliffe, welcome to the Committee, and again, you have 5 minutes.

STATEMENT OF ROBERT McAULIFFE, PRESIDENT OF THE FISHERMEN'S UNITED SERVICES COOPERATIVE

Mr. MCAULIFFE. Good morning, Mr. Chairman. I've listened to you tell everybody else to eat this thing.

Mr. RADANOVICH. Correct.

Mr. MCAULIFFE. My name is Robert McAuliffe, President of the Fishermen's United Services Cooperative of St. Croix. I speak on behalf of the co-op members and the fishing community in general.

My involvement with Buck Island, though a bit more personal, is reflective of that of the fishing community on St. Croix. In the early fifties, during my first year of high school, I would go with one of my uncles to guide tourists at Buck Island on snorkeling and spear fishing strips. I received my first mask as a gift from one of the tourists. It was the latest full face mask with two snorkels and ping pong ball valves. It's an antique now.

[Laughter.]

Mr. MCAULIFFE. What started out as simple hospitality to some friendly tourists by a couple of young Crucian men has grown into a major tourist attraction and national monument.

Harvesting the sea has been my reason for living from my earliest memories. When completing my military service with the U.S. Coast Guard, I took the first flight back to St. Croix and its familiar fishing grounds.

This brief introduction will hopefully help demonstrate to the Subcommittee that even though I have 50 years of fishing experience, many of my most vivid memories are rooted in the waters around Buck Island. For example, my first 30-pound kingfish caught while fishing for yellow tail snapper with a hand line made of cotton marlin twine. That event took place 49 years ago, and I still remember the exact landmarks for the spot.

The purpose of this exercise is not to sit here all morning telling fish stories, but to convince this Subcommittee of the importance of the waters around the original park boundaries—and I highlight original boundaries—to the commercial fishing industry, the charter fishing industry, and the community as a whole.

I do not feel that the Park Service has the moral right to ask the people of the Virgin Islands to surrender their management rights to the fishing grounds around Buck Island National Monument when they, the Park Service, have failed for over 40 years to fully protect the stocks under their jurisdiction. It is an insult to the community that has, with very few exceptions, respected the authority and rules of the Service. For this Service to attempt to use ambiguities and failures of their own rules to take public lands of the Virgin Islands from the people of the Virgin Islands through Presidential proclamation is unacceptable. I refer to Title 36 Chapter 1 Code of Federal Regulations, and the Presidential Proclamation 7392 of January 17, 2001.

A great deal can be achieved by bringing all parties to the table from the beginning with frank discussion and good faith negotia-

tions. The Virgin Islands Government must accept a full share of the blame for this situation, for they are paid by the people to keep the populace fully informed and in the loop. It is the duty of the local government to defend the property rights of the people of the Virgin Islands from all threats, including those from the Federal Government. Where are all these defenders that we, the people, pay such high salaries to?

In closing, I would like to make the point that if, after all our arguments in favor of local fishing industries' rights and need to make a fair living, we should still lose these rich fishing grounds to the Park Service, the fishermen should be fairly compensated. Considering that there are 224 licensed fishermen on St. Croix, and all of them will be affected in some degree over the remainder of their lives, I would suggest that each licensed holder be paid $100,000. I thank you.

Mr. RADANOVICH. Thank you, Mr. McAuliffe. We appreciate your testimony.

[The prepared statement of Mr. McAuliffe follows:]

Statement of Robert N. McAuliffe, President, Fishermen's United Services Cooperative of St. Croix

My name is Robert N. McAuliffe, President of Fishermen's United Services Cooperative of St. Croix, I speak on behalf of the Co-op members and the fishing community in general.

My involvement with Buck Island, though a bit more personal, is reflective of that of the fishing community of St. Croix. This relationship also applies to Christiansted town and Salt River. I will confine my comments to Buck Island as it will affect the most people in the short term.

Prior to my birth my family kept goats on Buck Island. They were accessible only to the larger boats that were fitted with sail. To row a small boat out to the island to shoot a few goats then row back to the main island was not an easy feat. When the Government built the lighthouse on the island the workers hunted the goats to extinction. My earliest recollection of Buck island was looking at it from the porch of the family shack while helping my uncles knit a net to catch giant parrot fish and turtles on the lea side of the island. By this time the family had access to one of the first outboard engines on St. Croix, a ten hp Johnson owned by Dr. Evans a gentleman who went on to become our first elected governor.

In the early 50s during my first year of high school I would go with one of my uncles to guide tourists at Buck Island on snorkeling and spear fishing trips. I received my first mask as a gift from one of the tourist. It was the latest, a full face mask with two snorkels with ping pong ball valves. What started out as simple hospitality to some friendly tourist by a couple of young Cruzan men has grown into a major tourist attraction and National Monument.

Harvesting the sea has been my reason for living from my earliest memories. On completing my military service with the U.S. Coast Guard, I took the first flight back to St. Croix and its familiar fishing grounds. After providing, with the help of many relatives, shelter for my wife and two young sons, I started my adult fishing career.

This brief introduction will hopefully help demonstrate to the Subcommittee that even though I have fifty years of fishing experiences many of my most vivid memories are rooted in the waters around Buck Island. For example, my first 30 lb king fish caught while fishing for yellow tail snapper with a hand line made of cotton marline twine. That event took place 49 years ago and I still remember the exact land marks for the spot.

The purpose of this exercise is not to sit here all morning telling fish stories, but to convince this Subcommittee of the importance of the waters around the original park boundaries, and I highlight original boundaries, to the commercial fishing industry, the charter fishing industry, and the community as a whole.

I do not feel that the Park Service has the moral right to ask the people of the Virgin Islands to surrender their management rights to the fishing grounds around the Buck Island National Monument when they, the Park Service, have failed for over 40 years to fully protect the stocks under their jurisdiction. It is an insult to the community that has, with very few exceptions, respected the authority and rules

of the Service. For this Service to attempt to use the ambiguities and the failures of their own rules to take public lands of the Virgin Islands from the people of the Virgin Islands through Presidential Proclamation is unacceptable. (Title 36, Chapter 1 Code of Federal Regulations—Presidential Proclamation 7392 of January 17, 2001)

Code of Federal Regulations, Title 36, Chapter 1

Sec. 7.73 Buck Island Reef National Monument. Paragraphs (e) (1) through (e) (5) are unenforceable and do not impart any meaningful protection to the fish stocks. It is only through the good will conservation and misunderstanding of the regulations by the people of St. Croix that the fish stocks within the Monument boundaries gained any relief.

These five paragraphs, as written, are an open mandate to strip the Monument of all fish life. The fact that these regulations are still on the books is a clear demonstration that the Park Service is not equipped with the knowledgeable staff or the understanding to properly manage the underwater portion of the Monument. This is also a strong argument against any additional expansion of the original boundaries.

A situation that I find particularly troubling falls under paragraph (e) (1). Provided, That fish may be taken by pots or traps of conventional Virgin Islands design and are not larger than five feet at the greatest dimension. When I discussed this with Joel Tutein recently he informed me that the Park Service did in fact permit the setting of traps within the Monument boundaries provided they met the size restriction and that they were not marked with a buoy. When Secretary Babbitt was taken on his now famous dive tour, traps were discovered with fish in them that were not marked with a buoy and labeled as ghost traps. The presence of ghost traps in the area has been given as one of the justifications for the need to expand the Monument boundaries. I would suggest that this situation warrants a complete re-evaluation with public input.

Net mesh size restrictions speak to the minimum size of the mesh not the maximum size.

There is no mention of cast nets in the regulation even though it is the most common type of bait net. Cast nets are measured by their hanging length or radius. The diameter of a 20 foot cast net would be 40 feet, a real monster net.

(e) (2) This paragraph is to ambiguous, mask, fins and snorkels could be considered spearfishing equipment as they are used for spear fishing.

(e) (3) The taking of lobster by hand held hook is illegal in Virgin Islands waters and most other parts of the world. A boat with eight people on board would be technically legal if found to have thirty two (32) lobsters in their possession within the Monument boundaries. That is a lot of lobster.

(e) (4) There is no mention of the size limits or closed seasons that apply to both conch and whelk in VI waters. Does that mean that as long as they are harvested and consumed within the Monument boundaries that it is permissible to violate Virgin Islands' Law?

(e) (5) This is another example of ambiguity. Only the means of taking is prohibited, possession is not. A person would have to be caught in the act to be in violation.

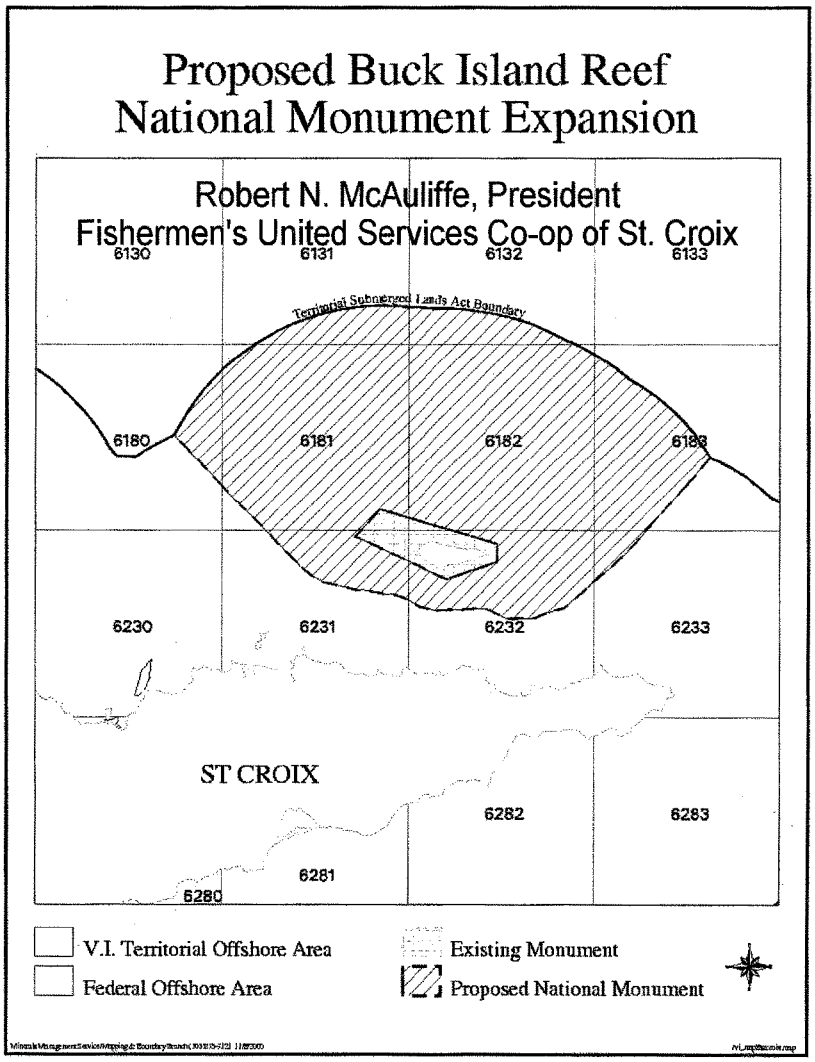
A great deal can be achieved by bringing all parties to the table from the beginning with frank discussions and good faith negotiations. The Virgin Islands Government must accept a full share of the blame for this situation for they are paid by the people to keep the populace fully informed and in the loop. It is the duty of the local Government to defend the property rights of the people of the Virgin Islands from all threats including those from the Federal Government. Where are all these defenders that we the people pay such high salaries to?

In closing I would like to make the point that if, after all our arguments in favor of the local fishing industry's rights and need to make a fair living, we still lose these rich fishing grounds to the Park Service the fishermen should be fairly compensated.

Considering that we have 224 licensed fishermen on St. Croix and all of them will be affected in some degree over the remainder of their lives I would suggest that each license holder be paid $100,000.00. These compensation payments should be administered directly by the Park Service or some other Federal agency, but not by the local Government.

Thank you

[Attachments to Mr. McAuliffe's statement follow:]


Proposed Buck Island Reef
National Monument Expansion
Robert N. McAuliffe, President
Fishermen's United Services Co-op of St. Croix
6130
6131
6132
6133
Territorial Submerged Lands Act Boundary
6180
6181
6182
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6230
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ST CROIX
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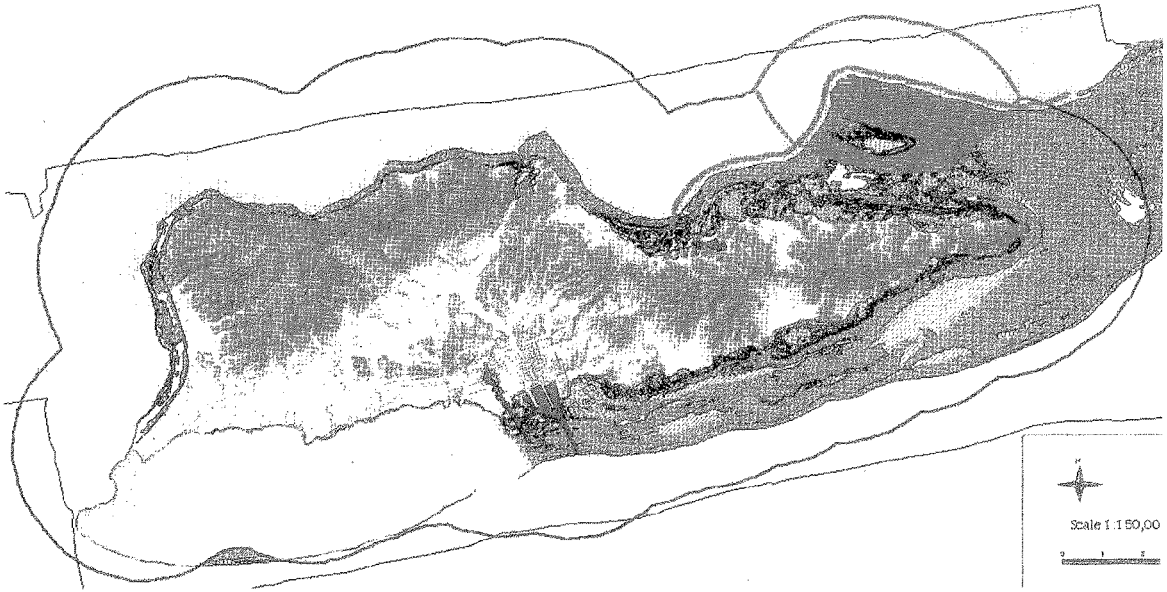
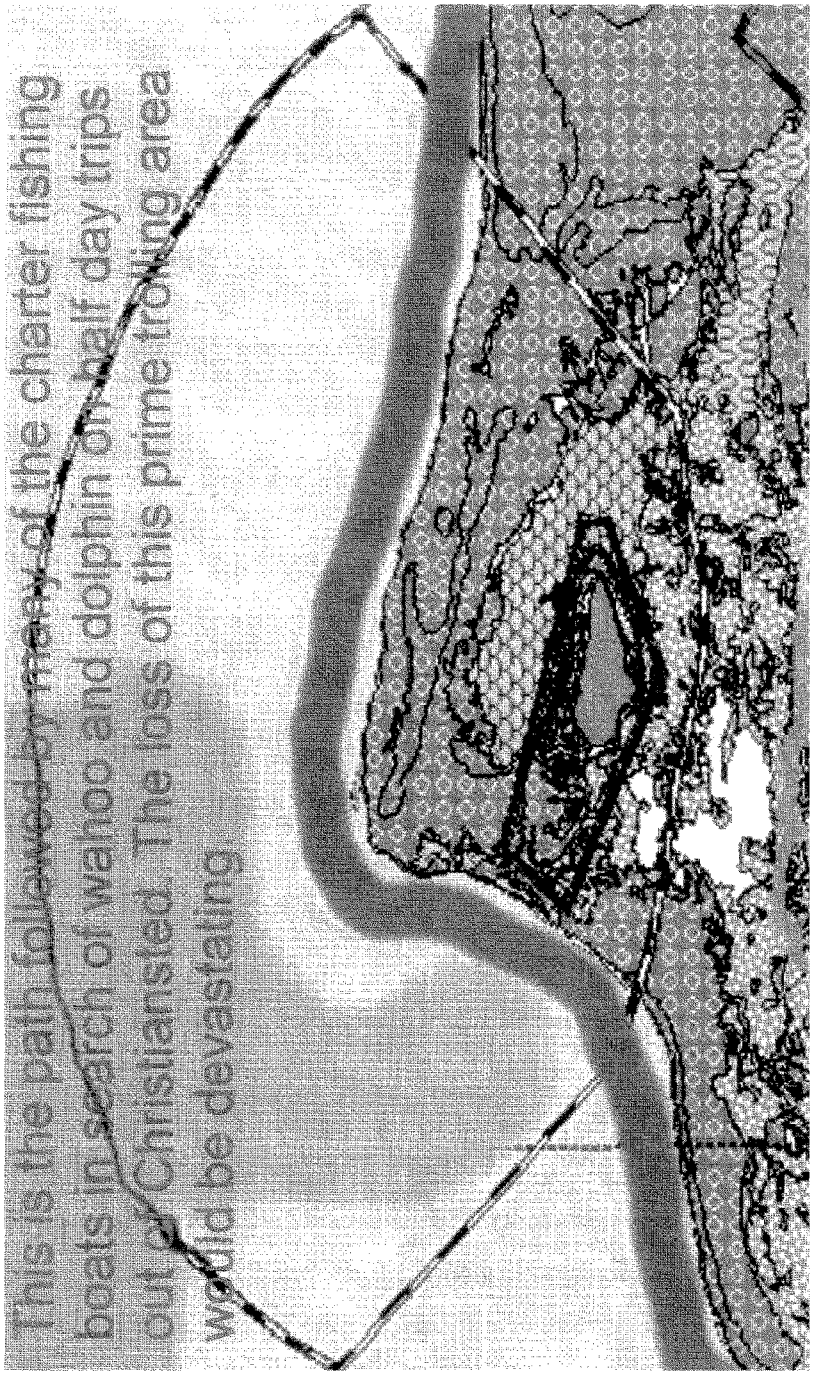
6281
6280
V.I. Territorial Offshore Area
Federal Offshore Area
Existing Monument
Proposed National Monument

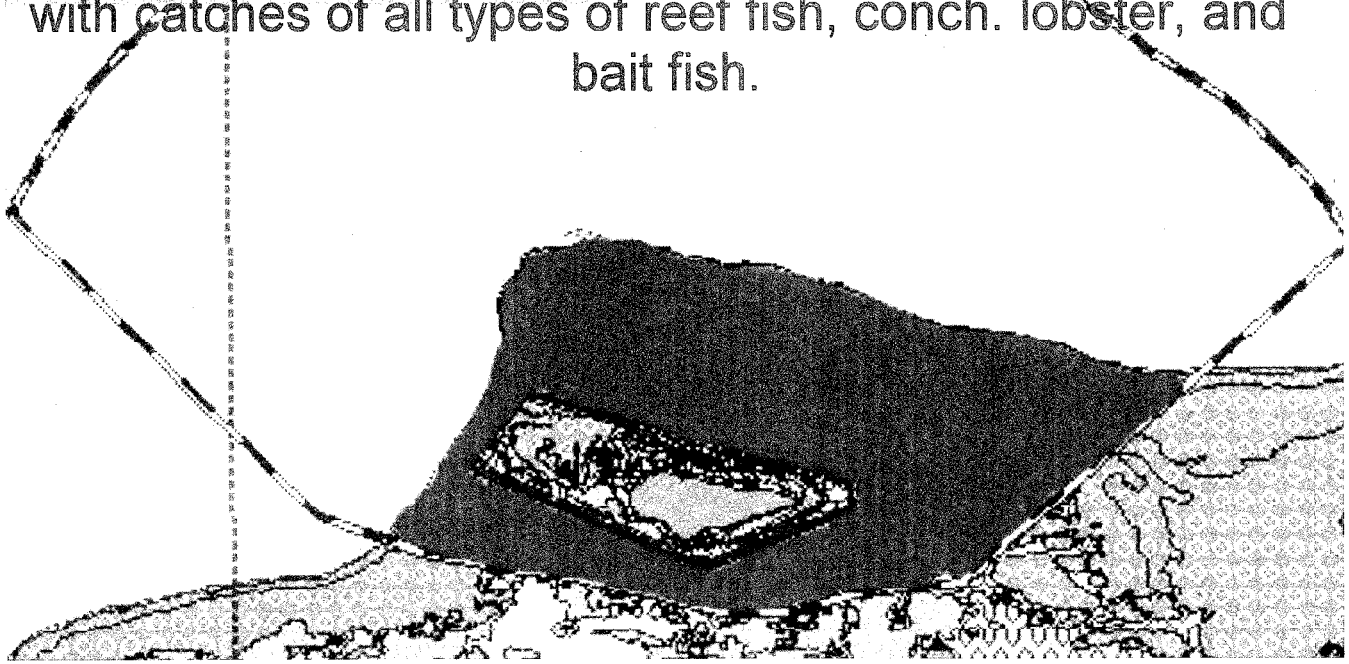


Map indicates the very limited shallow water fishing grounds that are controlled by the VI Government for the people of St. Croix. The yellow area was lost to pollution due to exemptions of the Clean Water Act.

The red area may be lost through Presidential Proclamation 7392


This is the path followed by many of the charter fishing
boats in search of wahoo and dolphin on half day trips
out of Christiansted. The loss of this prime trolling area
would be devastating.

This area is one of the riches fishing grounds on the island and has supported generations of fishermen with catches of all types of reef fish, conch. lobster, and bait fish.



THE SECRETARY OF THE INTERIOR
WASHINGTON

MAR 28 2001

Honorable Jane Dee Hull
Governor of Arizona
Phoenix, Arizona 85007

Dear Governor Hull:

As you know, the previous Administration created or expanded a series of National Monuments across America including five in your state, Agua Fria National Monument, Sonoran Desert National Monument, Grand Canyon-Parashant National Monument, Vermilion Cliffs National Monument, and Ironwood Forest National Monument. As the Interior Secretary tasked with deciding what course the Department should take in determining the future of these Monuments, I am writing to ask for your active participation in charting a course of action.

I would like to hear from you about what role these Monuments should play in Arizona. Are there boundary adjustments that the Department should consider recommending? Are there existing uses inside these Monuments that we should accommodate? I would like to know your views on vehicle use, access to private inholdings, rights-of-way, grazing, and water rights, as well as the wide spectrum of other traditional multiple uses that might be appropriately applied to these lands. I also want to learn from you which areas within these Monuments are truly special and should be reserved for their unique environmental or historic characteristics. If you believe the Monument would benefit tourism or recreation, please advise us of that as well. I welcome your thoughts on these topics or other aspects of the Monument.

The Department will soon begin the process of developing land use plans for these Monuments. It is my goal, in working with interested parties such as yourself, to identify the activities that are best suited to the needs of local residents and others. The Department would like to work cooperatively with you and others in your state to form a partnership to ensure that these National Monuments are administered in a way that takes into account not only national interest, but local needs and concerns as well.

Please do not hesitate to send your suggestions or comments to Tom Fulton, Office of the Secretary, 1849 C Street, N.W., Washington, D.C., 20240. I look forward to working with you in creating sound land use management plans that incorporate local involvement in the administration of our National Monuments.

Sincerely,

Gale A. Norton

Fishermen's United Services Cooperative of St. Croix

P.O. Box 1599
Christiansted, St. Croix
U.S. Virgin Islands, 00821

Phone: 340- 690- 8188 Fax: 340-773-2661

President George W. Bush 1/23/01
president@whitehouse.gov

Dear Mr. President:

The fishermen of the Island of St. Croix through their Cooperative whole heartedly supports the position letter of the National Fisheries Institute (NFI), dated January 15, 2001.

We take this opportunity to request that we receive direct representation by our industry leaders in the decisions made by NMFS and other Federal agencies that effect our way of life. We are a simple, honest and hardworking group of U.S. citizens asking for nothing more than the right to raise our families, and feed our community while preserving our way of life.

Thank you.

Respectfully your,

Robert N. McAuliffe
President

Cc: Delegate Donna M. Christian-Christensen

Mr. RADANOVICH. Mr. Virdin Brown, welcome to the Committee. And again, if you'd like to begin?

STATEMENT OF VIRDIN C. BROWN, CHAIRMAN OF THE CARIBBEAN FISHERY MANAGEMENT COUNCIL

Mr. BROWN. Thank you, Mr. Chairman, and good morning to you and to Honorable Delegate Donna Christensen and to the Honorable Betty McCollum who's now with us. We are happy to have you here to take testimony on the issues of concern to the members of this community.

Let me say my name is—I guess I gave my name already. Anyway, I've been involved in a number of issues in this Territory as an administrative official. I've served seven terms in the Legislature of the Virgin Islands. I've served as the Commissioner of the Department of Conservation and Cultural Affairs which was charged with the first time full 4-year period of administering the submerged lands. I've also served as Assistant Commissioner of the Department, and I am currently sitting as chair of the Caribbean Fishery Management Council. My testimony, and much of what I put forth, has been on my personal involvement with the issues before you, although a portion of my testimony reflects concerns of the Council as well. So I speak to you with two hats in part.

Let me say at the outset that the issue before you in terms of the monuments is not whether or not they should be larger or smaller, but whether in fact they exist legally in any right, in any way. And my submission to you is that they do not. They do not legally exist. They are not on any Federal submerged lands. And I'll try in my brief 5 minutes to clarify points, and I'll answer questions as you bring them forth.

A little historical fact, I was in the Senate in 1971 to '75. This is the first part of my first two terms. And it was at that time I instigated, promoted the idea of transferring the submerged lands from the Department of Interior to the local government, because the Department of Interior had difficulty administering those submerged lands. As we began to develop, there were a number of illegal activities taking place, which included not only docks, but dredging and filling that took place. It was the Honorable late Congressman Phillip Burton who I talked to, along with our first Delegate to Congress Ron de Lugo, and who moved the issue through the Congress to transfer these submerged lands, and it became public law in 93-435 as you know.

The question of whether or not the Department of Interior had any further rights beyond February 2nd of 1975 were extinguished in the Virgin Islands by two proclamations that the law permitted the President to issue, or any such proclamations that he had the right to issue. But he only issued two. That was President Gerald Ford. He issued two proclamations, and I'll cite them by number: Proclamation 4346 and 4347, both of which were signed on February 1st right at the last hour of the 120-day allowable period.

That then said that after—on and after the 120-day period, February 2nd, 1975, the Department of Interior had no further rights or interests or involvements in the administration of the submerged lands. That those lands, by Public Law 93-435, were trans-

ferred to the Government of the Virgin Islands, as the law states, for the administration in trust for the people of the Virgin Islands.

It's mind boggling, I mean absolutely mind boggling, after a quarter of a century of administration of these submerged lands without any questions whatever, clear, unambiguous authority exercised, that the Department of Interior or any Presidential proclamation could come forth and take and lay claim to something that it does not own. The proclamations make it clear if there is no right or no title or interest in these lands, then the monuments don't—proclamations don't stands. Therefore, I say to you that they are moot and that this honorable Committee, Subcommittee, should recognize that.

I've submitted testimony prior to the signing of the proclamations on January 10th to Honorable Congresswoman Donna Christian-Christensen stating this fact before the signing, and urging that she urge the President not to sign. And subsequently, on January 30th, I wrote to the Chair of the Full Committee, the House Resources Committee, Jim Hansen, to state the case and to ask that these monument, the proclamations, not be recognized. I think that letter was also referred to this Committee—Subcommittee.

Let me try to highlight a couple of other points, one which you asked and was raised about the application I think of it's 1705(b)(ii) as to whether or not the Department of Interior had right to all submerged lands adjacent to property owned by the United States above the line of mean high tide, that that was excepted. That's in the law. That's in the law. That's cited in the law. But I want to point out to this Committee that this law does not apply only to the Virgin Islands. It also applies to Guam and American Samoa, and that that section more aptly applies to perhaps Guam, where the Navy has substantial interests and holdings that are adjacent to submerged lands, and not to the Virgin Islands.

Additionally, I want to submit to you to make it even more abundantly clear, the Congress identified Buck Island Reef National Monument, as it was established by proclamation, and the Virgin Islands National Parks around in St. John, with its water boundaries specifically in this legislation in 93-435. If that isn't clear on the face of it, I don't know what is.

So there are other things, but I won't get into them, I will wait for your questions, but what I want to submit to you, Mr. Chair, is that this is a clear issue so far as I am concerned. From an administrative point I've had up close and intimate involvement with the assumption and administration of these submerged lands and with cataloging and reviewing them.

I see the red light is on, but if I may just make one final point here, and I'll answer questions on Salt River and Christiansted as you raise the question. I read from one of my points in the testimony today I presented. The Department of Interior has done a mapping job of this Territory, and they use the Bureau of Minerals Management Service Mapping and Boundary Branch to supposedly catalog and identify Federal and Territorial lands around the Virgin Islands. I'm very concerned about what I've seen in those documents because the Department of Interior, or at least the maps as they were initially drawn, indicate in clear markings that

Interior claims other Federal submerged land areas outside of these boundaries expanded, proposed national monuments. South of Water Island; west of St. Croix; within the harbor here in Christiansted, at Fort Louise Augusta in Charlotte Amalie Harbor, and elsewhere, and I just cite those as a point.

Mr. Chairman, members, the Department of Interior has no such rights or claims, and therefore should not make any. But if we use their analogy on 1705(b)(ii) to apply to the Buck Island Reef and the newly found Virgin Islands Coral Reef National Monument around St. John, then what happens in Charlotte Amalie harbor in the instance where the National Park Service has now acquired lands on Hassel Island, acreage on Hassel Island, which also is partly land—additional lands there, a park owned by the V.I. Government, another case where there can be joint management. But what happens in Salt River or Green Cay or elsewhere?

So the analogy, the concept, the whole rationale that is used is faulty and should not apply. And I'll be happy to answer questions and deal with the other areas as it's appropriate to.

[The prepared statement of Mr. Brown follows:]

Statement of Virdin C. Brown, Former Senator, Virgin Islands Legislature

Good day Mr. Chairman, members, and staff of the House Resources Subcommittee on National Parks, Recreation, and Public Lands. My name is Virdin C. Brown and I am a resident of the Virgin Islands who reside on the Island of St. Croix. I am honored to have the opportunity to appear before your Committee and present my views on the several items outlined in your letter of invitation which include Christiansted National Historic Site, Buck Island Reef National Monument, and the Salt River Bay National Historical Park and Ecological Preserve.

I am a former Senator in the Virgin Islands Legislature (having served seven terms 1971–75 & 1983–93), former Commissioner of the Department of Conservation and Cultural Affairs (1975–79), and former Assistant Commissioner of the Department of Planning and Natural Resources (1995–99). At present, I am serving as Chairman of the Caribbean Fishery Management Council, which is one of eight such councils established under the Magnuson–Stevens Fishery Conservation and Management Act of 1976. I have devoted more than three decades of service in the Government of the Virgin Islands to environmental and natural resource management issues. I was involved in the promotion of legislation and the transfer, acceptance, and administration of the submerged lands that were transferred to the Government and People of the Virgin Islands by Public Law 93–435.

Mr. Chairman and members, because of the impact and legal significance of Presidential Proclamation No. 7392 (The Boundary Enlargement and Modifications of the Buck Island Reef National Monument) and Proclamation No. 7399 (Establishment of the Virgin Islands Coral Reef National Monument), I will address the monuments issue first. First and foremost it is my considered opinion that neither of the proclamations are legal, nor do they have any validity. The subject submerged lands, which they proclaim title and jurisdiction over, are the property of the Government and People of the Virgin Islands not the Federal Government. Public Law 93–435 transferred these same submerged lands from the Department of Interior to the Government of the Virgin Islands to be held in "trust" for the people of the Virgin Islands on October 5, 1974. Title 48 USC, Section 1705 (b)(vii) clearly states that the president would have one hundred twenty (120) days after October 5, 1974, to exempt from the transfer (by presidential proclamation) those submerged lands that he (and the Department of Interior) deemed necessary for retention by the Federal Government. Only two proclamations were issued in accordance with the aforementioned section of Title 48. They are the following:

1) Proclamation No. 4346, which added thirty (30) acres of submerged lands to the Buck Island Reef National Monument; and

2) Proclamation No. 4347, which reserved several acres of submerged, lands off the west coast of St. Croix for use by the Navy.

The "enlarged" Buck Island Reef National Monument is increased in size by 18,135 acres of submerged lands, while the proposed Virgin Islands Coral Reef Na-

tional Monument is designed to incorporate 12,708 acres of submerged lands around St. John. This is a total of 30,843 acres of property that belong to the government and people of the Virgin Islands that are being taken by executive fiat. These submerged lands were transferred by an Act of Congress (PL 93–435) and there are no provisions for an executive order, proclamation, or other nonlegislated instrument to overturn the transfers made by this Act after the 120-day period. This is especially noteworthy since the proclamations establishing the monuments were issued more than a quarter of a century after the executive branch of the Federal Government had already exercised its authority to withhold whatever submerged lands it so desired from transfer to the Government of the Virgin Islands not later than February 2, 1975.

It is my understanding that the Department of Interior based its authority to make its claim to the 30,843 acres of submerged lands on the exception cited in Title 48 USC, Section 1705 (b)(ii) to wit, " All submerged lands adjacent to property owned by the United States above the line of mean high tide." This rationale flies in the face of the PL 93–435 and Presidential Proclamation Numbers 4346and 4347 that set aside exemptions from the original transfer. It also disregards the laws and proclamations that established the Virgin Islands National Park and the Buck Island Reef National Monument. Additionally, it fails to recognize other legal documents that define the boundaries of each.

The Virgin Islands Coastal Zone Management Plan's Coastal Land and Water Use Plan Map (attached) clearly identifies the Federally owned and controlled submerged lands around St. John, Buck Island and off the west coast of St. Croix. There were no Federal objections to this map when it was published in accordance with Federal consistency guidelines as late as 1978.

If one accepts the Department of Interior's legal interpretation of Section 1705 (b)(ii), then one might assume that they will eventually lay claim to the Charlotte Amalie Harbor since they recently acquired a significant portion of Hassel Island. Is this interpretation transferable to Green Cay, Salt River, and other shoreline properties that the Department of Interior may acquire in the future? Where and when will it end? The people and the Government of the Virgin Islands have a right to their title to ALL of the submerged lands conveyed by PL93–435. We should not have to worry about what is going to be taken away next.

There is still reason for concern. I have reviewed a map and related documents prepared by the Bureau of Minerals Management Service Mapping and Boundary Branch of the Department of Interior and I've become even more disturbed by what I have seen. The map identifies several large and small tracts of submerged lands within the Territorial Sea of the U.S. Virgin Islands as Federal Submerged Lands Areas. These marked submerged lands belong to the Government and People of the Virgin Islands and have been administered by the Virgin Islands Government since the enactment of PL 93–435.

The concept of protecting the natural and cultural resources within the bounds of the "proposed" new and expanded monuments is noteworthy. However, as well intentioned as they may be, it does not give the Department of Interior the right to walk into the Virgin Islands and "take" our jewels and tell us that they are going to protect them for us. The constitutional process dictates otherwise. We are still a government of laws not of men. We must all operate under the constitution and laws of the United States and of the United States Virgin Islands. So too must the Department of Interior.

I respectfully request that Presidential Proclamations 7392 and 7399 be declared null and void because they do not address Federal lands nor lands that the Federal Government has legally acquired or controlled. It is my hope that the Virgin Islands Government will be given support and resources to help it to become a better steward of these and other resources.

SALT RIVER

The Salt River Bay Historical Park and Ecological Preserve has the potential to establish a new benchmark for cooperation between the Virgin Islands Government and the Department of Interior's National Park Service. Thus far, some acquisitions have been made and more are pending. This is good. However, little or no attention is being given to the concept of helping the Virgin Islands Government establish its Territorial Parks System's administrative, management, and enforcement apparatus in a meaningful way. This Park is not only important for its historical and ecological value. It is also important because it can become the vehicle for full cooperation between both governments and in which the personnel of the Virgin Islands Territorial Parks System can obtain its training and become full fledged partners in the management and protection of the valuable resources of the Virgin Islands. It is a greater benefit to all of us if the Virgin Islands can develop its higher potential to

become a responsible steward of its other significant natural and cultural resources that exist outside the boundaries of any of the legally established national parks. The Subcommittee should take note that the Government of the Virgin Islands also owns noteworthy properties on Hassel Island where the National Park Service also owns property. The need for cooperation and support is highlighted by the fact that both governments will continue to operate in close proximity to each other and should do so on a cooperative basis.

I respectfully request that your Subcommittee take steps to appropriate funds for training and salaries of a reasonable number of individuals to be hired by the Virgin Islands and trained to become rangers and managers in the V. I. Territorial Park System. This support should be spread over a reasonable period. It will help the Virgin Islands mature in its resource management capabilities while promoting wise development and management of the Salt River Bay Historical Park and Ecological Preserve.

Finally, I recommend that the Salt River Commission be continued in its planning and in an advisory capacity to insure equity in training, management, development, and utilization of the valuable resources at Salt River Bay.

CHRISTIANSTED NATIONAL HISTORIC SITE

I have been pleased with the commitment of resources by the National Park Service to help enhance the appearance of the Christiansted National Historic Site. This special property is an important part of the Christiansted Town and as such it should represent one of its outstanding attractions. Resources should be continuously appropriated and allocated to insure that it is well maintained as a living part of St. Croix. Private property owners are struggling to rehabilitate their properties within Christiansted to help revitalize St. Croix. Therefore it is important that The Christiansted National Historic Site maintains its vibrancy and attractive appearance.

Finally Mr. Chairman, I have appended copies of my January 10, 2001 testimony at a public meeting held by our Honorable Congresswoman Donna Christian–Christensen and a copy of my January 30, 2001 letter to Congressman Jim Hansen, the Honorable Chairman of the House Resources Committee. It is my understanding that that letter was referred to your Subcommittee. I respectfully request that they be made a part of your record along with my statement.

Thank you again for the opportunity to address the Honorable Members of this Subcommittee.

Attachments

ATTACHMENT A

CONGRESSWOMAN DONNA CHRISTENSEN

RE: NATIONAL MONUMENT PROCLAMATION

JANUARY 10, 2001

Good evening Congresswoman Christensen. My name is Virdin Brown. I am a former Senator in the Virgin Islands Legislature (serving seven terms), former Commissioner of the former Department of Conservation and Cultural Affairs, and former Assistant Commissioner of the Department of Planning and Natural Resources. Currently, I serve as Chairman of the Caribbean Fishery Management Council. My presence and testimony here this evening is to represent my own views and personal opinions on the proposed designation of national monument status for certain submerged lands around St. John and Buck Island out to the boundary of the Territorial Sea.

I have devoted almost three decades of service in the Government of the Virgin Islands to environmental resource management issues—especially the acceptance and administration of the submerged lands that are within the three-mile limit. In my current capacity I am involved with the development of management plans, which govern the use of marine resources from the three-mile Territorial Sea boundary out to the 200-mile limit of the U.S. Exclusive Economic Zone (EEZ) in the Caribbean.

I have had the opportunity to review only a few of the documents related to the proposed establishment or designation of additional submerged lands around St. John Buck Island as national monuments. I have seen the press releases and the maps but have not seen the official proposed proclamation as of this moment. However, the information I have at hand is sufficient for me to formulate my views on this subject.

Basically, I have no problem with the desire and intent to protect the coral and marine resources to insure that they are maintained, enjoyed, and—where appropriate—utilized by this and future generations. There is an international undertaking by governments and nongovernmental organizations to better manage and protect marine resources (especially corals) around the world.

Tonight the issue surrounding the proposed national monuments is not so much "WHY" but rather "HOW", in my opinion. The Virgin Islands National Park on St. John and The Buck Island Reef National Monument on St. Croix have well defined limits within the sea that are easily discerned on maps and marine charts. In neither instance is either of these boundaries out to the limit of the Territorial Sea or international boundary, except for a small area between Mary's Point on St.

John and Thatch Cay in the British Virgin Islands. Nevertheless, the Secretary of Interior has recommended "TAKING" 30,843 acres of Virgin Islands Submerged Lands (12,708 acres around St. John and 18,135 acres around Buck Island on St. Croix) without due process or just compensation to the people of the Virgin Islands. I hasten to point out that this vast acreage of submerged lands is outside the existing boundaries of the Virgin Islands National Park on St. John and the Buck Island Reef National Monument on St. Croix. These 30,843 acres belong to the people of the Virgin Islands. They were transferred from the Department of Interior to the Government of the Virgin Islands in 1974 through a conscientious Act of Congress designated as Public Law 93–435 and codified in the U.S. Code in Title 48. In accordance with Title 48, section 1705(a) of the U.S. Code, these submerged lands were transferred "... To be administered in trust for the benefit of the people..." The Virgin Islands Government administers these submerged lands under Title 12, Chapter 21 of the Virgin Islands Code (The Coastal Zone Management Act) and refers to them as "Trustlands." To be sure and keep the record clear, I must point out that Public Law 93–435 made provisions for certain exceptions regarding conveyance of the submerged lands. Title 48, Section 1705(b) USC states in pertinent part:

"There are excepted from the transfer made by subsection (a) hereof

(i) all deposits of oil, gas, and other minerals, but the term "minerals" shall not include coral, sand, and gravel;

(vii) all submerged lands designated by the President within one hundred and twenty days after October 5,1974; (These 120 days ended on February 2, 1975);

(x) all submerged lands within the Virgin Islands National Park established by sections 398 to 398b of Title 16, including the lands described in sections 398c and 398d of Title 16; and

(xi) all submerged lands within the Buck Island Reef National Monument as described in Presidential Proclamation 3448 dated December 28, 1961."

On February 1, 1975 President Gerald Ford exercised his authority under Title 48, section 1705(b)(vii) above and reserved an additional thirty (30) acres around Buck Island to increase the size of this National Monument. That was it. That was the most noteworthy exception made in the transfer. It meant that the President automatically transferred all other submerged lands to the Government of the Virgin Islands because the 120 days expired without further proclamations or exemptions being issues. How then, can the Department of Interior claim title, or exercise unusual authority, over submerged lands it does not own or control?

In 1980, Congress further affirmed its unambiguous intent to transfer title of submerged lands, and the resources therein, to the people of the Virgin Islands when via Public Law 96–205 it directed the Secretary of Interior to convey "...All right, title, and interest of the United States in deposits of oil, gas, and other minerals in the submerged lands conveyed to the government ... by subsection (a) of this section." Clearly what the Congress has given in an official act, only the Congress can take away in like manner.

The documents that I have seen, recognize the President's authority to create national monuments on "federal" land—I repeat "FEDERAL" land—and I do not question that authority. However, it is my position that the submerged lands, to which the Secretary of Interior is claiming title, and is recommending to be designated as national monuments, or expansion of same, are NOT" Federal lands. These submerged lands belong to the Government and the people of the Virgin Islands.

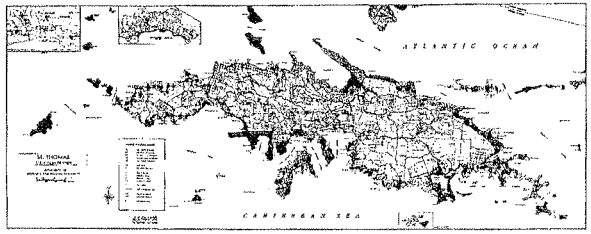
They cannot be developed, occupied, sold or otherwise transferred without the approval of the Legislature of the Virgin Islands. This is codified in Title 12, Chapter 21 of the Virgin Islands Code and has existed in law since the transfer of the submerged lands to the Government and people of the Virgin Islands. The Government of the Virgin Islands has exercised its authority and control over the subject 30,843 acres and the other submerged lands since the transfer became official.

It should be noted that no executive agreements, exchange of notes, verbal commitments, nor memorandum of understanding could change the fact that the 30,843 acres of submerged land in question belong to the Government and people of the Virgin Islands. To best of my knowledge, no Act of Congress, or of the Legislature of the Virgin Islands has been undertaken to transfer these lands to anyone. If it is to happen, it is the kind of issue that should be the subject of a "REAL REFERENDUM" in accordance with the provisions of the Organic Act. Therefore I urge you to ask the President not to sign the proposed proclamation because it was conceived and developed on faulty legal claims, and because the Department of Interior has not developed this issue in the clear.

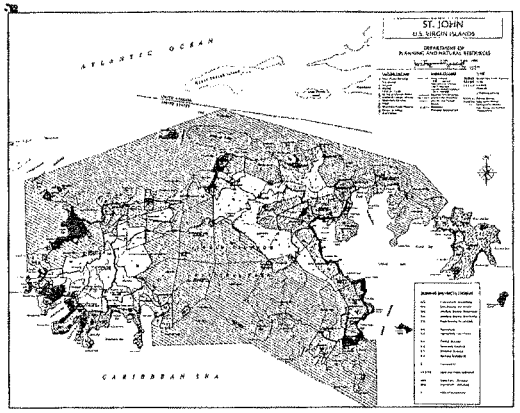
On another matter, I urge you to follow up on the inaction of both the local and Federal Governments in making The Salt River Historical Park and Ecological Presence a functional reality. An Act of Congress created this Park in 1991. One of the mandates was that there would be a cooperative effort to develop the Park while at the same time help the Virgin Islands Government train staff manage Salt River jointly with the National Park Service. This was to be the springboard for development of the Virgin Islands Territorial Parks System, but the expectations have not yet been realized. The Virgin Islands Government owns approximately 600 acres of submerged lands within the boundary of the Salt River Park as 'ell as terrestrial acreage. This is fertile ground for Federal/local cooperation. It is imperative that the Salt River Commission gets on with its mission before it arrives at its sunset date.

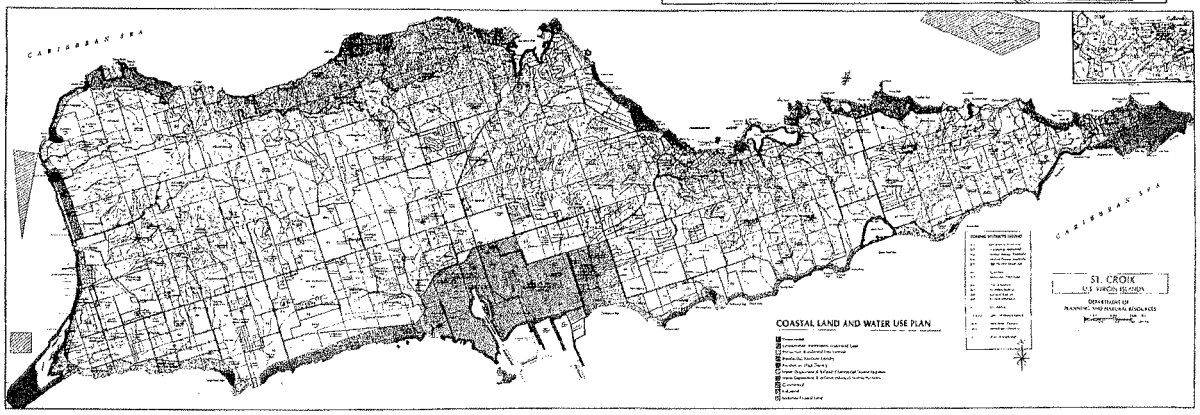
Thanks very much for affording me an opportunity to express my views on this subject.

[Attachments to Mr. Brown's statement follow:]



U.S. Virgin Islands
Dept. of Planning and Natural Resources
Coastal Zone Management Program





ATTACHMENT B

Virdin C. Brown
P.O. Box 7809 S.I.
St. Croix, Virgin Islands 00823
January 30, 2001

Honorable Jim Hansen, Chairman
Resources Committee
U.S. House of Representatives
1324 Longworth Building
Washington, D. C. 20515

Dear Congressman Hansen :

I am writing to express my concern about an executive action that has wrought an injustice upon the government and people of the Virgin Islands, and to request your assistance in rectifying it.

On January 17, 2001, President Clinton signed Proclamation Nos. 7392 and 7399. The former is entitled "Boundary Enlargement and Modifications of the Buck Island Reef National Monument" near St. Croix and the latter, "Establishment of the Virgin Islands Coral Reef National Monument" off St. John. The natural and cultural resources to which these proclamations make reference are noteworthy and are indeed worth protecting. The issue here is whether or not the Department of Interior has right and title to the submerged lands over which they have exercised this authority under Section 2 of the Act of June 8,1906 (34 Stat. 225,16 U.S.C. 431). The Department of Interior was overzealous in its efforts to have these sites designated as "National Monuments" and spent very little time discussing its plans with the people of the Virgin Islands especially fishermen who will be most directly impacted by this Federal action.

My concern is that by these proclamations the Clinton Administration took, or declared its intention to take, 30,843 acres of submerged lands that belong to the Government and people of the Virgin Islands. These are NOT Federal submerged lands and the Department of Interior has had neither ownership nor control over them since midnight February 2, 1975.

On October 5,1974, Public Law 93–435 took effect and transferred an submerged lands in the Virgin Islands, Guam, and American Samoa to the respective territorial governments. It provided for the retention of certain lands and mineral rights by the United States Government and also clearly stated that the President, by proclamation, would have one hundred and twenty (120) days after October 5,1974, to reserve those submerged lands that he proclaims win be exempted from transfer to the territorial governments. There were only two (2) proclamations issued under this section of PL 93435 affecting the Virgin Islands. They are Proclamation No.4346, which added thirty (30) acres of submerged lands to the Buck Islands Reef National Monument, and Proclamation No.4347 which reserved certain submerged lands off the west coast of St. Croix for use by the U.S. Navy. President Gerald Ford signed these proclamations on February 1,1975, just one day prior to the expiration of the one hundred twenty day period.

Thereafter, all other submerged lands were transferred from the Department of Interior to the Government of the Virgin Islands. These 30,843 acres of submerged lands, which the Department of Interior through presidential proclamation has declared national monuments, are not Federal lands but the property of the Government of the Virgin Islands. I am keenly aware of this issue because I was the chief territorial official (Commissioner of the Department of Conservation and Cultural Affairs) responsible for the administration of the submerged lands immediately after PL 93–435 took effect. Prior to that, I was a Senator in the Virgin Islands Legislature and worked with the late Congressman Phillip Burton and former Congressman Ron de Lugo to secure enactment of the transfer legislation.

Because of my experience and knowledge of the transfer and administration of the submerged lands, I cannot quietly observe the Department of Interior take submerged lands that do not belong to it. If Interior is sincerely interested in protecting these valuable natural and cultural assets, it could do so legitimately by providing the V. I. Government with the resources to execute a similar concept in its own right permitting thorough review and input from the residents of the Virgin Islands. It is interesting to note here that the Governor of the Virgin Islands, Dr. Charles Turnbull, has expressed his objections to Proclamation Nos. 7392 and 7399 apparently because he felt that he was blindsided by their issuance.

Recently, I reviewed a map prepared by the Bureau of Minerals Management Service Mapping and Boundary Branch of the Department of Interior and became more concerned by what I saw. The map has identified several other areas within

the Territorial Sea of the U.S. Virgin Islands as Federal Submerged Lands. However, these are submerged lands over which Interior has NO control and which have been administered by the V. I. Government since the enactment of PL 93–435. This map is alarming because it suggests that the Department of Interior intends to extend its claim or illegal taking of additional Virgin Islands Submerged Lands by some other unconstitutional means. This must not be allowed to happen because it would be a flagrant trampling of, and infringement upon, the rights of the Government of the Virgin Islands and its people. If they have used fallacious and specious justifications for recent proclamations what is there to prevent them from doing it again?

It is obvious that a great injustice has been done to the Government and people of the Virgin Islands and it should be corrected by rescinding Proclamation Nos. 7392 and 7399. They are taking Territorial Submerged Lands without due process. Please note that the proclamations were published in the Federal Register on January 22, 2001, two days after President Bush issued an executive order to suspend publication and implementation of all such eleventh-hour executive actions by the outgoing administration.

I have enclosed a copy of my statement to Congresswoman Donna Christensen at a public hearing she held on January 10, 2001, a copy of an article from the V. I. Daily News in which Governor Turnbull expressed his surprise and opposition to the proclamations, and copies of the proclamations for quick and easy reference.

I urge you to please review this issue and take steps to rescind Proclamation Nos. 7392 and 7399 in recognition of the fact that the submerged lands in question are the property of the Government of the Virgin Islands- and should remain so.

Respectfully,

Virdin C. Brown‘

Mr. RADANOVICH. Appreciate the testimony, Mr. Brown.

Mr. Turner, welcome to the Committee. And again, if you'd begin your testimony, that would be great.

STATEMENT OF BILL TURNER, EXECUTIVE DIRECTOR, ST. CROIX ENVIRONMENTAL ASSOCIATION

Mr. TURNER. Thank you, Mr. Chairman, and good morning to the honorable members of the Subcommittee. I appreciate the opportunity to testify on this very important issue, or on a number of very important issues actually.

First of all, St. Croix Environmental Association is an organization that's committed to conservation through community involvement. And in fact this community involvement I think is the linchpin of conservation efforts here in the Virgin Islands. Mr. McAuliffe, who testified before me and with whom I'm about to stringently disagree, and I are members of the Coalition for Sustainable Development here on St. Croix. So while we do disagree on this issue, there is a great deal of respect that SEA has for the community in which we operate.

No. 1, I'd like to address the effectiveness of our local National Park Service, and I cannot be complimentary enough in the short time that I'm allotted to Mr. Tutein and his dedicated staff. And, in fact, contrary to what my friend Mr. McAuliffe said regarding the Park Service efforts, I think that the biodiversity that exists at Buck Island right now, given the current boundaries, is miraculous under the circumstances.

It is, in fact, very difficult to put lines on a map and have that translate into a natural ecosystem's function and form. Specifically at Salt River, the St. Croix Environmental Association has planted 16,500 red mangroves and 3,000 black mangroves at Sugar Bay. While those mangroves are nowhere near a coral reef system, their

effect on it is scientifically proven. Empirical evidence suggests that the planting of the mangroves actually cools the water as it comes into the shallower points at high tide, and as it returns out over the reef it's less damaging than had it not had the shade of the mangroves going back out.

So for that matter, actually, the expansion at Buck Island, and I will talk a little bit more about that, is vital. It is—nothing exists in stasis in nature. Human beings are the only animals on earth that have the ability to make maps. Animals and natural systems do not recognize boundary lines. It is a much larger system that influences a coral reef system.

Specifically to Buck Island, there is the question of legality, and I'm certainly not qualified to address that question. However, I will say that as it stands, there is a de facto area of protection that exists there at Buck Island. I think, Mr. Chairman, your comments regarding the—where the line falls on a map are entirely appropriate, and perhaps with more community input and involvement and more involvement with the local government, this issue could have been addressed and resolved by former President Clinton in a much more expedient way, preventing the legal issues coming about. So on that issue I do recognize that everyone has concerns about the legal issues of Federal land versus local land, and we certainly share those concerns and hope that the General Accounting Office can provide a solution that's acceptable to everyone.

I have to admit that as a conservationist I'm in the luxurious position of having two different governments fighting to preserve a great deal of marine area, and I would like to mention while we're on the subject that the Coastal Zone Management Committee did vote on Friday to create a marine-protected area on the east end of St. Croix. Therefore, I would like my testimony amended in the second point where we suggest, under Exhibit 2, a creation of a national park extending to the shoreline of St. Croix, that that be struck given that the local government has taken action.

Unfortunately, the local government, as Delegate Christensen has pointed out, is very—does have a very scarce amount of resources with which to deal with these important and vital issues, and we believe that there has to be collaboration between the Federal and local government to make sure that every resource available for the protection of marine life is utilized.

Having said that, I still believe that if we look at the Buck Island National Monument that exists under the President—former President's plan, I believe that there is the possibility in this plan that is presented for collaboration between the local and Federal Government. The local government does have a marine mark established on the east end. I cannot see the harm of the extension of that boundary line out from Buck Island as it stands.

We talk about the coral reefs—and this is the last point that I want to make—we talk about the coral reef system being protected by the current boundary lines. That's not accurate. That boundary line has to extend beyond the coral reef. The fish don't know that a boundary line exists. Fish that live in coral, fish that are predators in coral reef systems don't stop at a boundary line. Extending the boundary line only serves to preserve the coral system. And I will point out, again, turtles are vital. They're vital parts of the

ecosystem. That boundary line being extended further does in fact protect the turtles and migratory whales, as Mr. Tutein did point out.

So we do support as much conservation as is possible. We do accept that the GAO will make its decision, and we only hope that after that decision has been rendered, that the Federal Government and the local government can collaborate together to create a situation where as much conservation as is possible exists, also taking into account the needs of the local people here in the Virgin Islands.

Thank you very much for this opportunity.

[The prepared statement of Mr. Turner follows:]

Statement of Bill Turner, Executive Director, St. Croix Environmental Association

I. Introduction

1.01 For more than 15 years, the St. Croix Environmental Association (SEA) has worked to preserve and conserve the vital resources of St. Croix. Our efforts have helped to preserve the Great Pond, Southgate Pond, Jack's and Isaac's Bays and, most relevant to this hearing, the Salt River watershed. Much time, money and effort have been given to the preservation of an ecosystem that endures both natural catastrophes and the pressures of economic development, along with a variety of infra-structural failures.

1.02 In spite of all of these difficulties, we have worked to develop plans that will ensure that there is an ecologically sound future for the citizens of St. Croix. Our efforts include the replanting of nearly 20,000 mangroves in the Salt River watershed, community forestry education, education of elementary school students and advocacy for sound environmental initiatives. We have also reached out to developers to ensure that plans for the growth of St. Croix's economy are sustainable and conserve resources. We will continue to pursue avenues of education and action wherever possible.

II. The importance of National Parks on St. Croix.

2.01 There are two specific benefits that National Parks provide: aesthetic improvement and ecological preservation. Aesthetic improvement is important for maintaining a higher quality of life, but on an island that desperately needs tourist dollars, aesthetic improvement can be the difference between success and bankruptcy for local businesses. Ecological preservation within the United States' park system is well documented. On St. Croix, many fishermen rely on a steady harvest of fish for their livelihood; thus ecological preservation is crucial to them to maintain the biodiversity that allows them to continue harvesting fish. The preservation of resources goes hand in hand with the preservation of culture and allows for independent sustainable growth on St. Croix.

2.02 Aesthetic improvement on St. Croix is most notable in Christiansted. The efforts of the National Park Service to preserve the fort, the customs house and various other Danish colonial structures has led to one of the most breathtaking views in the United States. While this site has a great historic significance, the creation of "green areas" around the buildings has increased the charm and usefulness of the site as a tourist attraction. Most importantly, the people of St. Croix have a location to enjoy and to view as a source of local pride. The efforts of Mr. Joel Tutein and his staff are to be commended for this marvelous local resource.

2.03 Ecological preservation is observed most notably at the Salt River National Park. This site was slated for the addition of a large resort hotel. The potential for ecological devastation was both real and enormous. Through preserving this site, the National Park service has prevented a catastrophic destruction of coral that could have easily placed the local fishing industry in grave danger.

2.04 Buck Island demonstrates the power of ecological preservation to provide aesthetic improvement. Through the preservation of coral reefs and attention to natural resources, the National Park Service has actually allowed a local industry to develop that specializes in tours to Buck Island. In Buck Island, we have an example of preservation that leads to economic development.

2.05 SEA has worked at the Salt River National Park to restore an entire mangrove system that was devastated by Hurricane Hugo. Mangroves provide a natural filter for non-point source pollution, prevent reef silting and provide safe cover for

juvenile fish. Mangroves are "the roots of the sea." Through our efforts, 16,500 red mangroves and 3,000 black mangroves have been restored at Salt River. We have provided an interim sketch of our efforts and are preparing a final report on the mangrove restoration effort. (See exhibit 1) With the amount of work that we have done in this watershed, it is natural for us to take great pride in it and to seek the well being of the park.

III. The future of National Parks on St. Croix.

3.01 Two National Park Service locations are the current focus of our attention. Buck Island and Salt River are, as we have previously stated, vitally important to St. Croix. This importance cannot be overstated. The opportunity to enhance their facilities and increase their size should not be overlooked. This is an opportunity to improve two sites and increase ecological preservation in the Virgin Islands.

3.02 At Buck Island, we endorse without reservation or qualification the expansion of the park by 18,135 acres. Given the record of success of the National Park Service at Buck Island, we believe that expansion will not only preserve the environment, we believe that it will enhance an already thriving ecosystem. We recognize that some groups have contested this expansion; but we must insist that the overall benefit of this expansion would be far more beneficial to local interests.

3.03 In addition to our support for the expansion of Buck Island's area by 18,135 acres, we strongly urge the Subcommittee to explore the possibility of increasing the area to include the waters up to and surrounding Green Key (See Exhibit 2). There are three practical reasons for this suggestion. We believe that this expansion would provide critical protection for marine species in the proposed area, we believe that a potential for collaboration between the National Park Service and SEA exists and we believe that, ultimately, the restoration of marine life to sustainable levels would provide a more stable future for local fisheries.

3.04 The seabed between Green Key and Buck Island once was filled with rich biodiversity. Conch thrived along the floor of the sea there. Unfortunately, with an export value of approximately $14 per pound and little or no enforcement of catch limits, this area has become a conch graveyard. To quote a friend and local Federal Enforcement Officer, "if it is not behind a boundary sign, kiss it goodbye." The authority, creativity and resourcefulness of our local National Park Service personnel could easily reverse this trend.

3.05 SEA has purchased nearly 100 acres of land bordering Cheney Bay and Southgate Pond. We are currently in the planning phase of creating a comprehensive nature park on this property. We would be happy to explore the potential of working with the National Park Service to provide resources and facilities should the Service be able to create the area of protection that we have suggested.

3.06 This proposed area of protection, if managed by the National Park Service or the United States Fish and Wildlife Service would restore the conch population, enhance biodiversity and would lead to larger future fish and conch harvests. The increase in harvest size would improve the economic position of local fisherman. Also, the increased protection would ensure that future generations would have access to the resources that are the core of local industry.

3.07 At Salt River, we endorse without reservation or qualification the proposed expansion of the Park. Our own experience with our Southgate Pond property has shown us how difficult it is to site facilities without harming the surrounding ecosystem. If the National Park Service could acquire land with buildings in place for their facilities, they could reduce expense in planning and quickly have operations in place. With the growing importance of the Salt River National Park, it is important for the National Park Service to have a fixed and permanent presence there.

IV. Threats to National Parks on St. Croix.

4.01 In spite of all of the efforts of our local National Park Service staff, our National Parks face three imminent and potentially dangerous threats. Discharge of raw sewage into coastal waters, non-point source pollution and lack of a comprehensive solid waste management system place our National Parks at risk for serious to severe health hazards. We must advise the Committee that the failure of the current local administration, as well as the cumulative failures of past administrations, to address these issues opens the door to potential disaster.

4.02 In the past six months, discharge of raw sewage into coastal waters has forced the Virgin Islands Department of Planning and Natural Resources on several occasions to issue warnings to avoid contact with seawater. We have included two of these warnings, issued on January 15th and April 9th, in our testimony, because the waters that are contaminated reach the Christiansted National Historic Site at Fort Christianvern. The Government of the Virgin Islands is under a court order

to repair the wastewater system, however, action has been slow and problems persist.

4.03 A visitor to a National Park should not be confronted with the potential of contracting a serious disease as a result of their visit. Sewage contaminated water can contain hepatitis A, cryptosporidium, cholera and E coli bacteria. These are only a few of a much larger list of potential contaminants. Furthermore, contraction of any one of these diseases by a tourist or tourists could smear the good name and reputation of our National Park Service.

4.04 The Virgin Islands Department of Planning and Natural Resources is a recognized leader in mitigating non-point source pollution. Commissioner Dean Plaskett has demonstrated commitment to address this serious problem. Unfortunately, the lack of a comprehensive land and water use plan in the Virgin Islands leads to development that is poorly planned. This poor planning requires greater efforts to protect the fragile systems that it endangers, such as Salt River National Park.

4.05 Solid waste management in the Virgin Islands is the threat, which most directly affects the aesthetics of our National Parks. The presence of solid waste containers at Columbus' Landing that are not emptied, detract from the experience of the visit. Although the National Park Service does not control this area, if it were there would be no problem of this nature, it is a part of the general experience and should be addressed.

V. Conclusion

5.01 It is the position of the St. Croix Environmental Association that our National Park Service should be expanded on St. Croix. This agency has affected positive change on the island as a whole by providing an excellent service to the citizens. To the extent that it is possible, this Committee would be well served to increase funding, personnel and equipment available to this National Park Service staff.

[Attachments to Mr. Turner's statement follow:]

Exhibit 2

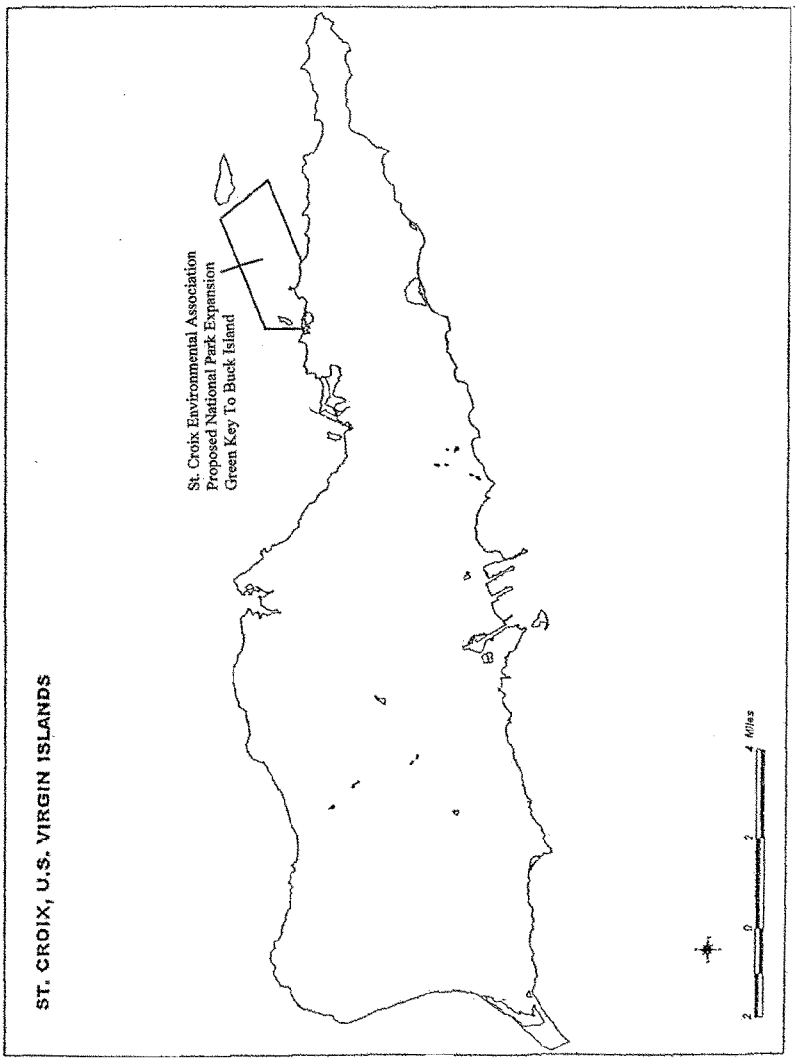

ST. CROIX, U.S. VIRGIN ISLANDS
St. Croix Environmental Association
Proposed National Park Expansion
Green Key To Buck Island
2
0
2
4 Miles

Exhibit 3

*******PRESS RELEASE*******

GOVERNMENT OF THE VIRGIN ISLANDS OF THE UNITED STATES

Department of Planning & Natural Resources
Division of Environmental Protection
45 Mars Hill
Frederiksted, St. Croix, U.S.V.I. 00840-4474

Telephone: (340) 773-1082
Fax: (340) 773-9310
(340) 692-9794

January 15, 2002

Department of Planning and Natural Resources
Division of Environmental Protection

Public Advisory

Dean C. Plaskett, Esq. Commissioner of the Department of Planning and Natural Resources (DPNR) announces that the Division of Environmental Protection (DEP) continues to investigate the discharge of raw sewage in the vicinity of the Gallows Bay Port Terminal in Christiansted. The Department of Public Works' (DPW) sewer collection and conveyance system in the Gallows Bay area has been recently suffering from frequent failures resulting in the discharge of raw sewage into Christiansted Harbor area near Gallows Bay. The Department of Public Works is currently working to address the problems, and DPNR-DEP will continue to monitor the situation.

DPNR-DEP is advising the public to refrain from using the waters in Christiansted Harbor from the area near the Gallows Bay Port Terminal, along Bay Road, and to Fort Christianvern until the problem is corrected and the public health concern has been alleviated. This includes activities such as fishing and bathing . DPNR-DEP is also advising parents to please instruct their children to keep away from the abovementioned area and its impacted shoreline. DPNR-DEP will continue to monitor the impacted waters and to inform the public of the water quality in the affected area. For additional information regarding water quality call the Division of Environmental Protection at 773-0565.

Dean C. Plaskett, Esq., Commissioner, DPNR

Exhibit 3

*******PRESS RELEASE*******

GOVERNMENT OF THE VIRGIN ISLANDS OF THE UNITED STATES

Department of Planning & Natural Resources
Division of Environmental Protection
45 Mars Hill
Frederiksted, St. Croix, U.S.V.I. 00840-4474

Telephone: (340) 773-1082
Fax: (340) 773-9310
(340) 692-9794

April 9, 2002

Department of Planning and Natural Resources
Division of Environmental Protection

Public Advisory

Dean C. Plaskett, Esq. Commissioner of the Department of Planning and Natural Resources (DPNR) announces that the Division of Environmental Protection (DEP) continues to monitor the discharge of raw sewage in the vicinity of the Gallows Bay Port Terminal in Christiansted, the Figtree Pump Station and Cane Garden Bay, and the Campo Rico Pump Station and Campo Rico Beach.

The Department of Public Works' (DPW) sewer collection and conveyance system in the Gallows Bay area has been recently undergoing repairs. This may result in the intermittent discharge of raw sewage into the Gallows Bay area.

The Campo Rico sewer force main recently ruptured causing the discharge of raw sewage into the street and ultimately onto the Campo Rico Beach and into the adjacent waters.

The Figtree Pump Station recently failed causing the discharge of raw sewage into Cane Garden Bay.

The Department of Public Works is currently working to address the problems, and DPNR will continue to monitor the progress of the repairs.

DPNR is advising the public to refrain from using the waters in Christiansted Harbor from the area near the Gallows Bay Port Terminal, along Bay Road, and to Fort Christianvern; the waters near the Campo Rico Beach; and the waters in Cane Garden Bay until the problems are corrected and the public health concern has been alleviated. This includes activities such as fishing and bathing. DPNR advises the public that children and adults with compromised immune systems should avoid the above-mentioned areas, and the impacted beaches. All persons should avoid areas of storm water runoff, such as guts, puddles, and drainage basins in and around the areas. Standing or running water in these areas may contain contaminants or pollutants harmful to human health.

DPNR-DEP will continue to monitor the impacted waters and to inform the public of the water quality in the affected area. For additional information regarding water quality call the Division of Environmental Protection at 773-0565.

Dean C. Plaskett, Esq., Commissioner, DPNR

Mr. RADANOVICH. Thank you very much, Mr. Turner.

Appreciate the testimony of everybody here. I would further—Mrs. Christensen, do you have any questions?

Mrs. CHRISTENSEN. OK, well, I'll start.

I want to thank the panelists for their testimony as well. Maybe I would begin with Mr. McAuliffe.

I'm not talking loud enough?

Mr. RADANOVICH. Uh-huh.

Mrs. CHRISTENSEN. Mr. McAuliffe, you stated in your testimony that the Park Service has failed for 40 years to fully protect the stocks under their jurisdiction. What do you think should have been done that would have insured a different result?

Mr. MCAULIFFE. That's pretty fully covered in the written testimony, in that the Code of Federal Regulations rules for Buck Island for fishing, if we were to follow those rules, we would be able to pretty much strip the park of living life and not violate the rules. That is very antiquated and should have been revised many, many years ago. And I look at that as a failure not on the part of the local Park Service employees, because they can only go by the rules that are given to them, but the Park Service in general.

The Park Service employees here have had their hands tied for many years trying to enforce fisheries regulations in that area, but they—what they have enforced have not been done equally across board. Most of the community, fishing community has respected the original boundaries, and all of us have understood that you just don't fish within those park boundaries. Yet the rules permit fishing, and fishing with traps and fishing to a degree that would denude the park.

Mrs. CHRISTENSEN. Let me ask you another question. Did you attend the September public hearings that were held by the Department of Interior and the National Park Service?

Mr. MCAULIFFE. I didn't hear you.

Mrs. CHRISTENSEN. The September 2000 public hearings that were held by the Department of Interior and the Park Service, did you attend those?

Mr. MCAULIFFE. I wasn't aware of them at the time. I wasn't notified until I think the day or the day after.

Mrs. CHRISTENSEN. OK. Because I notice that you put some stress on good faith negotiations. Are you—do you consider—well, you probably have partly answered my question, but do you consider that they afforded the public an adequate opportunity to provide input into the protections that were needed?

Mr. MCAULIFFE. Absolutely not.

Mrs. CHRISTENSEN. I guess I should have asked Mr. Tutein a question as well.

Let me go to Mr. Turner and ask two questions if I can get them in. How do you reconcile your unqualified support of the monument as designated by President Clinton with the needs of the fishing community and the possible impact on people that are making a livelihood?

Mr. TURNER. As I stated, we are very strong supporters of the local fishermen. In fact, we worked with them in the creation of the local marine protected area that was voted in by the Coastal Zone Management Commission. Again, Mr. Tutein pointed out we're talking about 5 percent of the overall fishing area. That leaves 95 percent available for fishing. I recognize that for some families this will be a strain, and I agree with Mr. McAuliffe entirely that some

form of compensation must be given to those fishermen who are greatly affected by this.

On the other hand, I believe that it's been demonstrated before also in St. Lucia at the Soufriere management area that once you preserve and protect a specific location, the fish size and the number of fish goes up substantially. In some cases two to three times the number of fish, and two to three times the size of the fish. Those fish do not stay in that zone. They migrate in and out of that zone. Therefore the fishermen would have a much greater take in the ultimate outcome of this plan.

Mrs. CHRISTENSEN. You also mentioned in your written testimony that the National Parks face certain other threats on St. Croix despite the best efforts of the National Park Service staff. Would you elaborate on that, and is SEA doing anything to assist in some of those areas, because the fishing is not the only threat to the reefs and to the National Park.

Mr. TURNER. That is absolutely correct. In fact, we were at the Salt River National Park yesterday, and up from the Salt River National Park there's an area called Mon Bijou, there's a gut. A gut is an intermittent river that runs on St. Croix. In that gut there's a pile of garbage, including refrigerators, old used appliances, all sorts of other materials.

Non-point-source pollution is a serious threat. In fact, that is why SEA undertook the mangrove replanting there at Sugar Bay to mitigate some of the non-point-source pollution.

Also at Christiansted Harbor I must in fact congratulate the local Department of Public Works for finally correcting the problem that exists there. However, many other problems do exist. And again, it's a scarcity of resources issue which leads to these problems existing, and raw sewage dumping into the harbor actually can introduce a number of different pathogens into the water, from hepatitis A to E. coli to Cryptosporidium. I could go on for a while with just what could be dumped into the water.

So yes, there are substantial threats to the National Parks here on the island.

Mrs. CHRISTENSEN. Can I ask one last question?

Mr. RADANOVICH. Sure.

Mrs. CHRISTENSEN. On this round anyway.

Former Senator Brown, the Section 1705(b)(ii), the part that deals with the at mean low tide—high tide, that exclusion, how do you interpret that? Does it just—because all of what we're talking about seems to ride on that one exception, and is it just not clearly written? Does it have no impact?

How do you interpret that second exception?

Mr. BROWN. Well, to restate what I said earlier, I don't see a problem with that language, 1705(b)(ii). The point is that someone in the Interior has used it to apply to the Virgin Islands. And my position is, and in fact the reality is, it does not apply to the Virgin Islands, but it more aptly applies to Guam, and again where there are substantial holdings.

Mrs. CHRISTENSEN. But the law applies equally to—

Mr. BROWN. It's a general law.

Mrs. CHRISTENSEN. And it applies in effect equally to each of those jurisdictions.

Mr. BROWN. But it has to be taken in the context in which it's written, and that is—

Mrs. CHRISTENSEN. I—

Mr. BROWN. If it applied, if there are any such Federal lands existing in the Territory, then it would so apply. But it does not apply because there are no such Federal lands existing in the Territory; one, because President Ford made the exceptions that would not be transferred. That's the 30 acres to—added to Buck Island, plus the several dozen acres on the west end of St. Croix that were excluded specifically. Then in 1705(b)(x) and (xi) I think it is, if I'm correct, the law specifically cites the Virgin Islands National Park as it's defined and it has been defined by law. Therefore it specifically states what those boundaries are, and the Buck Island Reef National Monument.

If that isn't clear on the face of it as to what is to be considered Federal lands in this Territory, I'm not sure what other way to interpret it. And as I say, then 1705(b)(ii) can only apply then to Guam certainly where there, again, is substantial holdings by the U.S. Navy, lands adjacent to submerged lands, and I'm not too sure to what extent it might apply in American Samoa. But definitely in Guam, but not here.

Mrs. CHRISTENSEN. Did you have an opportunity to provide input to the GAO as well? I asked that question, didn't I?

Mr. BROWN. I was told by you that I was to be invited to give input, but I did not receive an invitation. But I took the initiative to call and speak to the person who is responsible for and overseeing that report. That was a couple months ago, maybe sometime in March I spoke to her.

Mrs. CHRISTENSEN. So you were able to provide your—

Mr. BROWN. I gave extensive—

Mrs. CHRISTENSEN. —your input into the decision that we're anticipating?

Mr. BROWN. Yes. At the time I think the anticipation was that there was—a report would be forthcoming shortly, but now we see that it is not. It has not come.

Mrs. CHRISTENSEN. But the question was—

Mr. BROWN. I did.

Mrs. CHRISTENSEN. —you were able to provide your—

Mr. BROWN. I did.

Mrs. CHRISTENSEN. —input.

Mr. BROWN. We had extensive communication verbally.

Mrs. CHRISTENSEN. I just wanted to make sure.

Mr. BROWN. No written communication as yet. Since I did not receive the written invitation to give testimony, I took the initiative to call and give my input.

Mrs. CHRISTENSEN. But you were able to provide it. Thank you.

Mr. RADANOVICH. Thank you very much.

Ms. McCollum?

Ms. MCCOLLUM. Just a follow-up to Mr. Brown's.

You were serving you said in '70—in 1971 through '75, is that correct?

Mr. BROWN. I'm sorry. Say that again?

Mr. RADANOVICH. 1971 to '75 was your first term you were serving?

Mr. BROWN. I served two 2-year terms during that period, and at a subsequent date in the eighties up into the early nineties I served another 5-year term.

Ms. MCCOLLUM. So when President—

Mr. BROWN. Expired terms.

Ms. MCCOLLUM. OK. So when President Ford put fourth the language which then became part of the statute dealing with submerged lands, and I will find the documentation I'm sure you submitted about the exceptions that you've spoken about for the Virgin Islands. I have not seen that, but I'll be looking for it. Did you then, or did the Virgin Islands Government actively pursue a clear understanding to what President Ford's language in 1974 meant to the Virgin Islands? Because there's documentation, I believe it's in 1975 from the Park Service, clearly saying how they were going to be using that language. It's a public record.

Did you aggressively say, Gees, we don't agree with the Department of Interior on that? Did you—do you have documentation that you filed with the Federal Government on President Ford's foundation for what President Clinton went forward on?

Mr. BROWN. I—well, let me put it this way: First of all, there were no real contests about the proclamation as issued by President Ford, and there was no reason to. There is reason to contest what the National Park Service, by extension, want to interpret what it says. But the law says the President, by proclamation, shall make such exceptions from the transfer as he may deem necessary. Not the Department of Interior. And it has to be done by a proclamation. There were only two proclamations issued, and therefore we had no reason to contest anything.

The administrative transfer of the submerged lands from the Interior was through the Office of Territorial Affairs, which was responsible for the administration of the submerged lands at the time. All of their records and documents were physically transferred, as well as some monies, to this government. I was in the Legislature at the time that the law was enacted, and I was the, immediately after that, the following year in February, appointed by the Governor to be in his cabinet as the Commissioner of the Department of Conservation and Cultural Affairs. And therefore I was the person then responsible directly for the administration of these submerged lands.

Let me state further that our law was structured at that time to clearly state, by Act of the Legislature in 1974, that any use of these submerged lands, as we define them, trust lands, could only be done by an administrative process that got the Governor's approval, and subsequently the approval of the Legislature. That was to allow the highest possible public scrutiny and opportunity for inputs on the disposition or utilization or development of any of these trust lands, submerged lands. So that's from the shoreline out to the 3-mile line.

Ms. MCCOLLUM. Mr. Chair, just a follow-up for the record here. I'm going to be doing some more extensive research on Public Law 93-435 dated October 5th, 1974. I appreciate on the interpretation, and law is subject to interpretation as by our sitting in a court chamber, but it appears from my reading, sir, and I will be looking at what you have brought to my attention, that the Federal Gov-

ernment, and we may agree or disagree as to its interpretation, I quote, it says, All submerged lands adjacent to property owned by the Federal Government, and then they go on to say that they can extend protection to it.

And then I also, Mr. Chair, for the record I mentioned this at the other hearing, I refer to a document written on January 16th, 1975, and I was just right out of high school so I wasn't in public service then, but I have to go, as you're going through your interpretations, I'm—I would like to draw to your attention to a quote from that letter. It's to the Acting Director of Territorial Affairs, and it refers again to the public law that I had just cited, Submerged Lands, and it says, quote:

For example, the Park Service would continue to have administrative responsibility for submerged lands adjacent to park lands, and it says, And the Navy would have jurisdiction over submerged lands adjacent to the lands of its own facilities.

So to your point, when you were talking about Guam, this letter does address that the Navy does have authority over its submerged—jurisdiction over submerged lands, but this also states that the Park Service also has.

So we'll do—I'll do a little more research, and I just thought I'd let you know what I had seen. And thank you very much all of you—

Mr. BROWN. If I might—

Ms. MCCOLLUM. —for your testimony.

Mr. BROWN. If I may, just a comment, by extension help your research. Attached to my presentation is a copy of a map chart done as a part of the development of our Coastal Zone Management Plan, which was circulated and given to all of the requisite Federal agencies for comment, including Department of Interior, and this document set aside and identified those waters that are relevant to the National Park Service. And when I cited, and when it's cited in the law, and when I cited the Virgin Islands National Park and Buck Island Reef National Monument as they are cited in the 1705(b)(x) and (xi), it's clearly identified here on this map. And if you look at it, you'll see what the boundaries are. The water boundaries for the National Park Service are identified. They're not out to the 3-mile limit. And only on one case between the British Virgin Islands and the U.S. Virgin Islands in St. John does it touch the international boundary. Very narrow point, a point on a pin. To the south, to the east, nor to the west are there any indications in anywhere under the law as the V.I. National Park has defined them that its boundaries, albeit in the water as established by Act, are to the 3-mile limit.

The same is true for Buck Island. That is here. And I have this in color if you want to see it, and the exceptions are shown as Buck Island as defined here, and the lands identified for use by the Navy are also defined here. That's in the documents, that's among those things that I submitted to you. So it's there for you to review along with it.

So if, as I pointed out, this was 1978. Why did the Department of Interior not make any exceptions or express any concerns at that time? And come to this quarter century later and decide that it can claim what it does not claim, have a right of title to, and further

make further claims, if they use the analogy they've used, the arguments that they've used, further claims against lands, submerged lands within this Territory.

Mr. RADANOVICH. Does the map, Mr. Brown, have a date on it?

Mr. BROWN. Should be 1978. I have a copy of the original which I can't give to you but—

Mr. RADANOVICH. As long as we have the information, I think it's—

Mr. BROWN. Yes, you have it. And it may be retrievable from the Department—the original maps may be retrievable from the Department of Planning and Natural Resources.

And I support the Honorable Commissioner's position as he's postulated to this Subcommittee.

Mr. RADANOVICH. Very good. Thank you.

Mrs. Christensen?

Mrs. CHRISTENSEN. Just—just maybe one, because—and it goes back to the question that you asked, Mr. Chairman, because Mr. Brown raised it again, former Senator Brown, that if one accepts the Department of Interior's legal interpretation of Section 1705(b)(ii), then one might assume they will act, eventually lay claim to Charlotte Amalie Harbor, since they recently acquired a significant portion of Hassel Island.

Now, I'm not a lawyer, and my colleagues remind me of that, but is not Section 1705(b)(ii) referring to lands owned by the Federal Government at the time of this law in 1974, and not lands later acquired by the Federal Government? I need to refer to Hassel Island, for example, as being recently acquired.

Mr. BROWN. Well, see that is—are you raising the question to me? That is the question that is to be answered in the sense of who interprets which statement. It, at least to me, on the face of it, applies only to what existed at the time, and to what extent the Federal Government owned whatever lands it owned.

I can't help but restate, in the Virgin Islands case, it's clear on the face of it. The V.I. National Park is identified, Buck Island Reef National Monument is clearly identified, and they are defined elsewhere in the law, so what else could there be?

Mrs. CHRISTENSEN. But you're posing the question of additional takeover of additional land—

Mr. BROWN. Yes.

Mrs. CHRISTENSEN. —and I'm just saying, I'm just asking is wasn't the law referring to lands owned at that time?

Mr. BROWN. At that time. And under the circumstances.

Mrs. CHRISTENSEN. Well, you know, essentially when I wrote to GAO I essentially put forth the same argument that you're putting forth now, so I'm not arguing with that.

Mr. BROWN. I see.

Mrs. CHRISTENSEN. I'm asking about Charlotte Amalie Harbor and all of the other things that you're saying could take—could be a taking of the Federal Government. And I'm saying that as I read it, and wouldn't you agree that it applied to Federal lands owned in 1974?

Mr. BROWN. I don't—I would tend to agree with what you said, and I don't see that any way under any circumstances that any

subsequent acquisitions could be utilized to transpose to Charlotte Amalie Harbor or around Green Cay or elsewhere.

Mr. RADANOVICH. Unless a new monument was declared.

[Laughter.]

Mr. BROWN. Well, Salt River is there.

Mrs. CHRISTENSEN. It would come under that law, Mr. Chairman.

Mr. RADANOVICH. Thank you.

Any further questions, Mrs. Christensen? Forgive me for interrupting.

Mrs. CHRISTENSEN. I don't think I had any further questions at this time. No.

Mr. RADANOVICH. All right.

Ms. McCollum? Guess not.

OK. I think in closing, it seems to me that I guess the concerns that I have with monuments, and I'm very fortunate to be able to come here for the first time and see your beautiful habitat. It's just a gorgeous place, and I can see everybody's need to want to preserve the environment as well as draw a living from it. It seems to me that when this issue comes and goes whenever GAO decides, there's still going to be the issues of cooperating amongst yourselves, and maybe there's other avenues to go down as far as even private donations or otherwise to build an infrastructure that maintains preponderance fisheries and allows people to live, and at the same time preserve your glorious resources, because they need it. And I think that that is something that everybody should strive for.

So that's my closing, and again, I want to thank Mrs. Christensen for making sure that we had everybody here and were able to conduct this hearing, and would like to defer to Mrs. Christensen for her closing statement.

Mrs. CHRISTENSEN. Thank you, Mr. Chairman.

I also once again just want to thank you for holding a hearing, and Ms. McCollum for joining us, and remind the audience and the testifiers that written statements are still accepted for a period of 2 weeks that would be made a part of the record of this formal hearing.

And I want to just underscore what the secretary has said on many, many occasions, and what was reiterated here today by the Director of the National Park Service, that their position is that Cooperation, Consultation, Communication, and Conservation, are their four Cs. To date they have proved themselves, proved to me that they mean to incorporate those four Cs as they administer both the Department and the National Park Service, and I look forward to working with you and bridging that communication and cooperation and collaboration between the National Park Service and the Department and the people of the Virgin Islands, as we've already started to do. And I want to thank everybody for taking the time to come out here today.

Mr. RADANOVICH. With that, our hearing is closed. Thank you very much.

[Whereupon, the Subcommittee was adjourned.]

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