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SUBMERGED LANDS LEGISLATION AFFECTING GUAM,  
THE VIRGIN ISLANDS, AND AMERICAN SAMOA

GOVERNMENT

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DOCUMENTS

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BEFORE THE

SUBCOMMITTEE ON

TERRITORIES AND INSULAR AFFAIRS

OF THE

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

UNITED STATES SENATE

NINETY-THIRD CONGRESS

SECOND SESSION

ON

H.R. 11559

AN ACT TO PLACE CERTAIN SUBMERGED LANDS WITHIN  
THE JURISDICTION OF THE GOVERNMENTS OF GUAM,  
THE VIRGIN ISLANDS, AND AMERICAN SAMOA, AND FOR  
OTHER PURPOSES

JUNE 19, 1974



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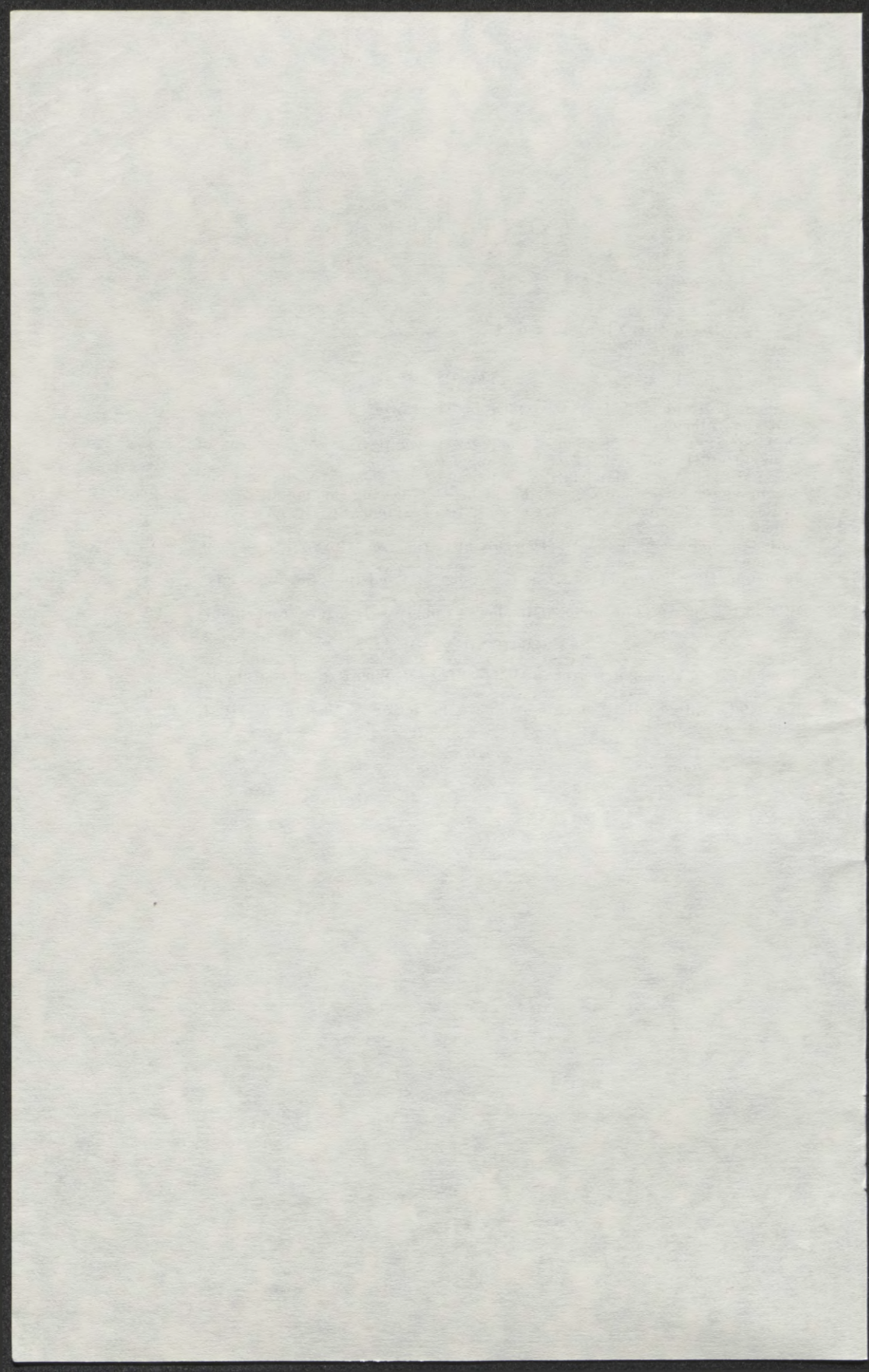
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**SUBMERGED LANDS LEGISLATION AFFECTING GUAM,  
THE VIRGIN ISLANDS, AND AMERICAN SAMOA**

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**WEDNESDAY, JUNE 19, 1974**

**U.S. SENATE,  
SUBCOMMITTEE ON TERRITORIES AND INSULAR AFFAIRS  
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
*Washington, D.C.***

The subcommittee met at 10 a.m., pursuant to notice, in room 3110, Dirksen Office Building, Hon. J. Bennett Johnston, Jr., presiding.

Present: Senators Johnston, Fannin, Bartlett.

Also present: Jerry T. Verkler, staff director; James P. Beirne, special counsel, and J. Craig Sweeney, research assistant.

**OPENING STATEMENT OF HON. F. BENNETT JOHNSTON, JR., A U.S.  
SENATOR FROM THE STATE OF LOUISIANA**

Senator JOHNSTON. This is the time duly noticed for an open hearing on H.R. 11559, a bill to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes.

The bill would alter the established practice of transferring submerged lands only on a showing of need and would also turn over to the Virgin Islands government title to properties, including government buildings, which were placed under control of the Virgin Islands government by the 1937 Virgin Islands Organic Act, with some exceptions.

At this point in the record, I shall include a copy of H.R. 11559, together with Department report, and House Report 93-902.

[The text of H.R. 11559, Department report and House Report 93-902 follows:]

93<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 11559

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IN THE SENATE OF THE UNITED STATES

MARCH 19, 1974

Read twice and referred to the Committee on Interior and Insular Affairs

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## AN ACT

To place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*  
3        That (a) subject to valid existing rights, all right, title, and  
4        interest of the United States in lands permanently or periodi-  
5        cally covered by tidal waters up to but not above the line  
6        of mean high tide and seaward to a line three geographical  
7        miles distant from the coastlines of the territories of Guam,  
8        the Virgin Islands, and American Samoa, as heretofore or  
9        hereafter modified by accretion, erosion, and reliction, and  
10       in artificially made, filled in, or reclaimed lands which were

1 formerly permanently or periodically covered by tidal  
2 waters, are hereby conveyed to the governments of Guam,  
3 the Virgin Islands, and American Samoa, as the case may  
4 be, to be administered in trust for the benefit of the people  
5 thereof.

6 (b) There are excepted from the transfer made by  
7 subsection (a) hereof—

8 (i) all deposits of oil, gas, and other minerals, but  
9 the term “minerals” shall not include coral, sand, and  
10 gravel;

11 (ii) all submerged lands adjacent to property  
12 owned by the United States above the line of mean  
13 high tide;

14 (iii) all submerged lands adjacent to property  
15 above the line of mean high tide acquired by the United  
16 States, after the date of enactment of this Act, by emi-  
17 nent domain proceedings, purchase, exchange, or gift;

18 (iv) all submerged lands filled in, built up, or other-  
19 wise reclaimed by the United States, before the date of  
20 enactment of this Act, for its own use;

21 (v) all tracts or parcels of submerged land contain-  
22 ing on any part thereof any structures or improvements  
23 constructed by the United States;

24 (vi) all submerged lands that have heretofore been  
25 determined by the President or the Congress to be of

1 such scientific, scenic, or historic character as to warrant  
2 preservation and administration under the provisions of  
3 the Act entitled "An Act to establish a National Park  
4 Service, and for other purposes", approved August 25,  
5 1916 (16 U.S.C. 1 et seq.) ;

6 (vii) all submerged lands designated by the Presi-  
7 dent within one hundred and twenty days after the date  
8 of enactment of this Act ;

9 (viii) all submerged lands that are within the ad-  
10 ministrative responsibility of any agency or department  
11 of the United States other than the Department of the  
12 Interior ;

13 (ix) all submerged lands lawfully acquired by per-  
14 sons other than the United States through purchase, gift,  
15 exchange, or otherwise ;

16 (x) all submerged lands within the Virgin Islands  
17 National Park established by the Act of August 2, 1956  
18 (16 U.S.C. 398 et seq.), including the lands described  
19 in the Act of October 5, 1962 (16 U.S.C. 398c-398d) ;  
20 and

21 (xi) all submerged lands within the Buck Island  
22 Reef National Monument as described in Presidential  
23 Proclamation 3448 dated December 28, 1961.

24 Upon request of the Governor of Guam, the Virgin Islands,  
with

1 or without reimbursement, convey all right, title, and interest  
2 of the United States in any of the lands described in clauses  
3 (ii), (iii), (iv), (v), (vi), (vii), or (viii) of this sub-  
4 section to the government of Guam, the Virgin Islands, or  
5 American Samoa, as the case may be, with the concurrence  
6 of the agency having custody thereof.

7       SEC. 2. (a) Nothing in this Act shall affect the right  
8 of the President to establish naval defensive sea areas and  
9 naval airspace reservations around and over the islands of  
10 Guam, American Samoa, and the Virgin Islands when  
11 deemed necessary for national defense.

12       (b) Nothing in this Act shall affect the use, develop-  
13 ment, improvement, or control by or under the constitutional  
14 authority of the United States of the lands transferred by the  
15 first section of this Act, and the navigable waters overlying  
16 such lands, for the purposes of navigation or flood control  
17 or the production of power, or be construed as the release or  
18 relinquishment of any rights of the United States arising  
19 under the constitutional authority of Congress to regulate or  
20 improve navigation, or to provide for flood control or the  
21 production of power.

22       (c) The United States retains all of its navigational  
23 servitude and rights in and powers of regulation and control  
24 of the lands conveyed by the first section of this Act, and the  
25 navigable waters overlying such lands, for the constitutional

1 purposes of commerce, navigation, national defense, and in-  
2 ternational affairs, all of which shall be paramount to, but  
3 shall not be deemed to include, proprietary rights of owner-  
4 ship, or the rights of management, administration, leasing,  
5 use, and development of the lands and natural resources  
6 which are specifically conveyed to the government of Guam,  
7 the Virgin Islands, or American Samoa, as the case may be,  
8 by the first section of this Act.

9 SEC. 3. Subsection (b) of section 31 of the Revised  
10 Organic Act of the Virgin Islands (48 U.S.C. 1545 (b) ) is  
11 amended to read as follows:

12 “(b) All right, title, and interest of the United States  
13 in the property placed under the control of the government  
14 of the Virgin Islands by section 4 (a) of the Organic Act  
15 of the Virgin Islands of the United States (48 U.S.C. 1405c  
16 (a) ), not reserved to the United States by the Secretary of  
17 the Interior within one hundred and twenty days after the  
18 date of enactment of this subsection, is hereby conveyed to  
19 such government. The conveyance effected by the preceding  
20 sentence shall not apply to that land and other property  
21 which on the date of enactment of this subsection is adminis-  
22 tered by the Secretary of the Interior as part of the National  
23 Park System and such lands and other property shall be  
24 retained by the United States.”.

25 SEC. 4. On and after the date of enactment of this Act,

1 all rents, royalties, or fees from leases, permits, or use rights,  
2 issued prior to such date of enactment by the United States  
3 with respect to the land conveyed by this Act, or by the  
4 amendment made by this Act, and rights of action for  
5 damages for trespass occupancies of such lands shall accrue  
6 and belong to the appropriate local government under whose  
7 jurisdiction the land is located.

8 SEC. 5. The first section, and sections 2 and 3 of the  
9 Act entitled "An Act to authorize the Secretary of the  
10 Interior to convey certain submerged lands to the govern-  
11 ments of Guam, the Virgin Islands, and American Samoa,  
12 and for other purposes", approved November 20, 1963 (48  
13 U.S.C. 1701-1703), are repealed.

14 SEC. 6. No person shall be denied access to, or any of  
15 the benefits accruing from, the lands conveyed by this Act,  
16 or by the amendment made by this Act, on the basis of  
17 race, religion, creed, color, sex, national origin, or ancestry.

Passed the House of Representatives March 18, 1974.

Attest:

W. PAT JENNINGS,

*Clerk.*



## United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

JUN 17 1974

Dear Mr. Chairman:

This responds to your request for the views of this Department on H.R. 11559, an Act "To place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes", in the Senate of the United States.

We recommend enactment of this bill, if amended as suggested herein.

H.R. 11559 would transfer to the Territories of Guam, the Virgin Islands, and American Samoa the title of the United States to tidelands and submerged lands surrounding the three territories and the responsibility for administering those lands, with certain exceptions.

A similar action was taken by the Congress with respect to the coastal states in 1953. (See the Submerged Lands Act 43 U.S.C. 1301.) In addition, Puerto Rico, pursuant to 48 U.S.C. 749, controls the submerged lands around the Islands of Puerto Rico. We see no reason why the territories should not be given property rights comparable to the rights previously given these other areas. Moreover, we believe that the territories are fully competent to administer these tidelands and submerged lands under their own laws. Furthermore, section 1(b) i-xi of this bill appears adequate to exempt from transfer lands and minerals necessary to protect the national interest. Enactment of this law would not in any way reduce the territories' responsibility to comply with applicable Federal Air and Water Quality Standards. Moreover, the bill adequately protects the interests of United States foreign relations.

As passed by the House, H.R. 11559 embodies many of the amendments suggested by this Department in its report on H.R. 6775, a previous bill concerning the same subject (H.R. 11559 does not deal with the amendments to the Organic Act of Guam which H.R. 6775 contained; these amendments now appear in a separate bill, H.R. 11573 as passed by the House.) However, H.R. 11559 does not contain the recommended

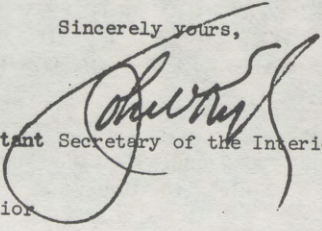


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subsection (b)(xii) set out in the report of the Department of the Navy as an additional exception to the lands which would be transferred pursuant to the bill. We recommend that the amendment recommended by the Department of the Navy be adopted. Finally, the bill as passed contains a new section 6 which would prohibit discrimination in access to its benefits. We have no objection to the addition of this provision.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

  
Assistant Secretary of the Interior

Honorable Henry M. Jackson  
Chairman, Committee on Interior  
and Insular Affairs  
United States Senate  
Washington, D. C. 20515

# Union Calendar No. 407

93D CONGRESS } HOUSE OF REPRESENTATIVES } REPORT  
 2d Session } } No. 93-902

PLACING CERTAIN SUBMERGED LANDS WITHIN THE JURISDICTION  
 OF THE GOVERNMENTS OF GUAM, THE VIRGIN ISLANDS, AND  
 AMERICAN SAMOA, AND FOR OTHER PURPOSES

MARCH 12, 1974.—Committed to the Committee of the Whole House on the  
 State of the Union and ordered to be printed

Mr. HALEY, from the Committee on Interior and Insular Affairs,  
 submitted the following

## REPORT

[To accompany H.R. 11559]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 11559) to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

H.R. 1159, by Messrs. deLugo, Won Pat, Burton, Don H. Clausen, and Regula, as approved by the House Committee on Interior and Insular Affairs on January 31, 1974, is an outgrowth of previous hearings by the Subcommittee on Territorial and Insular Affairs on a comparable bill, H.R. 6775, by Mr. deLugo and Mr. Won Pat.

### PURPOSE

H.R. 11559 would convey title and control of submerged lands on the coastlines of Guam, the Virgin Islands, and American Samoa, with specific exceptions, from the Federal government to the governments of the respective territories.

This bill would also turn over to the Virgin Islands government title to properties, including Government buildings, which were placed under control of the Virgin Islands government by the 1937 Virgin Islands Organic Act, excepting National Park Service properties and providing that the properties are not otherwise reserved to the United States by the Secretary of the Interior within one hundred and twenty days after enactment of this legislation.

Section 2(a) of this bill retains existing law providing that "Nothing in this Act shall affect the right of the President to establish naval

defense sea areas and naval airspace reservations around and over the islands of Guam, American Samoa, and the Virgin Islands when deemed necessary for national defense."

#### BACKGROUND AND NEED

The territories of Guam, the Virgin Islands, and American Samoa, all seeking a greater degree of self-government, currently are denied the ownership and control of their submerged coastal lands. While the coastal states and Puerto Rico enjoy such ownership and control, the submerged lands of Guam, the Virgin Islands, and American Samoa are owned by the Federal Government and administered by the Department of the Interior.

#### COST

The objectives of the bill can be accomplished without appropriation by Congress or additional cost to the Federal government.

#### SECTION-BY-SECTION ANALYSIS

Section 1(a) conveys title of submerged lands on the coastlines of Guam, the Virgin Islands, and American Samoa from the United States to the respective territorial governments.

Section 1(b) excepts from the conveyance of the rights to oil, gas and mineral deposits, also properties for which the Federal government has continuing use, and those lands which may be designated by the President within 120 days after the date of enactment of the Act. Also exempted are all submerged lands adjacent to property above the line of mean high tide acquired by the United States after the date of enactment of this Act.

Section 1 also authorizes the Secretary of the Interior, upon request of the Governor of Guam, the Virgin Islands, or American Samoa, to convey to the territorial government various of the excepted properties with the concurrence of the federal agency having custody.

Section 2(a) retains existing law with respect to the President's right to establish naval defensive sea areas and airspace reservations around and over the islands.

Section 2(b) reserves the rights of the United States and the Congress with regard to authority in navigation, flood control, and the production of power on and over lands transferred by this Act.

Section 2(c) retains for the United States all rights and powers of control for the constitutional purposes of commerce, navigation, national defense, and international affairs.

Section 3 amends the Revised Organic Act of the Virgin Islands by giving title to property the Organic Act reserved to the United States, excepting properties which may be reserved to the United States by the Secretary of the Interior within 120 days of enactment of the subsection or property which is a part of the National Park System.

Section 4 transfers rights to rents, leases and use permits issued for conveyed properties by the United States prior to this Act to the appropriate local government.

Section 5 repeals the first section and sections 2 and 3 of the Submerged Lands Act of November 20, 1963, relating to Guam, the Virgin Islands, and American Samoa.

Section 6 provides against any person being denied access to or benefits accruing from the lands conveyed on the basis of race, religion, creed, color, sex, national origin, or ancestry.

#### COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs, by voice vote, recommended enactment of H.R. 11559.

#### DEPARTMENTAL REPORTS

The reports of the Department of the Interior (dated September 24, 1973), the Department of the Navy (dated September 24, 1973), and the Department of Justice (dated September 24, 1973) follow:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., September 24, 1973.*

HON. JAMES A. HALEY,  
*Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.R. 6775, a bill "To place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes."

We recommend enactment of this bill, if amended as suggested herein.

H.R. 6775 would transfer to the Territories of Guam, the Virgin Islands, and American Samoa the title of the United States to tidelands and submerged lands surrounding the three territories and the responsibility for administering those lands, with certain exceptions.

A similar action was taken by the Congress with respect to the coastal states in 1953. (See the Submerged Lands Act 43 U.S.C. 1301.) In addition, Puerto Rico, pursuant to 48 U.S.C. 749, controls the submerged lands around the Islands of Puerto Rico. We see no reason the territories should not be given property rights comparable to the rights previously given these other areas. Moreover, we believe that the territories are fully competent to administer these tidelands and submerged lands under their own laws. Furthermore, section 1(b) i-xi of this bill appears adequate to exempt from transfer lands and minerals necessary to protect the national interest. Enactment of this law would not in any way reduce the territories' responsibility to comply with applicable Federal Air and Water Quality Standards. Moreover, the bill adequately protects the interests of United States foreign relations.

Our suggested amendments center on sections 4 and 5 of the bill. Section 4 would turn over to the Virgin Islands Government title to property which was placed under control of that government by the 1937 Virgin Islands Organic Act (48 U.S.C. 1405 c.) We have no objection to the concept of this section but would recommend that language be inserted to allow this Department some time to review the status of each of the pieces of property transferred by the 1937 Act. By this means, we can determine if there is any overriding reason for

having the U.S. Government retain title to any of these tracts for the achievement of Federal goals and responsibilities in the territorial areas and can make appropriate recommendations to the President. Therefore, we would recommend that the language of Section 4 be amended as follows:

“(b) All right, title and interest of the United States in the property placed under the control of the government of the Virgin Islands by section 4(a) of the Organic Act of the Virgin Islands of the United States (49 Stat. 1807, 1808), and not reserved by the President of the United States within 120 days from the passage of this act, is hereby conveyed to such government, except that any part of said property which on the date of enactment of this subsection is administered by the Secretary of the Interior as a part of the national park system shall be retained by the United States.”

With regard to section 5, there is an error in lines 15 and 16, page 6. The statute cited in those lines should read “48 U.S.C. 1421f(b).” We also have a substantive problem with this section. Its thrust is to change the status of “All other property”—as the term is used in Section 28(b) of the Organic Act of Guam—from property controlled by Guam to property owned by Guam. As now worded, the proposed amendment would convey, as of the date the bill becomes law, property acquired by the United States after November 1, 1950, and which is currently owned by the United States. Examples of such later-acquired property are several parcels of land which were deeded by the Government of Guam to the Department of the Interior on April 3, 1970, for a proposed “War in the Pacific National Historic Park.” In order to clarify that the amendment is meant to apply only to property acquired before November 1, 1950, and not to after-acquired property, we suggest that lines 17–19, page 6, be rewritten as follows:

“(b) All other property, real and personal, owned by the United States in Guam prior to November 1, 1950, and not reserved by the President of the United States prior to that date, is hereby . . .”

We would also recommend that in keeping with the amendments of section 5, the word “control” in section 28(c) of the Organic Act of Guam, 48 U.S.C. 1421f(c), be deleted and the word “ownership” be substituted in its place.

Finally, this Department recommends the adoption of amendments to H.R. 6775 as outlined in the reports by the Departments of Justice and Defense which would:

Amend Section 1(b) (iii) by inserting the word “hereafter” following the word “lands”.

Amend Section 1(b) (iv) by inserting the word “heretofore” on page 2, line 1 before the word “lands”.

Amend Section 1(b) by adding an additional exception numbered (xii) as described in the Defense report.

Amend Section 1(b), on page 4, line 1, after the words “may be” by deleting the remainder of the sentence and substituting in lieu thereof “with the concurrence of the agency having custody thereof.”

Amend Section 2(c) by deleting the last three words in line 1 and all of line 2 on page 5.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN KYL,  
*Assistant Secretary of the Interior.*

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DEPARTMENT OF THE NAVY,  
OFFICE OF LEGISLATIVE AFFAIRS,  
*Washington, D.C., September 24, 1973.*

HON. JAMES D. HALEY,  
*Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: YOUR requests for comment on H.R. 6135 and H.R. 6775, identical bills "To place certain submerged lands within the jurisdiction of the governments of Guam, and Virgin Islands, and American Samoa, and for other purposes," and H.R. 4696, a bill "To amend the Act of November 20, 1963, placing certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes," have been assigned to this Department by the Secretary of Defense for the preparation of a report expressing the views of the Department of Defense.

Under the provisions of the Act of November 20, 1963 (Public Law 88-183, 77 Stat. 338) the Secretary of the Interior, upon the request of the Governor of Guam, the Virgin Islands or American Samoa, is authorized to transfer to the government of the territory concerned, under certain circumstances, certain tidelands, submerged lands or filled lands in or adjacent to the territory. The statute provides for notification to Congress, reservation of certain rights and concurrent jurisdiction.

H.R. 6135 and H.R. 6775 would repeal the Act of November 20, 1963 and would convey such lands to the governments of Guam, the Virgin Islands, and American Samoa, as the case may be, subject to valid existing rights, and subject to eleven exceptions set forth in those bills. Among the excepted lands not conveyed by the bills are "all lands that are within the administrative responsibility of any agency or department of the United States other than the Department of the Interior", as set forth in Section 1(b) (viii) of the bills. The Secretary of the Interior may, however, upon the request of the appropriate territorial Governor convey to the territorial government certain of the excepted lands, including those within the administrative responsibility of the Department of Defense, if such lands are no longer needed by the United States.

H.R. 4696 is similar to H.R. 6135 and H.R. 6775 in its general effect, but with certain notable differences. It would amend the Act of November 20, 1963 to effect the conveyance of such lands to the governments of Guam, the Virgin Island and American Samoa. Although the bill provides seven exceptions from such transfer, it does not except "all lands that are within the administrative responsibility of any agency or department of the United States other than the Department of the Interior" as does H.R. 6135 and H.R. 6775. In addition, H.R. 4696

provides that the President, vice the Secretary of the Interior, may, upon request of the appropriate Governor, convey lands no longer needed by the United States.

We are of the opinion that language such as is contained in Section 1(b) (viii) of H.R. 6135 or H.R. 6775, which excepts from conveyance those lands within the administrative responsibility of any agency or department of the United States other than the Department of the Interior, is necessary to preserve the interests of the Department of Defense in its land holdings in Guam, the Virgin Islands and American Samoa. However, to the extent that the final paragraph of Section 1(b) of H.R. 6135 and H.R. 6775 would permit the Secretary of the Interior to convey land excepted under 1(b) (viii) without the prior approval of the Secretary of Defense, the Department of Defense is opposed. It would be inimical to the interests of national security to permit a federal agency not familiar with the needs of the Department of Defense to determine if such lands are no longer important to the Department of Defense and that such lands should be conveyed to a territorial government, without first obtaining the approval of the Secretary of Defense. In addition, it is noted that the Department of the Navy has pending a land exchange agreement dated April 1972 with the Government of Guam which provides for the exchange of land relative to construction of the Sella Bay Ammunition Pier authorized by the Military Construction Authorization Act, 1971 (Public Law 91-511, 84 Stat. 1204), as amended by section 201 of the Military Construction Authorization Act, 1973 (Public Law 92-545, 86 Stat. 1135). The effectiveness of such agreement has been deferred by a court decision until such time as the agreement is approved by the Guam legislature, which has not yet occurred. Under these circumstances, the exceptions from the proposed statutory conveyance in H.R. 6135, H.R. 6775 and H.R. 4696 would not extend to the land to be acquired by the Navy for the ammunition pier, unless the exchange is consummated prior to enactment of the bills.

It is also noted that under all three bills, the exception in section 1(b) (ii) is subject to two interpretations since it is not clear whether the words "above the line of mean high tide" modifies "lands" or "property." It is presumed that it was intended to modify "property" and this interpretation is required in order to protect the needs of the Department of Defense. Accordingly, it is recommended that the ambiguity be clarified by inserting the words "which is" before "above the line . . ." in any bill which is favorably considered.

Because of the explicit disclaimer in each bill of intention to affect various control rights (notably naval airspace restrictions in section 2(a)), it is recommended that the bills contain a specific exclusion of the effect on control under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.), the primary authorization for airspace control.

The words "in trust" contained in section 1 of each bill could be construed to impose an obligation on the island governments that would not otherwise exist with respect to the lands conveyed. It is therefore recommended that the words "in trust" be deleted from these sections.

In summary, the Department of the Navy, on behalf of the Department of Defense, is opposed to H.R. 6135, H.R. 6775 and H.R. 4696 as written, because of the deficiencies in each as noted above. We are not

opposed to the general intent of the bills and would have no objection to a bill similar to H.R. 6135, if such bill contained the following provisions in addition to those already contained in H.R. 6135:

(1) In section 1 (b) starting on page 4, line 1, after the words, "may be" delete the remainder of the sentence and substitute therefore the following: "with the concurrence of the agency having custody thereof".

(2) An additional exception under section 1(b) to the general conveyance, in substance, as follows:

"(xii) all lands adjacent to property required for completion of the Department of the Navy Land Acquisition Project relative to the construction of the Sella Bay Ammunition Pier authorized by the Military Construction Authorization Act, 1971 (84 Stat. 1204), as amended by section 201 of the Military Construction Authorization Act, 1973 (86 Stat. 1135)."

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report on H.R. 6135, H.R. 6775 and H.R. 4696 for the consideration of the Committee.

For the Secretary of the Navy.

Sincerely yours,

E. H. WILLETT,  
*Captain, U.S. Navy, Deputy Chief.*

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DEPARTMENT OF JUSTICE,  
*Washington, D.C., September 24, 1973.*

HON. JAMES A. HALEY,  
*Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 4696, H.R. 6135, and H.R. 6775, three bills to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes. Because the three above-mentioned bills are substantially identical, our comments will be directed to H.R. 6775 as a matter of convenience.

H.R. 6775 would give the Governments of Guam, the Virgin Islands and American Samoa title to the tidelands and lands beneath the 3-mile territorial sea adjacent to those territories, with exceptions; it would give those territorial governments concurrent jurisdiction with the Federal Government over federal property, and it would give to the Government of Guam and the Virgin Islands title to federal property heretofore placed under their control by their organic acts. This bill would encourage and facilitate local development, especially through filling in of shallow areas, and would bring federal reservations under the jurisdiction of local laws (domestic and probate law, etc., as well as criminal law).

Presently, Guam has title to and authority over property previously owned by the United States pursuant to 48 U.S.C. 1421f, which provides:

(a) The title to all property, real and personal, owned by the United States and employed by the naval government of Guam in the administration of the civil affairs of the inhabitants of Guam \* \* \* shall be transferred to the government of Guam within ninety days after the enactment of this Act.

(b) All other property, real and personal, owned by the United States in Guam, not reserved by the President of the United States within ninety days after the date of enactment of this Act, is hereby placed under the control of the government of Guam, to be administered for the benefit of the people of Guam, and the legislature shall have authority, subject to such limitations as may be imposed upon its acts by this Act or subsequent Act of the Congress, to legislate with respect to such property, real and personal, in such manner as it may deem desirable.

(c) All property owned by the United States in Guam, the title to which is not transferred to the government of Guam by subsection (a) hereof, or which is not placed under the control of the government of Guam by section (b) hereof, is transferred to the administrative supervision of the head of the department or agency designated by the President under section 3 of this Act, except as the President may from time to time otherwise prescribe: *Provided*, That the head of such department or agency shall be authorized to lease or to sell, on such terms as he may deem in the public interest, any property, real or personal, of the United States under his administrative supervision in Guam not needed for public purposes.

In 65 I.D. 193 (1958) the Solicitor of the Department of the Interior ruled that tidelands and submerged lands, artificially filled or not, were not transferred to the Government of Guam or placed under its control under the foregoing provisions, in view of the general rule that such lands do not ordinarily pass under general statutes but must be specified particularly.

The Act of July 14, 1960, 74 Stat. 529, granted two described parcels of submerged, tide and filled lands to the Government of Guam for park and recreational use, to revert if such use ceased.

The Virgin Islands has authority over property formerly acquired by the United States pursuant to 48 U.S.C. 1405c(a), which provides:

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 heretofore or within one year hereafter reserved by the United States for public purposes, is hereby placed under the control of the Government of the Virgin Islands \* \* \*.

By statute, Congress has established a local territorial government in the Virgin Islands consisting of three branches with the territorial legislature exercising powers comparable to the "police powers" of the individual States in the United States. 48 U.S.C. 1541.

The present territorial rights and status of American Samoa are set forth in 48 U.S.C. 1661, et seq.

There is some uncertainty regarding the extent to which federal jurisdiction over federal reservations and property in Guam, the Virgin Islands and American Samoa is exclusive of or concurrent with jurisdiction of the territorial governments. See H. Rept. No. 1827,

87th Cong., 2d sess., pp. 4-7, 11-12, 16-17 (1962). See also, *United States v. Borja*, 191 F. Supp. 563 (D. Guam 1961). Section 3(a) of H.R. 6775 would remove that uncertainty. Certain other provisions in H.R. 6775, however, need clarification.

Section 1(b) (iv) excepts from the grant of submerged lands to the territories "all lands filled in, built up, or otherwise reclaimed by the United States for its own use." As presently worded this provision could be construed to except from the grant to the territories any of the submerged lands which the United States reclaims in the future. If by this provision, it is intended to except only those parcels reclaimed before enactment of the legislation, the word "heretofore" should be inserted on page 2, line 15 after the word "lands."

Subsection 1(b) (iii), as presently worded, excepts from the grant submerged lands obtained by the United States by eminent domain, purchase, exchange or gift. There is no indication whether this exception applies to submerged lands acquired in the specified ways in the past or only in the future. Consequently, if one could construe the treaty of 1916 between Denmark and the United States, 39 Stat. 1706, under which the United States acquired the Virgin Islands for \$25 million, as a purchase of those islands and the adjacent submerged lands, then the Virgin Islands would obtain nothing by the exception under section 1(b) (iii) of these bills. If, on the other hand, the intention is to except from the grant those lands acquired in the specified ways after the passage of this legislation, the word "hereafter" should be inserted on page 2, line 12 after the word "lands."

Section 2(c) sets out the powers retained by the United States under these bills. Except for the last five lines of that section, i.e., lines 1-5, page 5, this section is identical to section 6 of the Submerged Lands Act, by which Congress conveyed the submerged lands to the States. 43 U.S.C. 1314. By these five lines, the bill apparently distinguishes two kinds of lands and natural resources under this bill, those not in derogation of the United States navigational servitude and those in derogation of such servitude. However, by the words at the beginning of section 2(c) of the bill, the United States is not granting any lands and natural resources in derogation of its navigational servitude. Consequently, the last five sentences of this section are confusing and should be amended to conform with section 6 of the Outer Continental Shelf Lands Act. This can be easily accomplished by deleting the last three words in line 1 and all of line 2 on page 5.

Additionally, it appears that on page 6, line 16, 48 U.S.C. 1421f has been erroneously described as 48 U.S.C. 4421f(a), and accordingly the appropriate change should be made.

Whether H.R. 6775 should be enacted involves questions as to which the Department of Justice defers to the views of the Department of the Interior and the Department of State.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Cordially,

MIKE McKEVITT.

## CHANGES IN EXISTING LAW

In compliance with clause 3 of Rule XII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

*REVISED ORGANIC ACT OF THE VIRGIN ISLANDS (68 Stat. 510; 48 U.S.C. 1545(b))*

\* \* \* \* \*

SEC. 31. (a) The Secretary of the Interior shall be authorized to lease or to sell upon such terms as he may deem advantageous to the Government of the United States any property of the United States under his administrative supervision in the Virgin Islands not needed for public purposes.

[(b) The government of the Virgin Islands shall continue to have control over all public property that is under its control on the date of approval of this Act.]

*(b) All right, title, and interest of the United States in the property placed under the control of the government of the Virgin Islands by section 4(a) of the Organic Act of the Virgin Islands of the United States (48 U.S.C. 1405c (a)), not reserved to the United States by the Secretary of the Interior within one hundred and twenty days after the date of enactment of this subsection, is hereby conveyed to such government. The conveyance effected by the preceding sentence shall not apply to that land and other property which on the date of enactment of this subsection is administered by the Secretary of the Interior as part of the National Park System and such lands and other property shall be retained by the United States.*

\* \* \* \* \*

(ACT OF NOVEMBER 20, 1963 (77 STAT. 338; 48 U.S.C. 1701-1703))

[(That (a) upon the request of the Governor of Guam, the Governor of the Virgin Islands, or the Governor of America Samoa, the Secretary of the Interior is authorized to convey to the government of the territory concerned whatever right, title, or interest the United States has in particular tracts of tidelands, submerged lands, or filled lands in or adjacent to the territory, subject to the limitations contained in this section. The term "tidelands, submerged lands, or filled lands" means for the purposes of this Act all 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 territory, as heretofore or hereafter modified by accretion, erosion, and reliction, including artificially made, filled-in, or reclaimed lands which were formerly permanently or periodically covered by tidal waters.)

(b) No conveyance shall be made pursuant to this section unless the land proposed to be conveyed is clearly required for specific economic development purposes or to satisfy a compelling public need.

(c) No conveyance shall be made pursuant to this section until the expiration of sixty calendar days (exclusive of days on which the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a day certain) from the date on which the Secretary of the Interior submits to the Committees on Interior and Insular Affairs of the House of Representatives and the Senate an explanatory statement indicating the tract proposed to be conveyed and the need therefor, unless prior to the expiration of such sixty calendar days both committees inform the Secretary that they wish to take no action with respect to the proposed conveyance.

(d) Conveyances pursuant to this section shall be subject to such terms and conditions as the Secretary of the Interior may deem appropriate, and shall be made without reimbursement or with such reimbursement as he may deem appropriate.

(e) The governments of Guam, the Virgin Islands, and American Samoa shall have proprietary rights of ownership and the rights of management, administration, leasing, use, and the development of the lands conveyed pursuant to this section, but the Secretary of the Interior and such territorial governments shall not have the power or right to convey title to such lands unless the Secretary of the Interior (1) determines that such right to convey is necessary and (2) advises the committee of such determination in the manner described in subsection (c) of this section, and (3) unless the Secretary of the Interior, in proposing to convey such lands to such territorial governments, and such territorial governments in proposing to convey such lands to a third party or third parties pursuant to this section, shall publish notice of such proposed conveyance at least once a week for three weeks in a daily newspaper or newspapers of general circulation in the territory affected by the proposed conveyance. Such published notice shall include the names of all parties to the proposed contract of conveyance, the purchase price, and a general summary of the boundaries of the tract or tracts proposed to be included in the conveyance.

(f) There shall be excepted from conveyances made pursuant to this section all deposits of oil, gas, and other minerals, but the term "minerals" shall not include sand, gravel, or coral.

SEC. 2. (a) The Secretary of the Interior shall have administrative responsibility for all tidelands, submerged lands, or filled lands in or adjacent to Guam, the Virgin Islands, and American Samoa, except (1) lands conveyed pursuant to section 1 of this Act, (2) lands that are not owned by the United States on the date of enactment of this Act, and (3) lands that are within the administrative responsibility of any other department or agency of the United States on the date of enactment of this Act, for so long as such condition continues. In exercising such authority, the Secretary may grant revocable permits, subject to such terms and conditions as he may deem appropriate, for the use, occupancy, and filling of such lands, and for the removal of sand, gravel, and coral therefrom.

(b) Nothing contained in this section shall affect the authority of any agency or officer of the

SEC. 3. (a) Nothing in this Act shall affect the right of the President to establish naval defensive sea areas and naval airspace reservations around and over the islands of Guam, American Samoa, and the Virgin Islands which he deems necessary for national defense.

(b) Nothing in this Act shall affect the use, development, improvement, or control by or under the constitutional authority of the United States of the lands conveyed pursuant to section 1 of this Act and the navigable waters overlying such lands, for the purposes of navigation or flood control or the production of power, or shall be construed as the release or relinquishment of any rights of the United States arising under the constitutional authority of Congress to regulate or improve navigation, or to provide for flood control, or the production of power.

(c) The United States retains all of its navigational servitude and rights in and powers of regulation and control of the lands conveyed pursuant to section 1 of this Act and the navigable waters overlying such lands, for the constitutional purposes of commerce, navigation, national defense, and international affairs, all of which shall be paramount to, but shall not be deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources not in derogation of United States navigational servitude and rights which are specifically conveyed to the governments of Guam, the Virgin Islands, or American Samoa, as the case may be, pursuant to section 1 of this Act. ]

\* \* \* \* \*

Senator JOHNSTON. I would like to call on my good friend, the Honorable Ron de Lugo, Member of Congress, from the Virgin Islands. We are very glad to have you with us.

**STATEMENT OF HON. RON DE LUGO, A MEMBER OF CONGRESS,  
DELEGATE FROM THE TERRITORY OF THE VIRGIN ISLANDS**

Congressman DE LUGO. Thank you, Mr. Chairman. I want to also thank you for scheduling these hearings. It is of great concern to the Virgin Islands and to Guam that this legislation be enacted in this session of Congress, and I am very aware, as are the Governor of the Virgin Islands and the people of the Virgin Islands, of the heavy workload of the Senate, so I am very grateful you have given us this time.

I also want to commend not only you, Mr. Chairman, but the members of the staff of this committee and your staff for the assistance they gave us in preparing for these hearings and I think they picked out a few things that will improve on this legislation.

Basically, I think we have a very sound piece of legislation here. As you are aware, we have had hearings on the House side, and it passed with strong bipartisan support.

At this point I would like to read my prepared statement. It is not too long and the points are rather important.

Mr. Chairman and distinguished members of this committee: I appreciate the opportunity to appear before you on behalf of my bill, H.R. 11559, which would transfer title in certain submerged lands to the jurisdiction of the governments of the Virgin Islands, Guam, and American Samoa.

In addition, it would transfer title in certain government buildings in the Virgin Islands, which have been under administrative control of the territorial government and which have great cultural significance for the people of the territory, to the Virgin Islands government.

At the outset, I wish to emphasize that I consider this the single most important bill affecting the Virgin Islands to be considered by the Congress since the enactment of legislation giving the territory an elected delegate in the House of Representatives.

Passage of this bill will be a recognition that the people and government of the Virgin Islands, and Guam, are competent to manage their own affairs and administer their tidal and submerged lands under their own laws.

Thus, in addition to the substantive changes which this bill would provide, it symbolizes the continuing progress toward the goal of political maturity and self-government which the distinguished Interior Committees of the Senate and House have so effectively helped develop.

I think when one realizes how far we have come since the Organic Act, we have the first Governor of the Virgin Islands present today, the distinguished Governor Melvin H. Evans, and myself, as a Member of Congress, these are the step-by-step improvements that have been made with the wise guidance and counsel of the appropriate committees of the Congress.

This principle is fully supported by the Department of the Interior. In the Department's report on H.R. 8775, my original bill for the con-

veyance of submerged lands, it was stated, "We believe that the territories are fully competent to administer these tidelands and submerged lands under their own laws."

This is essentially a conservative piece of legislation. It has as its purpose the conveyance of the jurisdiction of the territories of Guam, the Virgin Islands, and American Samoa of all right, title and interest of the United States in land from the point of mean high tide seaward to a line three geographic miles from their respective coastlines.

It would in effect grant the Territories the same conditions of ownership of off-shore lands now possessed by all of our coastal States and the Commonwealth of Puerto Rico.

In drafting this bill and throughout its legislative history in the House of Representatives, very careful consideration has been given to the need for preserving existing private and Federal rights, the national security requirements of the United States, and the interests of the people of the United States.

The Department of the Interior's official report on H.R. 6775, comments that the bill appears to contain adequate exemptions of lands and minerals necessary to protect the national interest. It also states that enactment would not affect the responsibility of the territories to comply with all applicable Federal air and water quality standards, and that the bill sufficiently guards the foreign relations interests of the United States.

Among the major exceptions to the conveyance provided by this legislation are:

(1) All deposits of oil, gas, and other minerals but not including coral, sand, and gravel;

(2) Submerged land adjacent to property owned by the United States;

(3) All lands acquired by persons other than the United States;

(4) All lands designated by the President within 120 days of enactment of this legislation; and

(5) Lands previously determined by the President or Congress to be of scientific, scenic, or historic character and warrant preservation and administration under the National Park Service Act.

Also specifically exempted are those naval defensive sea areas and naval airspace reservations around and over the insular possession which the President finds necessary for the national defense.

In addition to transferring lands permanently or periodically covered by tidal waters, this legislation would also transfer to the people of the Virgin Islands many of the most famous buildings and properties of the territory.

These were placed under the control of the Virgin Islands government by the 1937 Virgin Islands Organic Act.

Exempted from this transfer would be National Park Service properties and those properties not otherwise reserved to the United States by the Secretary of the Interior within 120 days after enactment of this legislation.

Among the better known Federal real property to which the Virgin Islands government would obtain title under this bill are on St. Thomas, the former marine barracks now the Senate Building; the Lieutenant Governor's office; the Old Public Works Headquarters, now housing the Department of Finance; the Budget Office known as Quarters B; and a parcel of Estate Ross, housing the Lucinda Millin Home for the Aged.

On St. Croix, Government House, which also serves as the district court buildings, Fort Louise Augusta, the Public Works Yard in Christiansted, the former marine barracks, the Kingshill Home for the Aged, are among the properties to be transferred to the Virgin Islands government.

All of these properties on St. Thomas and St. Croix have great historic and cultural meaning for the people of the Virgin Islands, and have been under the control and maintenance of the territorial government for many years.

Placing tidal and submerged lands under the jurisdiction of the Virgin Islands would eliminate the present and cumbersome and duplicative administrative processes which must be undertaken before these lands may be beneficially utilized.

For example, even the simplest activity, such as the construction of a dock, requires not only the fulfillment of local administrative rules, but also the approval of the Department of the Interior. The Interior Department in turn must clear the request with the Environmental Protection Agency, and thus the most routine application may require up to a year before final action is taken.

Enactment of this legislation will not only avoid time consuming and frustrating delays, but will also free resources of the Department from these nonproductive functions for more essential needs.

The easing of the administrative burden in securing permission to use submerged lands will stimulate their greater development and increase the rental and permit fees available to the Virgin Islands government.

These fees are now payable to and administered by the Department of the Interior, but under my bill they would accrue to the Virgin Islands government. While they are only fractional among the Department's budget, they would be a substantial addition to the critical needs of the Virgin Islands treasury.

The placing of submerged lands under the jurisdiction of our local government would help prevent unauthorized construction of shoreline facilities and enhance the ability of the territorial government to police these areas. Local jurisdiction would make possible a central integrated and systematic long-range management and planning for the utilization of these lands by those who are permanently in residence in the location of use and who are familiar with local problems and needs.

The enactment of this legislation will facilitate the government of the Virgin Islands to work more effectively with such Federal programs as the Water Pollution Control Act, the Coastal Zone Management Act, the Environmental Protection Act, and local legislation pertaining to fisheries, territorial parks, shoreline alterations, dredging, beach access, coastal water quality, and port (harbor, airport, boat and shipping operations).

Mr. Chairman, and members of the subcommittee, I wish to stress that while additional utilization of Virgin Islands tidal and submerged land may be anticipated such development will be subject to existing and future national air and water quality standards as well as the environmental preservation laws of the Virgin Islands.

Likewise, permits from the Army Corps of Engineers will continue to be required for activities which come within its jurisdiction. The

Now, who would have the power to regularize coastal trade within the 3-mile limit?

Congressman DE LUGO. Before replying to that, may I ask Mr. Mike Senger of Legislative Drafting, who worked on this bill, to join me at the witness table?

Senator JOHNSTON. I am asking the question because I notice in your statement, you state the Virgin Islands will receive land to the same extent that land is received by the coastal States. Of course, in regard to the coastal States, there is to some extent a dual jurisdiction over those waters. The Coast Guard, NOAA, and the Corps of Engineers regulate some activities. Would there be a duality of jurisdiction under this bill as well?

Congressman DE LUGO. It would be identical to the provisions that cover the States, Mr. Chairman.

Senator JOHNSTON. Thank you very much.

Senator Bartlett.

Senator BARTLETT. Thank you, Mr. Chairman. I have no questions.

Congressman DE LUGO. Thank you very much, Mr. Chairman.

[The amendment referred to by Congressman de Lugo follows:]

AMENDMENTS TO H.R. 11559 IN THE SENATE OFFERED BY MR. DE LUGO

Page 4, line 1, immediately after "reimbursement" insert "and subject to the procedure specified in subsection (c)."

Page 4, after line 6, insert the following:

"(c) No conveyance shall be made pursuant to this section until the expiration of sixty calendar days (excluding days on which the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a day certain) from the date on which the Secretary of the Interior submits to the Committees on Interior and Insular Affairs of the House of Representatives and the Senate an explanatory statement indicating the tract proposed to be conveyed and the need therefor, unless prior to the expiration of such sixty calendar days both Committees inform the Secretary that they wish to take no action with respect to the proposed conveyance."

Senator JOHNSTON. Our next witness is the Honorable Antonio Borja Won Pat, Member of Congress, and Delegate from Guam.

STATEMENT OF HON. ANTONIO BORJA WON PAT, A MEMBER OF CONGRESS, DELEGATE FROM GUAM

Congressman WON PAT. Mr. Chairman, my statement is not long. Do you want me to read it or submit it for the record and summarize it?

Senator JOHNSTON. Whatever you wish, Congressman. Read it or summarize it.

Congressman WON PAT. I think I will read it.

Mr. Chairman and members of the subcommittee, it is a pleasure to be here today to testify in support of H.R. 11559, a bill which seeks to place certain submerged lands within the jurisdiction of the governments of the Virgin Islands, American Samoa, and Guam.

Before I proceed, let me thank you, Mr. Chairman, and the members of the subcommittee for scheduling this hearing on H.R. 11559 today notwithstanding the pressing demands of other legislative measures with overriding national interest that you have to meet.

I also want to commend you, Mr. Chairman, for your interest and sympathetic understanding of territorial affairs. Your cooperation in

placing of these lands under local control and supervision will, in fact, lead to stricter adherence to ecological considerations than is possible under the present absentee ownership.

It should be specifically noted that conveyance of land made by this legislation is done subject to their being administered in trust for the benefit of the people of the respective territories.

This is a provision I had placed in the bill, Mr. Chairman, the land will be held in trust for the people of the Virgin Islands that cannot be sold, that will be developed under leases. I think it is a very fine provision.

This creates a fiduciary duty on the part of the governments of the three territories to insure that these lands are devoted to the beneficial use of all of the people of the possessions and not to the speculative gain of a few.

I firmly believe that this provision will bring about an ordered and systematic developmental process for these submerged lands and that the local government will give continuous study to the most appropriate means of achieving both the environmental conservation and economic well-being needs of the entire community.

Finally, Mr. Chairman, I would point out that this legislation has the broad bipartisan support of the people of the territories, their legislatures, and Governors, and their Representatives in Washington. In addition, this same bipartisan support was demonstrated by the members of the House Interior and Insular Affairs Committee, and the full House of Representatives and this bill has also received the strong endorsement of the administration.

I, therefore, urge early positive consideration by this subcommittee, the full Interior Committee, and the Senate.

Thank you very much.

I have an amendment, Mr. Chairman, which has been drafted at the suggestion of your committee staff. I think it is an excellent one. What this would provide is, in the future those submerged lands which are retained under the 120 day provision by the Federal Government, if they should become surplus at some time in the future, the same procedure would be followed that is presently followed, that is, on a case-by-case basis, they would lie for 60 days before this committee and the committee I serve on on the House side for the review of amendments.

Thank you very much for the courtesy of hearing us today. Before I conclude, I would like to recognize, if I may, Mr. Chairman, the presence of our Governor, who is with us today, Governor Melvin H. Evans and his charming first lady.

Senator JOHNSTON. I wish to welcome Governor Evans and Mrs. Evans to our hearing. We are always glad to see them, and particularly glad to see them in the Virgin Islands where they are such delightful hosts. We hope to hear from Governor Evans later on, and I look forward to that.

Congressman DE LUGO. Thank you, Mr. Chairman. I also have a young man here who is with us today, he is a Virgin Islander, his name is Fred Esannason. He is a recent graduated of Charlotte Amalie High School, he is going on to college and he is spending a 2 weeks seminar on politics in the United States, which I hope will be enlightening.

Senator JOHNSTON. I am very glad to welcome Fred Esannason to the hearing as well.

our efforts to improve the way of life for you fellow Americans in the offshore areas is deeply appreciated.

As the subcommittee knows, H.R. 11559 was cosponsored by Congressman Philip Burton, chairman of the House Territorial Subcommittee; Don H. Clausen, the ranking minority member of the subcommittee; Ralph S. Regula; Ron de Lugo; and myself.

The bill now before you passed the House of Representatives on March 18, 1974, by a unanimous vote, thanks in large part to the support of our fellow members of the House Interior and Insular Affairs Committee.

The U.S. Department of the Interior also played a supporting role in this legislation.

Under present law, title to most submerged lands around these regions lies with the U.S. Department of the Interior, which consequently has full administrative authority in such matters.

Congress, in 1963, did provide in 48 U.S.C. 1701 (a) a limited provision which enabled the Secretary of the Interior to convey small parcels of submerged lands to the territorial governments in certain instances. But this law has been little utilized and unable to deal with the problems of our territorial submerged lands being controlled by Washington.

Speaking for Guam, I point out by way of example, that Washington is 9,000 miles away from our island. Not only is that a considerable distance in terms of miles, but the distance also creates an enormous gap in terms of communications.

There is no denying that Interior Department officials have often done their best to comply with local requests to use tidelands in the territories, but the time it takes an individual to be certified by the Interior Department for an activity as simple as constructing a pier often runs over a full year.

The policy of absentee ownership of our territorial tidelands creates other problems. The Interior Department's presence on Guam is small and limited to a handful of individuals, most of whom are employed in the Comptroller's Office. The tidelands of any region are a most valuable resource, you, Mr. Chairman, who hail from Louisiana, know so well.

If not watched and protected against abuse, beaches disappear, unsafe dwellings spring up and numerous other threats to the environment rapidly appear.

Without significant manpower to do the job, the Interior Department is in no position to protect our territorial submerged area. Without the legal jurisdiction enjoyed by the coastal States, the territorial governments of Guam, the Virgin Islands, and Samoa are equally reluctant to engage in a practice not condoned by law.

The enactment into law of this bill would, once and for all, remedy these difficulties by granting territorial governments full authority over their respective submerged lands.

Passage of H.R. 11559 would also correct the impression left by existing statutes that the residents of the territories are unqualified to administer their own tidewater lands. Needless to say, this is certainly not the case, a fact which the Department of the Interior itself acknowledges in its report on the legislation which said, and I quote: "We believe that the territories are fully competent to administer these tidelands and submerged lands under their own laws."

In the territories, as in the States, control of our own local affairs and our land areas is a highly sensitive matter. In Guam this is especially true.

From our earliest historical memories, our people have watched major powers arbitrarily take control of our lands without our permission. First came the Spanish; then, in 1898, the Americans, who seized whatever crown lands were owned by the Spanish, and then added other areas through the years to Federal ownership.

Thanks to the understanding of Congress some of what the Federal Government originally owned was returned to the government of Guam. The Federal Government, however, continues to hold title to one-third of our small Island. On behalf of my constituents, I have introduced three bills, including H.R. 11573, in an effort to bring Federal control over Guam lands to a more equitable level.

H.R. 11573, now pending in this committee, will require the military to identify their land requirements and to return these parcels that are excess to their needs or not beneficially occupied.

I would like to make one point clear. We do not seek more than others; we simply ask that American citizens in these territories be given their rights and powers as those which are taken for granted by all other Americans living in this great country.

I, therefore, strongly urge the committee to give this bill prompt and favorable consideration and thus furthering territorial self-control over matters best left to local authorities. Federal officials will be relieved of obligations which they neither seek nor want; and, perhaps equally important, this august body will provide yet another means of silencing charges by the United Nations of American colonialism in the territories.

I thank you for listening to me and I am prepared to answer any questions.

Senator JOHNSTON. Thank you very much, Congressman Won Pat. As I understand, under your bill all property under the Federal Government reverts to Guam except that which is designated by the President as being needed by the United States, is that correct?

Congressman WON PAT. Yes, sir.

Senator JOHNSTON. What provision is that?

Congressman WON PAT. That is in the other bill, not in this bill, sir.

Senator JOHNSTON. That is in H.R. 11573?

Congressman WON PAT. Yes, sir.

Senator JOHNSTON. Congressman Won Pat, I notice you have a 3-mile limitation from the present borders. Subject to artificially made lands, is it possible to draw an actual boundary and put that in the bill? It would seem to me there is some advantage in doing that. In the case of Louisiana, which admittedly has a difficult coast to define, we are still in the courts trying to define what our coastline is. It seems there may be some advantage in having a definite boundary.

Congressman WON PAT. This was all done by the Coast and Geodetic Survey in the Department of the Interior, for the exact boundaries.

Senator JOHNSTON. There is no difficulty in determining that boundary?

Congressman WON PAT. I don't think we will have any difficulty in that, no.

Particularly, we have a very large military installation there, and of course, the military has complete control and jurisdiction over the coastline, and up until now, of course, that is still under the Federal Government. The Federal Government there is represented by the military.

Senator JOHNSTON. If that is no problem, it would not be necessary.

Congressman WON PAT. Those areas under the military jurisdiction now are not covered by this bill.

Senator JOHNSTON. As I said, we have had a particular problem in Louisiana because of a different kind of coastline which is very difficult to define.

Senator FANNIN.

Senator FANNIN. Thank you very much, Mr. Chairman. I am sorry I was not here to hear your full testimony, but I, too, wonder about this submerged land program.

You say "if not watched and protected against abuse, beaches disappear, unsafe dwellings spring up and numerous other threats to the environment rapidly appear."

Now who is involved in this particular action?

Congressman WON PAT. You see, in Guam in those areas where the military does not have jurisdiction, people owning land and leasing land on the shoreline or the coastline, sometimes they will fill the land up or build.

Senator FANNIN. You are talking about your own people?

Congressman WON PAT. Yes. This has been done for quite a number of years. I know, of course, that they are violating the law, but I am not the one that is enforcing the law. As a matter of fact, the government of Guam cannot do anything about it.

Senator FANNIN. Well, Congressman, we hear so much about people coming into Guam and making investments that are involved, and I was just wondering if some of these activities were under the control of people that are not residents of Guam.

Congressman WON PAT. The government of Guam has very stringent laws governing our environmental problems.

Senator FANNIN. You say "Without significant manpower to do the job, the Interior Department is in no position to protect our territorial submerged area." You are looking for the Department of the Interior for that correction?

Congressman WON PAT. Yes, sir.

Senator JOHNSTON. Senator Bartlett.

Senator BARTLETT. Thank you, Mr. Chairman.

Congressman Won Pat, I notice in the letter Assistant Secretary John Kyl of the Department of the Interior to Senator Jackson, the chairman of this committee, he says as follows, at the bottom of page 1:

As passed by the House, H.R. 11559, embodies many of the amendment suggested by this Department in its report on H.R. 6775, a previous bill concerning the same subject (H.R. 11559 does not deal with the amendments to the Organic Act of Guam which H.R. 6775 contained: these amendments now appear in a separate bill, H.R. 11573, as passed by the House.) However, H.R. 11559 does not contain the recommended subsection (b) (xii) set out in the report of the Department of the Navy as an additional exception to the lands which would be transferred pursuant to the bill. We recommend that the amendment recommended by the Department of the Navy be adopted. Finally, the bill as passed contains a new section 6 which would prohibit discrimination in access to its benefits. We have no objection to the addition of this provision.

With that exception, Secretary Kyl supported H.R. 11559, and apparently recommended additional subsection (xii) is on page 7 of the report, 93-902. I am reading Union Calendar 407, it reads as follows:

(xii) all lands adjacent to property required for completion of the Department of the Navy land acquisition project relative to the construction of the Sella Bay ammunition pier authorized by the Military Construction Authorization Act, 1971 (84 Stat. 1204), as amended, by section 201 of the Military Construction Authorization Act, 1973 (86 Stat. 1135).

My question is do you support this recommended addition to the subsection, subsection (xii)?

Congressman WON PAT. That involves, of course, the particular area where the Navy is interested in setting up what is called an ammunition dump and that is a matter which has been negotiated between the Governor and the Navy Department. But according to the law of Guam, of course, the Governor had to have the concurrence of the legislative and he never did, of course, secure that. So it was considered invalid in the negotiations. You have to renegotiate that. You also have to take into account only a certain parcel of the land there belong to the Government of Guam, which the Government of Guam can negotiate, but the rest are privately owned, and that, of course, has to be negotiated with private owners.

Now, the matter is still hanging between the Governor of Guam and the Navy.

Senator BARTLETT. You say the negotiations must take place prior to this being made a part of the bill?

Congressman WON PAT. Yes, sir.

Senator BARTLETT. Do you assume these will be made so that addition to the bill can be—

Congressman WON PAT. By including down here in the bill that will be preempting the negotiations.

Senator BARTLETT. How would you suggest then delaying the bill until negotiations are complete?

Congressman WON PAT. I think that is the best way to do it. It is negotiations between the government there.

Now, this bill simply provides that those areas where the military has no jurisdiction be turned over to the government of Guam for control and development.

Senator BARTLETT. We would like to send you a letter on this point and ask you to clarify this particular situation. Could that letter be ready prior to his leaving?

Mr. BIERNE. Yes, sir.

Senator BARTLETT. We will try to make that available to you.

Congressman WON PAT. I would be most happy to further discuss it.

Senator BARTLETT. Thank you.

Senator JOHNSTON. The next on the witness list is the Honorable John M. Haydon, Governor of American Samoa. I do not believe Governor Haydon is in the audience.

We are now very pleased to have with us the Honorable Melvin H. Evans, the Governor of the Virgin Islands. As a matter of fact, he is the first elected Governor of the Virgin Islands, and a good friend of the chairman of this committee.

Governor, we are delighted you are with us.

Senator BARTLETT. Mr. Chairman, if I might, since I served with Governor Evans as a Governor myself of one of the States, and I am delighted to welcome you.

STATEMENT OF HON. MELVIN H. EVANS, GOVERNOR OF THE  
VIRGIN ISLANDS, ST. THOMAS, VIRGIN ISLANDS

Governor EVANS. Thank you, sir. And thank you, Mr. Chairman.

Mr. Chairman, members of the committee, the Honorable Ron de Lugo has dealt in his testimony with some of the details of the bill and bipartisan support which it received in the House.

I propose to deal with a few other angles. I want to thank you very much for this opportunity to appear here today to testify in support of H.R. 11559 which is a bill to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes.

Permit me, if you will, first to establish the setting in which this bill comes to the Congress. The Virgin Islands of the United States consists of 29 islands and cays, 4 of which, comprising 132 square miles are inhabited.

Within the 3-mile limits there are submerged lands, exclusively owned and controlled by the Federal Government which might be characterized as shelves with a relatively shallow seawater cover. These areas are protected by barrier reefs, which provide most of our shoreline with its surrounding lagoon-like sea. The total submerged land area within the jurisdiction of the U.S. Government is approximately three times the firm land area of the Virgin Islands.

The United States Code clearly vests title to it in the Federal Government and makes provision for obtaining both use permits and title to these lands under a very cumbersome, carefully qualified and time-consuming procedure.

It is in this setting that I speak to H.R. 11559.

The Congress in its wisdom has seen fit to extend increasing autonomy to Caribbean America. This committee has, of course, served as a principal architect of this expansion of our constitutional system.

Public Law 91-271 gave the Virgin Islands a voice in the deliberations of this august body and with the organization of the 93d Congress, seated my esteemed friend, Congressman Ron de Lugo, as a Member of Congress and of the House Committee on Interior and Insular Affairs.

Four years earlier the 90th Congress enacted amendments to the revised Organic Act of 1954, which became Public Law 90-496, known to us as the "Elected Governor Act."

It is, as you know, my privilege to serve the people of the Virgin Islands as their first elected Governor, pursuant to this landmark legislation.

Permit me, once again, to express for them, as well as for myself, the pride we share as Americans in the exercise of those privileges and obligations which are implicit in this participation in our American system.

But we of the Virgin Islands believe that the significance of our progress toward full membership in the American system reaches beyond the hearts and minds of our small numbers.

That the United States in recent years has addressed increasing attention to this area is evidenced by the recent creation of a full directorate for Caribbean countries on a par with Central America within the Bureau of Inter-American Affairs of the Department of State.

A lengthy list of these problems would be inappropriate for these hearings, but a major contributing factor is the relative absence of

natural resources and an inordinately high population density. It is in this context that this legislation is extremely timely and vitally important to those of us of the American system who live in the small insular territories.

Our latest projections place the population density of the Virgin Islands at 22 times that of the continental United States.

Land, and the quest for more of it, to provide living and breathing space for our ever-expanding population is a topic of increasing importance to our government. Few, if any, Americans are unaware of the interrelationship between most of our contemporary problems and the increasing shortage of land.

The control of internal land and its use is thus of major importance, both symbolically and pragmatically, for local autonomy in matters dealing with public land is to many men an ultimate measure of self-determination.

This legislation proposes to place title to a number of parcels of firm land in our Government. Among them, to illustrate the symbolic importance of this measure, are the seat of the legislature, the Lieutenant Governor's Office in St. Thomas, and Government House in St. Croix.

Direct control of submerged lands, which are defined as those from the mean highwater mark outward from our shorelines is of major importance to islands which must rely so heavily on waterborne commerce. No matter how minor the incursion, be it an individual homeowners small boat dock or a major port installation. All such use today requires the permission of the Federal Government.

We estimate that the average length of time required to obtain a single permit either for dredging or use, or any other form of utilization of Federal ground, that is submerged lands, is approximately 18 months.

Moreover, because there is no Federal agency within the confines of the Virgin Islands charged with this responsibility, employees of the Government of the Virgin Islands are compelled to handle the preliminary work on all such applications.

These applications are then forwarded to the Office of Territorial Affairs, within the Department of the Interior, where, after extensive review, usually involving a number of exchanges of correspondence and numerous phone calls, the application is processed and, in due course, a permit issued.

There are several varieties of permits. To illustrate: Should the Virgin Islands government wish to deepen a channel, or perhaps create a new one, we must obtain a dredging permit. Should we wish to use the dredged material to create additional land, out of the sea, we need a second permit. Finally, after the sea is reclaimed and becomes usable land, we have to have a use permit in order to use the land which has thus been created.

Should we wish title to such land, it is necessary for a deed to be prepared by the Department of the Interior and forwarded to this committee for its approval before the deed can be delivered to the government of the Virgin Islands.

Such matters, ladies and gentlemen, are time-consuming and expensive.

This bill will eliminate the necessity for this expenditure of time and money and give our government the power to protect the natural beauty of the islands.

Enactment of H.R. 11559 would place the direct management of our potential for expansion in the hands of the elected representatives of the people of the islands.

At such time American citizens of Guam, Samoa and the Virgin Islands can, like those of the several States and Puerto Rico, forge land use policies consistent with priorities established by those most affected.

H.R. 11559, it should be noted, does not extend to us any special privilege not enjoyed by the several States and Puerto Rico. We, as they, must continue to meet the mandate of all Federal laws with respect to environmental quality, control of navigable waters, and land use as they are administered by such agencies as the Corps of Engineers, the Environmental Protection Agency, and similar regulatory bodies.

We of the Virgin Islands, because we have so little land area, have long recognized land as the precious asset it is. That which man has long squandered, we have long nurtured and conserved. Our environment is a precious heritage which we are determined to protect. Our air is pure. Water pollution, which at its worst, was minimal by mainland standards, is rapidly becoming a thing of the past.

We are conservationists almost by instinct. Our pollution control laws are stronger than those of the Federal Government. The face of our islands cannot be altered in any manner without an "earth change permit." Dredging or other alteration of the floor of the sea under our control is carefully regulated.

We have the laws and the resources to preserve and develop those few square miles of the United States so they will be as enjoyable for the America of tomorrow as they are today.

We will be ever grateful, if, through the enactment of H.R. 11559, you give us the power to fulfill our mission.

Senator JOHNSON. Thank you very much, Governor, for an outstanding statement. I believe you have covered the major areas very well. I have no questions.

Senator FANNIN.

Senator FANNIN. Thank you, Mr. Chairman.

Governor, I, too, commend you for the authority you seek and the way you have explained this would be supervised, is commendable.

I am just wondering, when you speak of the pollution in your statement, you said "Water pollution, which, at its worst, was minimal by mainland standards, is rapidly becoming a thing of the past." Are you overcoming that?

Governor EVANS. Both the sewer system of Christiansted, St. Croix, was outside the barrier reef, and St. Thomas entered into such an arrangement. Under my administration, we installed a sewer system, a modern one, which now empties the sewage, after treating it, many miles out. We have literally noticed the water of the harbor changing. People are fishing from it, they are using fish traps and catching large amounts of fish. People are swimming. The water is becoming blue in this harbor, again becoming pure, and the marine biology is again restoring itself.

Senator FANNIN. Fine. Thank you.

Senator JOHNSTON. Senator Bartlett.

Senator BARTLETT. Thank you very much, Governor Evans, I appreciate very much your appearing before the committee and I have no questions.

Senator JOHNSTON. Thank you very much, Governor.

Governor EVANS. Thank you, Mr. Chairman, and I would like to invite you and the members of this committee to pay us a visit.

Senator JOHNSTON. Thank you very much.

The next witness on the list is the Honorable Carlos Garcis Camacho, Governor of Guam, who is not here. I then would like to insert in the record a statement submitted by Hon. Asuemu U. Fuimaono, delegate-at-large, Territory of American Samoa.

PREPARED STATEMENT OF HON. ASUEMU U. FUIMAONO, DELEGATE-AT-LARGE  
TERRITORY OF AMERICAN SAMOA

Mr. Chairman: I ask leave of this Honorable Committee to permit me to speak, on behalf of the people of American Samoa, in earnest support of H.R. 11559. This bill proposes the placement of certain submerged lands to the governments of Guam, Virgin Islands and American Samoa. Specifically, the bill transfers, subject to given exceptions ". . . 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 coastline of the territories . . ." This legislation would result in granting to the territories the same conditions of ownership of off-shore lands, now possessed by all the coastal States and the Commonwealth of Puerto Rico.

In view of the exceptions reserved, the bill embodies a very sensible balance at maintaining Federal interests in these areas, while at the same time promoting a further step to the enhancement of political maturity with another measure of autonomy in territorial affairs.

National interests are carefully safeguarded and among the primary reservations are (inter alia): Federal rights to oil, gas and minerals: All lands designated by the President within 120 days of the enactment of this legislation: All lands at present administered pursuant to the National Park and Services legislation. Matters of national security are also properly secured by a special proviso leaving unimpeded the President's right to establish defensive areas in the territories when deemed necessary for national defense.

Of special significance to the respective territories, is the impact this proposed legislation will add to general development. The bill will mean a further lessening of burden on the Department of the Interior while freeing the territories of the present cumbersome procedure of departmental approval each time action is needed with shore frontages. Existing legislation allows transfers of submerged lands to the territories as the needs of specific economic development or compelling public need so dictate. However, it is frequently the case, that these purposes are often defeated by the time consuming and duplicative procedure now governing.

This position does not encourage nor is it conducive to a more productive use of the shore lands by the territories, which seems ironical in view of the specific economic purpose existing law envisages. On the other hand the bill in question not only removes the administrative deterrent, but in view of the provision to allow the territories to receive potential rents and income from submerged lands, fertile ground is laid for further economic incentive with regards to these areas. It seems a minute loss of revenue to the Department of the Interior, but in terms of territorial gain, the price paid is negligible.

As averred to above, H.R. 11559 presents a very sensible balance in promoting both Federal and territorial interests and it is for this reason that the unnecessary and incongruous position at present on the statute book is no longer warranted.

Senator JOHNSTON. We will now welcome Mr. Stanley S. Carpenter, Director of the Office of Territorial Affairs, of the Department of the Interior.

STATEMENT OF STANLEY S. CARPENTER, DIRECTOR, OFFICE OF  
TERRITORIAL AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. CARPENTER. It is always a pleasure to appear before this distinguished committee.

I am honored this morning to be in the company of our many distinguished witnesses speaking for the territories.

I am appearing this morning to give our general support of H.R. 11559, a bill passed by the House of Representatives on March 18, 1974. With certain exceptions, the bill would transfer title to submerged lands from the United States to the respective governments of Guam, the Virgin Islands and American Samoa for administration in trust for the people of the territories. This legislation would only transfer property under Interior jurisdiction. Property of other Federal agencies would not be affected.

In general, it has been the policy of the United States to grant increasing degrees of self-government to its off-shore territorial areas. The transfer of submerged lands as embodied in H.R. 11559, would be very useful in further implementing our policy of increasing self-government.

The territories of Guam, the Virgin Islands and American Samoa are the last areas where the United States asserts general control over submerged lands. In 1953, the Congress passed the Submerged Lands Act (43 U.S.C. 1301 transferring all such lands to the respective coastal States. By act of Congress in 1917 (48 U.S.C. 749) the Government of Puerto Rico obtained control of its submerged lands. As far as we are aware, Puerto Rico's administration of its submerged lands has been quite smooth. H.R. 11559 would give the three remaining U.S. territories control over their submerged lands.

We feel that the job of issuing submerged land use permits can be accomplished more efficiently in the territories directly affected. We believe the territories are competent to own and administer these lands, for, even now the Department relies heavily on the various territorial governments' review of permit requests. The territorial governments have competent people available to review these permit applications and are able to provide the necessary follow-up to prevent the misuse of these tidal lands or degradation of the environment. Marine research groups staffed with qualified scientists are attached to the institutions of higher learning in Guam and the Virgin Islands. These groups assist in determining the possible environmental impact of proposed submerged land use permit applications.

In addition, the government of American Samoa has recently added a number of engineers and an ecologist to the government's staff to assist in performing the necessary environmental reviews in connection with the issuance of submerged lands permits.

When this submerged lands legislation was before the House last fall, various departmental witnesses recommended a number of changes. One which was not included in the House bill now before the committee was a proposed amendment by the Department of the Navy that submerged lands needed for construction of the Sella Bay ammunition pier on Guam be excepted from the transfer.

With inclusion of the Navy amendment, the Department of the Interior fully supports passage of H.R. 11559.

This concludes my statement, Mr. Chairman.

Senator JOHNSTON. Thank you very much. Now, Mr. Carpenter, on page 3 of the bill, section (b) (vii) it says there are excepted from the transfer made by subsection (a), and number (vii) "all submerged lands designated by the President within one hundred and 20 days after the date of enactment of this act."

Wouldn't that take care of the Sella Bay situation or do you need specific language for Sella Bay?

Mr. CARPENTER. We believe it would, Mr. Chairman. However, there are very strong feelings on the part of the Department of Defense. They would like an additional amendment spelling that out.

Senator JOHNSTON. They are afraid of some loss of communication between the Defense Department and the White House?

Mr. CARPENTER. Yes.

Senator JOHNSTON. Senator Fannin.

Senator FANNIN. Thank you, Mr. Carpenter. The legislation will take care of this, but I am just wondering, you heard Governor Evans state "we estimate the average length of time required to obtain a single permit either for dredging or use or any other form of utilization of Federal ground, that is, submerged lands, is approximately 18 months."

And you say in your statement even now the Department relies heavily on the various territorial governments' review of permit requests. If you rely on them then why does it take 18 months to get permits approved?

Mr. CARPENTER. It might be helpful if I outlined briefly the present procedure that explains the long time involved in issuing a use permit.

This procedure is the same for the Virgin Islands and for Guam.

The applicant first submits plans to the Commissioner of Conservation and Cultural Affairs in the local government. It includes blueprints and a description of the area involved and it describes proposed steps to protect the environment.

The local government sends copies of the application to all interested agencies and awaits replies from within the local government. The Commissioner of Conservation and Cultural Affairs then forwards the application with comments by other parts of the local government to the Governor.

At that point, the Governor sends the application with his respective agency comments to the special representative of the Secretary of the Interior for that area; and at the same time, a copy is sent to the Army Corps of Engineers in Jacksonville if there is any need for a dredge and fill permit.

Then at that time the Department of the Interior Special Regional Representative sends copies of the proposed application to all interested Bureaus of Interior, and this can include such areas as Fish and Wildlife, Outdoor Recreation, Park Service, as well as the Environmental Protection Agency, for their comments and replies.

We at this point, in my office, receive an informational copy of that. After receiving copies from all interested areas, the special assistant summarizes the comments and then they come to my office for further review to determine whether or not all problems have been met before we can issue the submerged land permit.

So, as you can see, particularly where we are dealing with areas thousands of miles away from Washington, as in the case of Guam, there is, regrettably and unfortunately, a great delay.

Senator FANNIN. I would say it is regrettable. And I accept your explanation. But it just seems, or perhaps I am just critical of this procedure and the length of time involved, but what we experience through the Department of the Interior in getting environmental reports back, as compared with the Environmental Protection Agency, and I don't want to get one involved in the other, but I could not imagine why it would take that length of time.

The procedures as outlined seem very complex. They may be necessary. I cannot criticize the procedure without knowing more about it, but the bill will alleviate most of these problems. We will just have to get on the Department in other ways rather than in ways of this nature.

Mr. CARPENTER. We feel the proposed bill would greatly streamline that procedure and make for a much more effective operation.

Senator FANNIN. What I can't understand is why it wasn't streamlined before.

Thank you.

Senator JOHNSTON. Senator Bartlett.

Senator BARTLETT. Yes, Mr. Chairman. Mr. Carpenter, in your statement you refer to the Department of the Navy amendment, that there are submerged lands needed for construction of the Sella Bay ammunition pier on Guam be exempted from the transfer.

Do you agree with the Congressman Won Pat who testified that negotiations must take place, or is this just an exemption that can be written into this bill?

Mr. CARPENTER. I believe, Senator Bartlett, from our standpoint, if the proposed amendment by the Department of the Navy is added, that there would be no reason to delay the bill.

I say that because if it should turn out that it will be too costly to build the ammunition pier in Sella Bay, and the pier is in fact not built, that land in turn, in connection with Congressman de Lugo's amendment, could be turned over to Guam.

Senator BARTLETT. You do not see any problem to including that amendment in the bill?

Mr. CARPENTER. We do not see any problem on that.

Senator BARTLETT. Thank you, Mr. Carpenter.

Senator JOHNSTON. One question, Mr. Carpenter. When will the respective jurisdictions be able to build a superport within the 3-mile limit or will they be able to do that without any approval from the Federal Government under this bill?

Mr. CARPENTER. I would have to look into that further, Mr. Chairman. Maybe I am wrong on this, but my understanding is the present plan for supports is that they be located much further out than the 3-mile limit.

Senator JOHNSTON. They are offshore of the United States?

Mr. CARPENTER. Yes. I would have to supply that further for the record.

Senator JOHNSTON. Would you check that for us and I would also like to know if superports can be built within the 3-mile limit. Is it advisable to have some kind of coordination with appropriate Fed-

eral agencies, and if so, what kind of change or modification should there be to reflect that need?

Mr. CARPENTER. I think Mr. Miller of my staff has joined the table. Perhaps he can answer the question.

Mr. MILLER. If a superport, Senator Johnston, is defined outside of the 3-mile limit, the procedures would be the same as in the continental United States or off the continental United States.

If you define a superport as within the 3-mile limit, then it would be subject at least to an Army Corps of Engineers permit, and so Federal review would be necessary and this would trigger, as I understand it, the necessity for environmental impact statements.

A superport no matter where located under this bill would still be subject to Federal controls and Federal requirements. This does not make any change. In other words, it would be the same situation as in the continental United States.

Senator JOHNSTON. I am somewhat concerned on section 2(c) where it says "The United States retains all of its navigational servitude and rights in and powers of regulation and control of the lands conveyed by the first section of this Act."

It seems to me when you list a number of items you exclude those items not listed. In effect, the United States will retain certain powers in subsection (c) and it would therefore appear that other factors not listed would or could be excluded.

Do you understand what I mean?

Now, the question is, is that language consistent with the U.S. retention of certain rights and powers relative to submerged lands within the 3-mile limit. Is the relationship proposed here the same as that of the United States to adjacent coastal states?

Mr. CARPENTER. Mr. Chairman, in reply to that we have been assured by our legal people in Interior that the language in here would cover appropriately all U.S. navigational controls that presently exist.

Now, if you would prefer, I think we could supply for the record specific interpretation on that.

Senator JOHNSTON. I wish you would.

The statement has been made that the Virgin Islands, Guam and American Samoa get no more control over the land within the 3-mile limit than does a coastal state, or to put it another way, the United States retains as much power over that area as they do 3 mile submerged lands on coastal lands of the continental United States.

I don't know if that language is entirely consistent. If you will check that out particularly with respect to the superport question.

Thank you very much, Mr. Carpenter.

[Subsequent to the hearing the following information was received:]

Sections 2(b) and (c) of H.R. 11559 were copied almost verbatim from Sections 3 and 6 of the Submerged Lands Act of 1953, 67 Stat. 30 and 32, 45 USC (1970 Ed.) 1311(d) and 1314(a). Hence, the United States will retain precisely the same authority and jurisdiction within the three mile limit in the territories as it now enjoys with the coastal states. This means, therefore, that the respective territorial jurisdictions could not build superports within their three mile limit without Federal regulation. The construction of such ports would be subject to the approval of the U.S. Army Corps of Engineers not only as aquatic environment, including, but not necessarily limited, to fish and wildlife and water and air quality. Compliance with the applicable provisions of the National Environmental Policy Act of 1969 would also be required.

Senator JOHNSTON. Our next witness is Mr. Roy Markon who is with the Naval Facilities, Engineering Command, Department of the Navy.

UNITED STATES SENATE,  
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
*Washington, D.C., June 19, 1974.*

HON. ANTONIO B. WON PAT, M.C.,  
*House of Representatives,*  
*Washington, D.C.*

DEAR TONY: In its report on H.R. 11559, the Department of the Interior recommended the adoption of an amendment proposed by the Department of the Navy to except the adjacent area around Sella Bay from immediate transfer under this Act.

At the present time, negotiations are continuing to establish a munitions dock at Sella Bay in order to relocate the unloading from the present harbor area. Until a final determination can be made, would you agree to the Department's amendment on the basis that the transfer of jurisdiction would be inappropriate should the Sella Bay negotiations be resolved. Also should the negotiations be fruitless, jurisdiction could be transferred in accordance with the provisions in the Act with respect to other excepted land.

Sincerely yours,

DEWEY BARTLETT,  
*U.S. Senator.*

Senator BARTLETT. Mr. Chairman, could I interrupt before the witness commences? May I ask unanimous consent that the letter I just delivered to Congressman Won Pat and his forthcoming response be made a part of the record.

Senator JOHNSTON. Without objection.

[The letters referred to above follows:]

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
*Washington, D.C., June 19, 1974.*

HON. DEWEY F. BARTLETT,  
*Russell Senate Office Building,*  
*Washington, D.C.*

DEAR SENATOR BARTLETT: This refers to your letter of June 19, 1974, in which you ask if I am agreeable to an amendment proposed by the Department of the Navy to except the area adjacent to Sella Bay from immediate transfer under H.R. 11559.

As you well know, negotiations for the transfer of the Sella Bay area to the United States Navy are currently in progress, and I would not want my position to be construed as an intrusion into this somewhat delicate situation. It was for this reason that I was somewhat hesitant to give a quick reaction to your very important question at the hearings today.

In any case, it appears to me that Section 1(b)(iii) of H.R. 11559 would satisfy the requirements of the U.S. Navy. Section 1(b)(iii) recites: "All submerged lands adjacent to property above the mean high tide acquired by the United States after the date of enactment of this Act, by eminent domain proceedings, purchase, exchange or gift;"

In this connection, I will not interpose any objection to the inclusion of language in the Act which would preclude payment of compensation by the United States for any submerged land which subsequently reverts to the jurisdiction of the Federal Government.

I trust that this will answer the question posed by you, but should you need additional information, I shall be happy to oblige.

With warm personal regards,

Sincerely yours,

ANTONIO B. WON PAT,  
*Member of Congress.*

**STATEMENT OF ANDREW M. EGELAND, LEGISLATIVE ASSISTANT  
TO THE DEPUTY ASSISTANT COMMANDER FOR REAL ESTATE,  
NAVAL FACILITIES ENGINEERING COMMAND**

Mr. EGELAND. My name is Andrew M. Egeland, I am Legislative Assistant to the Deputy Assistant Commander for Real Estate, Naval Facilities Engineering Command.

I am assistant to Roy Markon. Mr. Markon is in the House Armed Services Subcommittee No. 5, testifying on military construction authorization matters at the present time, having been in session yesterday also.

The Navy appreciates the opportunity to come before the committee and discuss the effect of H.R. 11559 to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes.

This bill is an outgrowth of previous hearings of the House subcommittee on the comparable bill, H.R. 6775, which began in September of 1973. There were hearings. There were staff meetings and mark-ups, and exchange of letters, and the Navy report contained in the House Report 93-902 was based on H.R. 6775 and two other comparative bills, H.R. 6135 and H.R. 4696.

The Navy at that point pointed out what it felt were certain deficiencies in the bill and made certain recommendations including the amendment alluded to this morning.

It is to be noted that H.R. 11559 has to a great extent been modified and amended, so to speak, and we feel in the Navy covered many of the objections and with regard to the Sella Bay area, the Navy notes that section I(b) (3) which is a new section states: "All submerged lands adjacent to property above the line of mean high tide acquired by the United States, after the date of enactment of this act, by eminent domain proceedings, purchase, exchange, or gift," would be excepted from the transfer.

Under I(a) of the act—

Senator JOHNSTON. That would protect the Sella Bay situation?

Mr. EGELAND. We feel with the exception of certain vagaries there, if it be the intent of the committee staff or the Congressman that put in section I(b) (iii), that it cover that very situation. We would feel this would appear to cover the Sella Bay land acquisition which is yet to be acquired.

Concerning some previous comments here this morning, the Navy does have this pending land exchange agreement which was dated April 1972. The effective notice of this agreement has been deferred by court decision until such time as the agreement is approved by the Guam Legislature which has not yet occurred. That is a political matter.

On the other hand, the Navy must be concerned with the expressions of the Congress in two military Construction Acts, 91-511, and again, 92-545, as set out in page 7 of the report, the Military Construction Authorization Act of 1971, 84 Stat. 1204 as amended by section 201 of the Military Construction Authorization Act of 1973, 86 Stat. 1135.

These laws do charge us with proper action toward completion of the projects, thereby approved by the Congress and signed by the President.

So, as pointed out this morning by the Interior man, the amendment would certainly be the best language to do it. But if section 3 is clearly the intent of the committee, that section 3 does provide for all submerged lands adjacent to property acquired after the date of enactment of this act, and he feels he could live with this version.

We note it was indicated the amendment would not delay, as was pointed out by Mr. Carpenter.

Senator JOHNSTON. Very well. If this bill is suitable with the Navy, we won't further worry about Sella Bay.

Mr. EGELAND. We might say we would like to have the Navy counsel contact the staff counsel of the committee to try to ascertain what is really the intent of section I(b)(iii).

Senator JOHNSTON. Very well. Senator Fannin.

Senator FANNIN. I just want to be sure I understand.

On the letter from Captain Willett, you cover all submerged lands adjacent to property—you go on to describe it and you seem to be in doubt whether this language does give you the protection you desire.

Mr. EGELAND. At present time I am in doubt as to whether this language would.

Senator FANNIN. You think this should be discussed further?

Mr. EGELAND. Yes. With our counsel and the counsel of your staff, of the intent of I(b)(iii) in light of the proposition facing us.

Senator JOHNSTON. We may have further questions in addition to that.

Thank you very much, Mr. Egeland.

I want to thank all of the witnesses for doing such a fine job. This concludes the hearing on the bill.

[Whereupon, at 11:15 a.m., the hearing in the above-entitled matter was closed.]



