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FIRE ISLAND—PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION—101st AIRBORNE DIVISION—VICKSBURG

GOVERNMENT DOCUMENTS

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MAR 18 1976

THE LIBRARY HEARING
KANSAS STATE UNIVERSITY BEFORE THE

**SUBCOMMITTEE ON PARKS AND RECREATION
OF THE
COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
UNITED STATES SENATE**

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

S. 867

A BILL TO AMEND THE ACT ENTITLED "AN ACT TO ESTABLISH THE FIRE ISLAND NATIONAL SEASHORE, AND FOR OTHER PURPOSES," APPROVED SEPTEMBER 11, 1964 (78 STAT. 928)

S. 1689

A BILL TO AMEND THE PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION ACT OF 1972 (PUBLIC LAW 92-578), AS AMENDED

S. 1847

A BILL TO AUTHORIZE THE ONE HUNDRED AND FIRST AIRBORNE DIVISION ASSOCIATION TO ERECT A MEMORIAL IN THE DISTRICT OF COLUMBIA OR ITS ENVIRONS

S. 2158

A BILL TO INCREASE AN AUTHORIZATION OF APPROPRIATIONS IN ORDER TO COMPLETE THE MISSION 66 BYPASS ROAD AT VICKSBURG, MISSISSIPPI

NOVEMBER 13, 1975

Printed for the use of the
Committee on Interior and Insular Affairs

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1976



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FIRE ISLAND—PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION—101st AIRBORNE DIVISION—VICKSBURG

THURSDAY, NOVEMBER 13, 1975

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

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

Present: Senators Johnston and Hansen.

Also present: James P. Beirne, counsel and Laura Beaty, professional staff member.

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

Senator JOHNSTON. The hearing will come to order. This is the time which has been duly noticed for an open hearing before the Parks and Recreation Subcommittee, to consider several measures pending before the subcommittee. The measures are as follows:

S. 1847, to authorize the 101st Airborne Division Association to erect a memorial in the District of Columbia or its environs;

S. 2158, to increase an authorization of appropriations in order to complete the Mission 66 Bypass, at Vicksburg, Miss.;

S. 1689, to amend the Pennsylvania Avenue Development Corporation Act of 1972, as amended;

S. 867, to amend the act entitled "An act to establish the Fire Island National Seashore, and for other purposes," approved September 11, 1964.

Copies of the legislation, departmental reports, and a memorandum from committee staff will be made a part of the record at this point.

[The information referred to follows:]

HENRY M. JACKSON, WASH., CHAIRMAN
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United States Senate

COMMITTEE ON
 INTERIOR AND INSULAR AFFAIRS
 WASHINGTON, D.C. 20510

November 10, 1975

GRENVILLE GARSIDE, SPECIAL COUNSEL AND STAFF DIRECTOR
 WILLIAM J. VAN NESS, CHIEF COUNSEL

MEMORANDUM

TO: Senator J. Bennett Johnston, Chairman,
 and Members, Subcommittee on Parks and
 Recreation

FROM: James P. Beirne, Counsel and
 Laura L. Beaty, Professional Staff

RE: Subcommittee Hearing on November 13, 1975

A hearing has been scheduled before the Subcommittee on November 13, 1975, at 10:00 AM, in room 3110 of the Dirksen Senate Office Building.

The measures scheduled to be considered are:

1. S. 1847, to authorize the One Hundred and First Airborne Division Association to erect a memorial in the District of Columbia or its environs.
2. S. 2158, to increase an authorization of appropriations in order to complete the Mission 66 Bypass at Vicksburg, Mississippi.
3. S. 1689, to amend the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578), as amended.
4. S. 867, to amend the act entitled "An act to establish the Fire Island National Seashore, and for other purposes," approved Sept. 11, 1964 (78 Stat. 928).

A summary of the legislation, together with the bills and the Departmental reports which have been received to date, are attached:

S. 1847 - to authorize the One Hundred and First Airborne Division Association to erect a memorial in the District of Columbia or its environs.

Purpose

S. 1847 would authorize the One Hundred and First Airborne Division Association to erect a memorial on public grounds in the District of Columbia or its environs in honor of the "Screaming Eagles" of the 101st Airborne Division, U. S. Army.

Description

S. 1847 would authorize the Secretary of the Interior, with the approval of the National Commission of Fine Arts and the National Capital Planning Commission, to select a suitable site for the Memorial on public grounds in the District of Columbia. Approval of the Commissioner of the District of Columbia must be obtained if the selected site is under his jurisdiction.

The 101st Airborne Division Association will incur the cost of the memorial and its erection. Maintenance of the memorial will be the responsibility of the Secretary of the Interior, or the government of the District of Columbia, depending on the location of the memorial site.

S. 1847 contains a 5-year limitation clause.

S. 2158 - to increase an authorization of appropriations in order to complete the Mission 66 Bypass, at Vicksburg, Mississippi.

Purpose

S. 2158 amends the Act of 1963, "To consolidate Vicksburg National Military Park and to provide for certain adjustments necessitated by the installation of a park tour road, and for other purposes." This bill would raise the ceiling on development funding from \$2,050,000 to \$4,050,000. The additional \$2 million would be used to reimburse the City of Vicksburg for the construction costs of the Mission 66 Bypass Road over the park tour road. Visitors would use the park tour road with limited access to local roads. Local city traffic would use the bypass system provided for by the 1963 Act, thus maintaining the integrity of the park.

Background

The City of Vicksburg, Mississippi, besieged during the Civil War in a Union effort to control the Mississippi River, is now encircled by the Vicksburg National Military Park.

Following the Civil War, the War Department acquired a relatively narrow semicircle of land around the north, east, and south of the city incorporating the ridge on which the Confederate defense positions and the paralleling line of the Union forces were located. The property was transferred to the Interior Department for administration as a national military park in 1899. With the Mississippi River on the west the remaining three-fourths of the city is encircled by the park.

Until the passage of the 1963 Act, visitors to the park and city residents competed for road use with accesses to the city as well as the park.

To alleviate this problem, land acreage was quitclaimed to the City of Vicksburg for the purpose of creating a local road system. According to the Act, this land must maintain the parklike character or it will revert to the United States.

Suggested Amendment

S. 2158 calls for an increase in the ceiling of \$2 million. One of the bill's sponsors, Senator Stennis, has indicated in his prepared statement, to be submitted, that the latest estimate indicates that the road can be completed for \$1.8 million and he supports the lower figure.

S. 1689 - to amend the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578), as amended.

Purpose and Cost

S. 1689 amends Section 17 of the Act to include an appropriations request for continuation of salaries and expenses of the Corporation. The costs are as follows:

Present to June 30, 1976	\$1,300,000
July 1, to Sept., 30, 1976	\$ 325,000
Fiscal year 1977	\$1,500,000
Fiscal year 1978	\$1,600,000
Fiscal year 1979	\$1,600,000
Fiscal year 1980	\$1,600,000

These authorizations do not include funding for implementation of the Pennsylvania Avenue Plan, which was submitted to the Congress on November 21, 1974, and which became effective on May 19, 1975.

Background

Major Pierre Charles L'Enfant, in 1791, was appointed to survey and design the newly selected site for the nation's capital. Although he was dismissed after one year, the subsequent

development of the city is attributed to his basic plans. His major consideration for the design of the city was the natural topographical features of the area and the placement of buildings of national importance. Thus, the Capitol and the White House are situated on the two highest land rises in the city. Radiating from these sites are major avenues, symbolizing the importance of those buildings and creating angled intersections permitting vistas of several avenues at once. (The original vistas have been somewhat impaired due to major development since World War II).

In 1962, President Kennedy appointed an Advisory Council on Pennsylvania Avenue to prepare a master plan for the Avenue. The goals of the Council were to acknowledge the special character of the "Nation's ceremonial way" in a historic sense, and to reclaim and develop it in such a manner as to make it harmonious with its surroundings and to make it attractive. Kennedy died before the final plan would be transmitted.

President Johnson established the President's Temporary Commission on Pennsylvania Avenue in 1965. During that year the Pennsylvania Avenue National Historic Site was designated by the Secretary of the Interior. The Temporary Commission worked effectively with new construction in the Avenue for conformity and finally terminated in 1969.

President Nixon endorsed the work of the Commission and submitted legislation to establish a government corporation to implement a plan for the Avenue.

Public Law 92-578 established the Pennsylvania Avenue Corporation. The Corporation submitted its plan on November 21, 1974, to the Congress. The plan became effective on May 19, 1975.

Area Description

The Plan proposes a combination of new development and rehabilitation within the area considered by the plan.

Special landscaping and lighting and a frontage of retail activity along the north side of the Avenue would encourage around-the-clock use of this area.

Certain older structures of architectural or historical merit would either be preserved or their facades would be moved to new locations.

Generally, the western end of the Avenue would be used for offices and hotels, the eastern end would be used for a new residential community. The north side of the Avenue would be devoted to retail establishments and additional office space. The south side, consisting of the Federal Triangle, would remain as government buildings, with additional landscaping.

Summary of Financial Program

The financial implementation of the proposed plan, with a 12 to 15 year development period, involves five basic elements:

1. a one-time appropriation of \$130 million at the beginning of the project which would remain available until expended or returned to the Treasury;
2. a \$150 million interim working capital loan which would be financed with the sale of Corporate notes or other obligations (with a Federal guarantee);
3. use of the Corporation's \$50 million Treasury borrowing authority as a construction revolving fund to be repaid from mortgage proceeds at closings as they occur;
4. salaries and expenses for the Corporations staff, which would be funded separately by annual appropriations and are not included in the figures; and
5. authority to sell long-term obligations at the conclusion of the project to be secured by the income from land leases and backed by a Federal guarantee.

S. 867 - to amend the act entitled "An act to establish the Fire Island National Seashore, and for other purposes," approved Sept. 11, 1964 (78 Stat. 928).

Purpose

S. 867 would increase the authorization ceiling by \$10 million. The bill would also authorize the Secretary of the Interior to seek injunctive relief against any action covered by the Fire Island Seashore Act which is inconsistent with the purposes of the act and which is considered adverse to the protection and development of the national seashore from the appropriate U. S. district court.

Background

About 99% of the \$16 million, authorized by the 1964 Act, has been spent on land acquisition and interests within the seashore. There has been no additional funding since that time.

The original act directs the Secretary to issue regulations specifying zoning standards with which local zoning ordinances must conform and gives the Secretary the right to approve those ordinances. The development of any property not in accordance with approved zoning is subject to condemnation by the Secretary. Thus, any development not in accordance with Secretarial approved zoning laws, subjects the property to condemnation by the

Secretary. Many variances have been granted by local jurisdictions which have not been approved, but to date, no property has been condemned.

On those occasions when injunctive relief was attempted, the court denials were based on a lack of jurisdiction. This bill would provide the power to enjoin development and the funds to condemn certain properties.

Complicating the question of Federal zoning of private property is the lack of a final master plan and environmental impact statement to govern future development, which are available only in draft form now.

One proposed boundary change contemplated by the Park Service, would redraw the western boundary of the Seashore and exclude 14 of Fire Island's 20 exempted communities, where most of the development which is inconsistent with the intended purposes of the 1964 Act is occurring. If this boundary modification is implemented, those Federally owned properties, in the excluded section, would be exchanged for properties yet to be acquired within the new boundary, thus lowering the acquisition cost.

Departmental Report

The Department of the Interior stated in their November 6, 1975, report on S. 867, that they recommend that action on the bill be deferred pending completion of a master plan for the Fire Island National Seashore.

S. 867

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27 (legislative day, FEBRUARY 21), 1975

Mr. JAVITS introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To amend the Act entitled "An Act to establish the Fire Island National Seashore, and for other purposes", approved September 11, 1964 (78 Stat. 928).

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 10 of the Act entitled "An Act to establish the
4 Fire Island National Seashore, and for other purposes",
5 approved September 11, 1964 (78 Stat. 928), is amended
6 by deleting "\$16,000,000" and inserting in lieu thereof
7 "\$26,000,000".

8 (b) Section 7(c) of such Act is amended by adding
9 immediately after the first sentence thereof the following
10 new sentence: "In addition to any other statutory authority

1 available to him under this Act or any other law, the Secre-
2 tary, in carrying out his duties under this Act to administer,
3 protect, and develop Fire Island National Seashore, is au-
4 thorized to petition an appropriate United States district
5 court for injunctive relief concerning any action covered by
6 the provisions of this Act which the Secretary determines
7 is inconsistent with the purposes of this Act, or which he
8 considers adverse to the protection and development, in
9 accordance with the purposes of this Act, of the area com-
10 prising the national seashore, and the United States district
11 courts shall have jurisdiction to receive, consider, and act
12 upon any such petition.”.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

NOV 6 - 1975

Dear Mr. Chairman:

Your Committee has requested the views of this Department on S. 867, a bill "To amend the Act entitled 'An Act to establish the Fire Island National Seashore, and for other purposes', approved September 11, 1964 (78 Stat. 928)."

We recommend that action on this bill be deferred pending completion of a master plan for the Fire Island National Seashore.

S. 867 would amend section 10 of the Act of September 11, 1964 (78 Stat. 928) to increase the land acquisition appropriation authorization relating to the Fire Island National Seashore from \$16,000,000 to \$26,000,000. In addition, the bill would amend section 7(c) of said Act to authorize the Secretary of the Interior to petition an appropriate United States District Court for injunctive relief concerning actions inconsistent with the purposes of that Act, and would grant such courts jurisdiction to consider such petitions.

The master plan and environmental impact statement, in draft form, are now ready for review by the public. Until this comprehensive review is completed and the National Park Service is able to make specific recommendations, we do not know how much additional funding will be necessary for land acquisition. Accordingly, we believe that the authorization of appropriation of an additional \$10 million for land acquisition, as proposed in S. 867, would be premature.

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,

William P. Rogers
Secretary of the Interior

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

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503
November 7, 1975

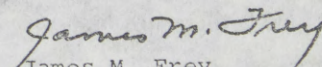
Honorable Henry M. Jackson
Chairman, Committee on Interior
and Insular Affairs
United States Senate
3106 New Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request of March 24, 1975, for the views of the Office of Management and Budget on S. 867, a bill "To amend the Act entitled 'An Act to establish the Fire Island National Seashore, and for other purposes,' approved September 11, 1964 (78 Stat. 928)."

The Office of Management and Budget concurs in the views of the Department of the Interior in its report on S. 867, and accordingly, recommends that action on the bill be deferred.

Sincerely yours,


James M. Frey
Assistant Director for
Legislative Reference

94TH CONGRESS
1ST SESSION

S. 1689

IN THE SENATE OF THE UNITED STATES

MAY 8 (legislative day, APRIL 21), 1975

Mr. JACKSON (for himself and Mr. FANNIN) (by request) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To amend the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578), as amended.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 17 of the Pennsylvania Avenue Development
4 Corporation Act of 1972 (86 Stat. 1266, as amended, 40
5 U.S.C. 871), is amended to read as follows:

6 “SEC. 17. In addition to the sums heretofore appropri-
7 ated, there are authorized to be appropriated for operating
8 and administrative expenses of the Corporation sums not
9 to exceed \$1,300,000 for the fiscal year ending June 30,
10 1976; \$325,000 for the period July 1 through September

1 30, 1976; \$1,500,000 for the fiscal year ending Septem-
2 ber 30, 1977; and, \$1,600,000, each, for the next three
3 succeeding fiscal years. No appropriations shall be made
4 from the Land and Water Conservation Fund established
5 by the Act of September 3, 1964 (78 Stat. 897, as
6 amended, 16 U.S.C. 4601), to effectuate the purposes of this
7 Act.”.

IN THE SENATE OF THE UNITED STATES

JUNE 3, 1975

Mr. HUMPHREY introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To authorize the One Hundred and First Airborne Division Association to erect a memorial in the District of Columbia or its environs.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the One Hundred and First Airborne Division Associa-
4 tion is authorized to erect a memorial on public grounds in
5 the District of Columbia or its environs in honor and in com-
6 memoration of the men of the "Screaming Eagles" of the
7 One Hundred and First Airborne Division, United States
8 Army, who have served their country in World War II,
9 Vietnam, and maintaining peace.
- 10 SEC. 2. (a) The Secretary of the Interior is authorized

1 and directed to select, with the approval of the National
2 Commission of Fine Arts and the National Capital Planning
3 Commission, a suitable site on public grounds in the District
4 of Columbia, or its environs, upon which may be erected the
5 memorial authorized in the first section of this Act: *Pro-*
6 *vided*, That if the site selected is on public grounds belong-
7 ing to or under the jurisdiction of the government of the
8 District of Columbia, the approval of the Commissioner of
9 the District of Columbia shall also be obtained.

10 (b) The design and plans for such memorial shall be
11 subject to the approval of the Secretary of the Interior, the
12 National Commission of Fine Arts and the National Capital
13 Planning Commission, and the United States or the District
14 of Columbia shall be put to no expense in the erection
15 thereof.

16 SEC. 3. The authority conferred pursuant to this bill shall
17 lapse unless (1) the erection of such memorial is commenced
18 within five years from the date of enactment of this bill, and
19 (2) prior to its commencement funds are certified available
20 in an amount sufficient, in the judgment of the Secretary of
21 the Interior to insure completion of the memorial.

22 SEC. 4. The maintenance and care of the memorial
23 erected under the provisions of this Act shall be the respon-

1 sibility of the Secretary of the Interior, or, if the memorial
2 is erected upon public grounds belonging to or under the
3 jurisdiction of the District of Columbia, the government of
4 the District of Columbia.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

AUG 25 1975

Dear Mr. Chairman:

Your Committee has requested the views of this Department on S. 1847, a bill "To authorize the One Hundred and First Airborne Division Association to erect a memorial in the District of Columbia or its environs."

We have no objection to the enactment of this bill.

S. 1847 would authorize the One Hundred and First Airborne Division Association to erect a memorial on public grounds in the District of Columbia or its environs in honor of the men who have served their country in the 101st Airborne Division.

On March 11, 1974, The National Capital Memorial Advisory Committee advised the Secretary of the Interior that it favored enactment of similar legislation in the 93rd Congress. On July 15, 1974, this Department advised the House Committee on Administration that we would have no objection to the enactment of that legislation, if amended to provide that the memorial site could also be on District of Columbia land, as well as United States land in the District or its environs, and that should it be placed on District land, maintenance of the memorial would be either by the District of Columbia or the Department of the Interior, at the option of the Secretary of the Interior.

S. 1847 so provides and its provisions are identical to those relating to the Seabees Memorial as contained in the Act of September 18, 1972 (86 Stat. 678). Such provisions conform to Departmental guidelines for memorial legislation of this nature. We therefore have no objection to enactment of S. 1847.

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,

Stephanie Feud
Assistant Secretary of the Interior

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



DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 20310

24 OCT 1975

Honorable Henry M. Jackson
Chairman, Committee on Interior
and Insular Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Reference is made to your request to the Secretary of Defense for the views of the Department of Defense on S. 1847, 94th Congress, a bill "To authorize the One Hundred and First Airborne Division Association to erect a memorial in the District of Columbia or its environs." The Department of the Army has been assigned responsibility for expressing the views of the Department of Defense on this bill.

The title of the bill states its purpose.

Inasmuch as enactment of the bill would not affect the operations of the Department of Defense, the Department of the Army on behalf of the Department of Defense defers to the views of the Department of the Interior as the agency having primary interest in this matter.

The enactment of this bill will cause no apparent increase in budgetary requirements of the Department of Defense.

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 for the consideration of the Committee.

Sincerely,

(Signed)

Martin R. Hoffmann
Secretary of the Army

S. 2158

IN THE SENATE OF THE UNITED STATES

JULY 22 (legislative day, JULY 21), 1975

MR. STENNIS (for Mr. EASTLAND) (for himself and Mr. STENNIS) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To increase an authorization of appropriations in order to complete the Mission 66 Bypass Road at Vicksburg, Mississippi.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 3 of the Act entitled "An Act to consolidate
4 Vicksburg National Military Park and to provide for cer-
5 tain adjustments necessitated by the installation of a park
6 tour road, and for other purposes", approved June 4, 1963
7 (77 Stat. 55; 16 U.S.C. 430h-5), is amended by striking
8 out "\$2,050,000" and inserting in lieu thereof "\$4,050,-
9 000".



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

OCT 8 - 1975

Dear Mr. Chairman:

Your Committee has requested the views of this Department on S. 2158, a bill "To increase an authorization appropriations in order to complete the Mission 66 Bypass Road at Vicksburg, Mississippi."

We recommend that this bill be enacted, if amended as suggested herein.

S. 2158 would amend the Act of June 4, 1963 (P.L. 88-37) to increase the appropriation authorization from \$2,050,000 to \$4,050,000.

Public Law 88-37 authorized the Secretary of the Interior (a) to transfer certain lands to the City of Vicksburg, Mississippi; (b) to acquire not in excess of 554 acres of land or interest in lands for addition to Vicksburg National Military Park; and (c) to enter into agreement with officials of the City of Vicksburg and Warren County relative to the effect which the installation of a one-way park tour road with controlled access would have upon the existing local road system, and to obligate the United States to make provisions for such alterations, relocations, and construction of local roads. Specifically, Public Law 88-37 provided that the Secretary would not without first obtaining the consent of the city and county officials, convert the portion of the existing road known as Confederate Avenue, lying between Graveyard Road and Fort Garrett, into a one-way tour road with controlled access or otherwise limit the use of such portion by local traffic, until the United States provided for alterations, relocations, and construction of local roads (including procurement of rights-of-way).

Public Law 88-37 also authorized appropriations of not more than \$2,050,000 for acquisition of lands and interest in lands and for construction and relocation of roads. The legislative history indicates that of this amount, \$554,000 was for land acquisition, and \$1,516,000 was for alteration, relocation, and construction of local roads.

Pursuant to the authority provided in Public Law 88-37, the city of Vicksburg and the National Park Service entered into a Memorandum of Agreement in 1964, in which the city agreed, among other things, "To obtain necessary right-of-way at its expense and construct a road or street west of the Park (for which it will be reimbursed in an amount not exceeding \$1,000,000) generally paralleling Confederate Avenue and extending from City Cemetery Road to a point south of Fort Garrott and thereafter maintain it at no cost to the Federal Government." This project was known as the Mission 66 Road, and was to extend for about 2 miles.

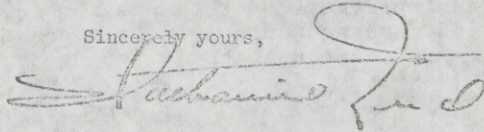
The city has constructed approximately 1 1/4 miles of the Mission 66 Road and has been reimbursed for its expenditures totalling \$1 million as provided in the Agreement. The National Park Service has utilized the balance of the \$1,516,000 for alteration, relocation, and construction of other local roads as authorized by the Act. Approximately 1/2 mile of the Mission 66 Road remains to be constructed.

In 1969, a supplemental Agreement was drawn between the National Park Service and the City wherein the city agreed to seek other means of funding the remaining road construction. The city officials have stated they have been unsuccessful in finding alternate sources for these funds.

The cost of constructing the Mission 66 Road has escalated so that our latest estimate for completing the road is an additional \$1.8 million. Accordingly, we recommend that S. 2158 be amended by changing "\$4,050,000" in Line 8 to "\$3,850,000."

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. 20510



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OCT 1 1975

Honorable Henry M. Jackson
Chairman, Committee on Interior
and Insular Affairs
United States Senate
3106 New Senate Office Building
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to your request of August 22, 1975, for the views of the Office of Management and Budget on S. 2158, a bill "To increase an authorization of appropriations in order to complete the Mission 66 Bypass Road at Vicksburg, Mississippi."

The Office of Management and Budget concurs in the views of the Department of the Interior in its report on S. 2158, and accordingly recommends enactment of the bill if amended as suggested by the Department.

Sincerely,

James M. Frey
James M. Frey
Assistant Director for
Legislative Reference

Senator JOHNSTON. We are very pleased and honored to have as our leadoff witness, the distinguished Senator from Minnesota, Senator Humphrey, who will introduce Gen. Maxwell Taylor.

**STATEMENT OF HON. HUBERT H. HUMPHREY, A U.S. SENATOR
FROM THE STATE OF MINNESOTA**

Senator HUMPHREY. Thank you very much, Mr. Chairman, and my good friend Senator Hansen, Cliff. This is an unusual and rare experience for me to be surrounded by such distinguished fellow Americans.

At the proper time I shall exercise the high privilege of presenting to you the next witness, but for the moment, if you would listen to a plain Senator, I would appreciate it.

I want to thank this committee, and you, Mr. Chairman, and your colleague and associate Senator Hansen, for so promptly holding hearings on S. 1847 to authorize the 101st Airborne Division Association to erect a memorial on public grounds in the District of Columbia or its environs in honor and in commemoration of the men of the "Screaming Eagles" of the 101st Airborne Division, U.S. Army, who have served their country in World War II, Vietnam, and in maintaining the peace.

This bill which I introduced is in response to a request of the association's secretary-treasurer, William Lewis of Trimont, Minn., and is a reaffirmation of congressional intent to authorize the 101st Association to memorialize their war dead by an appropriate memorial in the Nation's Capital.

In 1958, Public Law 85-403 authorized the 101st Association to erect such a memorial within a 7-year time period. Unfortunately, the time ran out before sufficient money was raised. These veterans now have \$100,000 which has been privately raised in small donations for their memorial.

Over 25,000 contributions have been collected from World War II and Vietnam veterans, Gold Star Mothers, relatives of deceased members of this outstanding airborne division, and by European friends in Great Britain, the Netherlands, Belgium and France. There are no great benefactors—the majority of their contributions have come from small individual efforts. The 101st Airborne Division Association, as you know, has labored hard and long for their memorial. Their roots extend to every State and territory of our country. The bill provides that there be no cost to the Government.

The 101st is made up of ordinary people who fought and died in the hedgerows, the foxholes, and the jungles.

The memorial is to commemorate the thousands of 101st men who honorably served this country in World War II and Vietnam. In these conflicts, there were almost thirty thousand battle casualties, and over 6,000 men made the supreme sacrifice.

The 101st Airborne Division, the "Battling Bastards of Bastogne," was the first American division to earn the Presidential Unit Citation for its determined defense of Bastogne against numerically superior enemy forces. During the bleak and bitter Christmas of 1944, the Battle of the Bulge, where disaster seemed to have engulfed our forces, the people of America were inspired and stirred by the news, "The 101st Airborne is holding at Bastogne." Together with their younger

Vietnam Screaming Eagles, the division holds 19 accredited battle campaigns.

To my knowledge, no other veterans' organization comparable to this distinguished unit has made a similar request. The bill's provisions are identical to those relating to the Seabees Memorial as contained in the act of September 18, 1972.

No unit deserves this recognition more than the 101st Airborne. It traditionally has been the Army's most progressive division, proud, able and always ready to defend our Nation.

Now that the funds have been raised privately, we can do no less than to grant recognition to the unique contribution these men have made to our peace and freedom by allowing them to build their memorial so they may honor their war dead.

The bill, as I said, is S. 1847. I do hope the committee will look with favor upon it.

Might I also say there will be others here. Mr. Robert P. O'Connell is president of the 101st Airborne Division Association, chairman of the memorial fund.

Mr. William J. Lewis, as I indicated, is a fellow citizen from my State of Minnesota, is executive secretary of the 101st Airborne Division Association, and Lt. Gen. Julien J. Ewell, retired, who is a member of the association. And there are others who will be here, who will testify with these distinguished Americans.

Senator JOHNSTON. Senator, your eloquence is such as to convince me you must be a former paratrooper.

Senator HUMPHREY. I wish I were. Flying kites is my thing.

Might I say the witness I want to present to you, who can best document why this memorial is needed, is one of our truly great men. I had the privilege of serving in the administration of President Johnson when Gen. Maxwell Taylor was an adviser to the President, and he was very close to the White House, as he has been for a number of years.

As you know, Gen. Maxwell Taylor was commander of the 101st Airborne in those historic days of World War II. He was our Army Chief of Staff in 1955 to 1959. He was Chairman of the Joint Chiefs of Staff.

He has been our Ambassador. He has been an adviser to Presidents. He served as Army Chief of Staff when President Eisenhower was in the White House. He served as Chairman of the Joint Chiefs when President Kennedy was in the White House.

He served as Ambassador. He served as adviser to President Johnson. He was Chairman of the Joint Chiefs part of that time.

There doesn't need to be any more said except to say this Nation is what it is because there are people like Gen. Maxwell Taylor. I consider him a personal friend. I have always considered it an honor to even know him, and I present him to this committee.

If the committee and the General will bear in mind, I am chairman of another committee where I have to go and preside, maybe with not such exciting activity as you are going to have here. I will have to leave you, but may I say you are privileged to have a chance to hear him.

Senator JOHNSTON. The chairman and the committee is honored to have you, General.

STATEMENT OF GEN. MAXWELL D. TAYLOR, U.S. ARMY (RETIRED),
 HONORARY PRESIDENT, 101ST AIRBORNE DIVISION ASSOCIATION;
 ACCOMPANIED BY ROBERT P. O'CONNELL, PRESIDENT,
 101ST AIRBORNE DIVISION ASSOCIATION, CHAIRMAN, MEMORIAL
 FUND; WILLIAM J. LEWIS, EXECUTIVE SECRETARY,
 101ST AIRBORNE DIVISION ASSOCIATION; LT. GEN. JULIEN J.
 EWELL (U.S.A. RET.), MEMBER, 101ST AIRBORNE DIVISION
 ASSOCIATION

General TAYLOR. Mr. Chairman, members of the committee, first I am very grateful to Senator Humphrey for the statement he has just made. Actually, he has made a far more eloquent statement than I am capable of doing as spokesman for the committee. He is incomparable, and I think we should consider him to be an honorary member of our division.

I am very happy to be here this morning to speak in favor of Senate bill 1847, which establishes or would authorize the erection of this monument for our division.

I am accompanied, as Senator Humphrey has pointed out, with a number of members of the association. Three have already been introduced. I would like to add Sgt. Maj. Michael Collins, who represents the active division. Would you mind standing up, Sergeant? This is the kind of men we have in the present division.

Mr. Wilber Shanklen and Schuyler Jackson, both of whom have been president of the association.

As Senator Humphrey has said, the purpose of this monument is to memorialize the division for its actions in World War II and Vietnam. He has also mentioned the primary engagements of our division in World War II, the landings in Normandy where our division spearheaded the American landing. Our participation there brought a liberation to a large part of Holland described in one book, "One Bridge Too Far" by Cornelius Ryan, and gained international acclaim for its defense of Bastogne in the Battle of the Bulge.

I mention, sir, the famous man of that battle was Deputy General McAuliffe. He was the man who said, "Nuts," giving a laconic name with famous statements of famous commanders.

For the operation at Bastogne the unit received a Presidential Unit Citation.

We went to work immediately after World War II. The division veterans began raising funds for the purpose of establishing some kind of memorial here in Washington. Congress was good enough to approve this effort in 1958 in authorizing the monument, but unfortunately our funds did not keep up with our ambition, and the time ran out before we had adequate funds. This did not discourage the veterans, however, who continue to work even harder, and were assisted by the fact the reactivated division brought additional veterans of the post-World War II period to our ranks.

The result is, the funds we have now is over \$100,000 in small subscriptions of some 25,000 contributors.

We have been most grateful to the help we have received here in preparing this bill; to Senator Humphrey and his cosponsors

Senators Brock, Ford, Scott and Ribicoff, an encouraging evidence of bipartisan support for the project.

I understand your mail has contained numerous requests for favorable consideration, including requests from the legislatures of Florida and Pennsylvania.

I am also told the Secretary of the Interior has informed Senator Jackson that the administration has no objection to the passage of this bill, and that also the Capitol Memorial Advisory Committee has commented favorably with only one dissenting vote.

Quite recently it was an encouragement to learn on last Tuesday the subcommittee on Library and Memorials of the House Administration Committee unanimously recommended passage of the companion bill to this one.

I believe, to my knowledge, the only objection raised has been by the Fine Arts Committee which fears the approval of our proposal might set a precedent in encouraging a proliferation of similar requests. General Ewell, I understand, has written to members of this committee at some length explaining why he believes, and I believe, this possibility is highly unlikely.

In summary, I would urge your approval of this monument on the record of this division in two wars where its performance has exemplified the best in the American military tradition. The extraordinary loyalty which service in the division has inspired in its members demonstrates an esprit de corps which deserves the opportunity of permanent expression in this memorial.

I speak personally with some emotion because I share this feeling toward the 101st. It is my proudest boast to have commanded this division in World War II, and have sensed the uplift of spirit derived from association with the men who composed it. Now that its veterans have finally obtained the financial means required, I would appeal to Congress to permit them to erect this memorial to their fallen comrades and to their stirring days together in service to our nation.

Thank you, Mr. Chairman.

Senator JOHNSTON. Thank you very much, General Taylor.

The chairman has become convinced I will get your bill out or at least I will do what I can to get it out. I recognize we cannot have a proliferation of monuments all over Washington for every division in the Army, but I think the case is well made, not just here in this committee, the case was well made at the Battle of the Bulge and Bastogne in 1944, and all Americans are familiar with that, and familiar with the great record place in history of the 101st.

I suspect it has a unique claim for a place in history, and a place of commemoration in this capital. As I say, I will do what I can to get this bill out, and do so quickly.

General TAYLOR. Thank you very much, sir.

[The prepared statement of General Taylor follows:]

STATEMENT OF GEN. MAXWELL D. TAYLOR, U.S. ARMY (RETIRED)

MR. CHAIRMAN, GENTLEMEN: I appreciate the opportunity to appear before you today to make a brief statement in support of S-1847, a bill which would authorize the 101st Airborne Division Association to erect a monument in Washington, D.C. or its vicinity. I am accompanied by some of the representa-

tives of the Association who have worked long and patiently on this project and are prepared to answer any specific questions which you may care to ask.

The purpose of this monument is to commemorate the soldiers of the "Screaming Eagle" Division who served their country with distinction in two wars. In World War II, the Division spearheaded the American landings in Normandy on D-Day, participated in the airborne liberation of a large part of Holland in September 1944 and gained international acclaim for its defense of Bastogne in the Battle of the Bulge. For the latter, it became the first complete division ever to receive a Presidential Unit Citation. It served with equal distinction though less public recognition during the American combat involvement in Vietnam.

This is the second time that Congress has been requested to approve a monument for this division. Shortly after the end of WW II, the Association began to raise money for a memorial and in 1958 obtained authority from Congress to erect one. Unfortunately the drive for funds required more time than anticipated so that the time limit set by the bill expired before the necessary funds were in hand. However, our men refused to be discouraged so that by now they have raised over \$100,000 in small subscriptions from over 25,000 individuals—veterans, their friends and families, and admirers of the Division in Europe.

We are most grateful to Senator Humphrey and his co-sponsors, Senators Brock, Ford, Scott and Ribicoff for introducing this bill—an encouraging evidence of bipartisan support for the project. I understand that your mail has included numerous requests for favorable consideration of the bill, including those of the legislatures of Florida and Pennsylvania. I am told also that the Secretary of the Interior has informed Senator Jackson that the Administration has no objection to its passage and that the Capitol Memorial Advisory Committee has commented favorably with but one dissenting vote. I believe that the only objection has come from the Fine Arts Committee which fears that the approval of our proposal might set a precedent encouraging a proliferation of similar requests. I understand that General Ewell has written you at some length explaining why this possibility appears unlikely.

In summary, I would urge your approval of this monument on the basis of the record of this division in two wars where its performance has exemplified the best in the American military tradition. The extraordinary loyalty which service in the division has inspired in its members demonstrates an esprit de corps which deserves the opportunity of permanent expression in this memorial. I speak with some emotion because I share this feeling toward the 101st. It is my proudest boast to have commanded this division in WW II and have sensed the uplift of spirit derived from association with the men who composed it. Now that its veterans have finally obtained the financial means required, I would appeal to Congress to permit them to erect this memorial to their fallen comrades and to their stirring days together in service to our nation.

Senator JOHNSTON. We have a statement for the record by Senator Brock, which will be entered in the record without objection.

[The prepared statement of Senator Brock follows:]

STATEMENT OF HON. BILL BROCK, A U.S. SENATOR FROM THE STATE OF TENNESSEE

Mr. Chairman, I appreciate the opportunity to testify this morning on behalf of what is a national institution—the 101st Airborne Division. Mr. Chairman, it is impossible for me to detail what this outstanding Division has meant to our nation and freedom, and to my own State of Tennessee. The unit is based, and has been for a number of years, at Fort Campbell, the majority of which lies in Montgomery County, Tennessee.

The 101st, of course better known as the "Screaming Eagles," has distinguished itself as one of the premier fighting units the nation has been privileged to have defend it. From the familiar Airborne Division of World War II to the up-to-date helicopter "Cavalry" which served so well in Southeast Asia, the unit and the men who have served in it have been an inspiration to us all. The memory of its contributions are many. But today, I am here to ask for support of a more lasting memory.

Senator Humphrey and I have introduced a measure to establish a permanent memorial in the Nation's capital to the men, both living and dead, who have served their country so honorably in the 101st Airborne Division. S. 1847

is a measure to allow the establishment of such a memorial. Mr. Chairman, the unique part of this measure is that the memorial itself requires no money from the Treasury. It will be funded by the friends, parents, relatives and members of this outstanding Division.

The measure, which you have before you, provides special recognition to a special group of individuals who have contributed much to our freedom and our future. It is only fitting that we should so honor them.

I join Senator Humphrey in asking that S. 1847 be approved so that a grateful American people can bestow a well deserved honor on the 101st Airborne Division.

Senator JOHNSTON. General Ewell, did you want to add anything?

General EWELL. Not really, Mr. Senator, but I have a letter General Taylor alluded to, which addresses the issue of proliferation in some length, and I would like to give it to Mr. Beirne to be included in the record, if he feels it is desirable.

Senator JOHNSTON. Without objection it will be included in the record.

[The letter referred to follows:]

101ST AIRBORNE DIVISION ASSOCIATION,
Trimont, Minn., June 23, 1975.

DEAR SIR: Senators Humphrey and Ford have recently introduced a bill in the Senate (S-1847) which would "authorize the One Hundred and First Airborne Division Association to erect a memorial in the District of Columbia or its environs." We understand this bill will come before the Insular Affairs and Interior Committee of which you are a member. A companion bill (HR 3710) has been introduced in the House of Representatives.

The Association wishes to erect this memorial as a tribute to the thousands of brave men, living and dead, who served their country proudly as "Screaming Eagles" in the World War II, in times of peace and in Vietnam. It is also our thought that this monument, by memorializing the Battered Bastards of Bastogne in our nation's capital, will serve as a visible and dignified reminder to generations to come of the willingness of Americans to defend our freedoms.

This monument has a long history. In the late 50's Congress passed and the President signed enabling legislation but the necessary funds could not be raised. Last year a new bill was tabled without prejudice by the House Subcommittee on Memorials and Libraries presumably due to some ambiguities in the text. It is our understanding that the National Capital Memorial Advisory Committee and the National Capital Planning Committee recommended favorably on the bill and the Department of Interior and the Office of Management and Budget accepted their view. Only the Fine Arts Commission opposed it on the general grounds that the bill would set a precedent and open the doors to a torrent of similar requests. We are also informed that the Fine Arts Commission has opposed practically all proposals for patriotic military memorials in recent years. In this connection we are advised that there have been very few formal requests of substance for military memorials in recent years which appears to lay the concern of the Fine Arts Commission to rest.

It is our considered view that the history of our country did not stop in 1940. Quite the contrary. We should be proud of our sacrifices for peace and freedom in World War II and since and should memorialize them accordingly. We would hope our request could be considered on its own merits. If that is done it is our conviction that the 101st memorial will gain approval.

We are mustering considerable support for our proposal outside of our own membership. Several veterans organizations—among them the American Legion, the Veterans of Foreign Wars, the Jewish War Veterans, and the Disabled American Veterans are in favor of our bill. We also understand that the Florida Legislature has expressed support for the project.

The members of the 101st Airborne Division Association earnestly solicit your support in carrying this worthwhile patriotic endeavor through to fruition.

Sincerely,

JULIAN J. EWELL,
Lieutenant General, USA, retired.

Senator JOHNSTON. I think we can prevail upon the Fine Arts Society to recognize a place for this memorial.

Thank you very much, and we will get your bill out as quickly as possible.

General TAYLOR. Thank you very much to both you and your committee.

Senator JOHNSTON. I have a statement by the Honorable Nathaniel Reed, Assistant Secretary of the Interior, which will be entered in the record without objection.

[The prepared statement of Secretary Reed follows:]

STATEMENT OF HON. NATHANIEL P. REED, ASSISTANT SECRETARY OF THE INTERIOR

Mr. Chairman, I appreciate this opportunity to present the department's position on S. 1847. The purpose of this bill is to authorize the one hundred and first Airborne Division Association to erect a memorial on public grounds in the District of Columbia or its environs in honor of the men who have served their country in the One Hundred and First Airborne Division.

Such a memorial was authorized by the Congress in the act of May 16, 1958. That act had provisions similar to those of S. 1847. It provided for approval of the design and site of the memorial by the National Capital Planning Commission, the Secretary of the Interior, and the National Commission of Fine Arts, and provided that the erection of the memorial should be at no expense to the United States.

The act provided that the authority for the memorial should lapse within 5 years unless the erection of the memorial was commenced within that period and the secretary certified that sufficient funds were available to insure completion of the memorial. Neither of these conditions was met and the authority for the memorial lapsed on May 16, 1963. We now understand, however, that the association has raised approximately \$100,000 toward the memorial.

S. 1847 differs from the earlier authorization in two instances. First, it provides for approval by the Government of the District of Columbia if the site selected for the memorial is on public land under its jurisdiction. Secondly, the bill provides that maintenance and care of the memorial shall be the responsibility of the agency on whose lands the memorial is situated.

These and the other provisions of S. 1847 concur with the recommendations of the Secretary's National Capital Memorial Advisory Committee concerning this proposal. We regard these provisions as assuring that such a memorial, if authorized, could be appropriately designed, located and maintained.

Accordingly, Mr. Chairman, we are pleased to recommend that S. 1847 be enacted.

Senator JOHNSTON. Next we will consider S. 2158 to increase the authorization of appropriations in order to complete the Mission 66 Bypass at Vicksburg, Mass.

We are honored to have the Honorable Nathaniel P. Reed, who is Assistant Secretary of Fish, Wildlife and Parks of the U.S. Department of the Interior

Mr. Secretary, we are always glad to have you before this committee.

STATEMENT OF HON. NATHANIEL P. REED, ASSISTANT SECRETARY,
FISH, WILDLIFE AND PARKS, U.S. DEPARTMENT OF THE INTERIOR;
ACCOMPANIED BY GARY EVERHARDT, DIRECTOR,
NATIONAL PARK SERVICE

Secretary REED. Mr. Chairman, I appreciate this opportunity to appear before you this morning to present the Department's position on S. 2158.

The purpose of this bill is to fulfill the intention of the Congress as expressed in Public Law 88-37. That law consolidated Vicksburg National Military Park and provided the mechanism to implement the Park Tour Road as an important interpretive feature. As presented to the Congress, the Tour Road was to be a one-way route, enabling visitors to leisurely drive through the park unencumbered by oncoming traffic, and thus be better able to leisurely study roadside exhibits in safety, and enhance their understanding of the civil war siege of Vicksburg.

Pursuant to that legislation, in 1964 the National Park Service entered into an agreement with the city of Vicksburg whereby the United States would provide \$1 million for the city to construct an alternate route to Confederate Avenue, now a narrow two-way road comprising a substantial portion of the tour route through the park and used extensively by commuter traffic. The service agreed not to convert Confederate Avenue to a one-way road until the alternate route was built.

The city constructed 1½ miles of the 2-mile alternate route known as the Mission 66 Road. However, the construction funds were expended before the last half mile was completed. This final portion must cross hilly terrain and presents difficult engineering problems.

In 1969, a supplemental agreement was drawn between the National Park Service and the city wherein the city agreed to seek other means of funding the remaining road construction within a 30-month period. The agreement expired, and the city officials have stated they have been unsuccessful in finding alternate sources for these funds. Nevertheless, it is our view that the supplemental agreement did not nullify the responsibility of the Service under the original agreement to keep Confederate Avenue open as a two-way road until the alternate route was completed. The cost of constructing the last half mile has now escalated to an additional \$1,800,000.

We believe the city has acted in good faith in attempting to acquire alternate funds for the road. Accordingly, we believe there should now be additional funds authorized to be appropriated to complete the road and thus enable the National Park Service to close alternate accesses into the park and convert Confederate Avenue to a one-way tour route as provided for in the 1964 agreement and as intended by Congress.

In 1963, when the original authorization was passed the country was experiencing the centennial observance of the Civil War. Visitation to Vicksburg National Military Park then approached 1 million annually. Much of this use consisted of commuter traffic over park roads. Since then, implementation of Public Law 88-37 has resulted in diverting a large amount of commuter traffic. The peak of visitation to the park during the Civil War Centennial has passed, yet visitation to the park remains high, reaching 772,300 in 1974 with over 40,000 of these estimated to be commuter traffic. By diverting the remainder of this commuter traffic over the alternate route that would be completed pursuant to this legislation, the ability of visitors to enjoy and understand the park resources in safety and at leisure will be accomplished as we believe the Congress intended.

Therefore, Mr. Chairman, we recommend that the development ceiling for Vicksburg National Military Park be raised to accommo-

date the increased cost for completing the road. The estimated additional cost of \$1,800,000 would raise the present ceiling limitation to a new total of \$3,850,000. S. 2158 would raise the ceiling by an additional \$2,000,000 to a new total of \$4,050,000. Mr. Chairman, we could not justify expenditure of the additional \$200,000, based on the cost estimates we have at the present time.

This completes my prepared testimony. I will be happy to answer any questions you or members of the subcommittee may have.

Senator JOHNSTON. Thank you very much, Secretary Reed.

What we are doing here really is fulfilling a longstanding commitment of the National Park Service.

Secretary REED. Exactly, Mr. Chairman.

Senator JOHNSTON. And providing for an inflationary factor.

Secretary REED. Exactly.

Senator JOHNSTON. These funds are the minimum amount necessary to do the job considering inflation.

Secretary REED. Yes, sir.

Senator JOHNSTON. We can do no less than approve this bill, and I would expect it would be approved.

We have Mayor Bullard here from Vicksburg. You are down there in my country.

Would you like to add anything, Mayor Bullard.

Mayor BULLARD. I would, Mr. Chairman.

STATEMENT OF HON. NAT BULLARD, MAYOR, CITY OF VICKSBURG, MISSISSIPPI

Mayor BULLARD. From the indication the committee has made, I will be as brief as possible, but I would like to comment a little bit on the situation that the people of the city of Vicksburg have, and how it developed.

As the Secretary has told you, back about 1960 or 1961, the Park Service developed a plan of approving the Vicksburg National Park along with other parks in the Nation, which was called Mission 66.

As the discussion developed in Vicksburg this would require the relocation of the commuter traffic, which was using the park road known as Confederate Avenue. As you can see, it is the red road which lies to the north and east as shown on that large map, which I would like to make an exhibit if the committee desires to have it.

This was used as a beltway with eight gates as means of access to other streets of the city. Now, under the agreement developed between the city and the Vicksburg National Military Park, a new road was to be built to replace this road, and substitute for this beltway, and it is indicated in blue.

Senator JOHNSTON. How long will it take you to build this road?

Mayor BULLARD. The engineering is complete. I would estimate 12 to 15 months.

Senator JOHNSTON. You are ready to go to contract with it?

Mayor BULLARD. Yes, sir.

The estimates of the cost of the road at the time of the original hearings on what was then Senate bill 765 was \$1½ to \$1¾ million. The hearing shows very clearly at that time the old surveys which were made as naval reconnaissance surveys prior to siege, they

were never condemned, and as the committee expressed at the time of those hearings if this road was to be taken from commuter traffic then it was the responsibility of the National Park Service to provide the ultimate route to replace this traffic.

In the hearings every indication was this would be done. However, somewhere along the line compromises were made either in the budget process or the situation that existed at that time, and only \$1 million was appropriated in the original bill for this purpose. That was back in 1963.

Senator JOHNSTON. \$1 million in 1963 highway dollars is probably worth about \$4 million today.

Mayor BULLARD. Yes, I believe so.

With the \$1 million by the city, and they were extremely naive in agreeing to this, they agreed to let the park go ahead, and go ahead on the basis of a gentleman's agreement that they could come back for a supplemental appropriation. This was in 1963. We are now in 1975, and we are still trying to get that supplemental appropriation.

The physical problems it presents to the people of the city, there are over 400 families who live in the area that lies where this road cuts us off. There is one gate still open from the beltway, which we call Confederate Avenue, which would be part of the closed tour loop. This is heavily used by people who live in that area, but the only other route is a very circuitous route marked on the route for all the citizens to use in that area, and it also includes the large city cemetery, which contains all of the Confederate dead. The Confederate dead were gathered, and buried there. It is one of the memorial areas of the city.

The traffic for tourists who wish to visit this site, particularly those from Louisiana, Texas, Georgia, and Alabama is quite a problem at this time, and I would like to see it completed for this purpose, if for no other, and it would be an adjunct to the Park orientation where the Union dead are a portion of the Vicksburg National Memorial Military Park.

The cost of construction is estimated at \$1,800,000. The estimate is a present estimate. We can get caught in the situation where this estimate will be an inadequate one as time goes on if we cannot move with considerable speed. It does not include the acquisition of a right of way, which the city agreed to undertake when the original agreements on Mission 66 were made, but I would urge this committee to act with as much speed as possible.

I would like to get this Mission completed so we could have Mission 66 instead of Mission 76.

Senator JOHNSTON. Thank you, sir.

We also have statements from Senators Stennis and Eastland, which will be entered in the record without objection.

[The prepared statements of Senators Stennis and Eastland follow:]

STATEMENT OF HON. JOHN C. STENNIS, A U.S. SENATOR FROM THE
STATE OF MISSISSIPPI

Mr. Chairman and members of the Subcommittee, I am pleased to have the opportunity to provide this statement in support of the bill S. 2158, of which I am a cosponsor. The bill is intended to increase the authorization for certain road work in and near the Vicksburg National Military Park which work was agreed upon in 1962 between the National Park Service, the City of Vicksburg,

and Warren County, and which was authorized by Congress in 1963 (77 Stat. 55; 16 U.S.C. 430b-5).

After the Civil War the War Department acquired a narrow semicircle of land which followed the ridge line around Vicksburg on the north, east, and south, and which contained the Confederate and Union positions as they existed during the siege of Vicksburg. The Mississippi River on the west completed the circle around Vicksburg, thus constraining the subsequent growth of the city. The land acquired became the Vicksburg National Military Park and was transferred to the Department of Interior in 1899.

The roads within the Park were built upon old public roads that existed prior to the Vicksburg siege. They became National Park roads but they were never condemned to preclude public use.

As the City of Vicksburg grew, traffic of local origin on the roads within the Park grew accordingly, and became a burden to the Park Service and an impediment to tourist traffic. Also, the slow moving tourist automobiles, stopping to look at monuments and road signs, were a danger to local vehicles. In particular, the principal north-south road, Confederate Avenue, carried heavy traffic, and by 1962 there were 75 access roads, private and public, on to that main Park artery.

At that time an agreement was worked out between the City, the County, and the Park Service in which there were various changes in Park boundaries, exchanges of responsibilities for maintenance of statues and memorials, and provision for crossings over and under Park roads. Part of this agreement provided that the Federal Government would aid the City to construct a north-south road, west of the Park, in order to relieve the traffic on Confederate Avenue.

This Subcommittee held hearings on the proposal on August 25, 1962, in Vicksburg. At that time the estimate for all the road work was 1.6 million dollars, which was to cover the crossings in the Park and the new north-south road. The legislation embodying the agreement was passed by Congress and signed into law in 1963.

Appropriations in the authorized amount were provided and construction proceeded. However, it became apparent as work progressed that the authorization would not accomplish the full scope of the work contemplated. As a result, the new north-south road, which is referred to as the Mission-66 Bypass Road, was terminated short of its intended destination, leaving out the part from Main Street to City Cemetery Road. As a consequence the full intended traffic pattern within the Park has not been attained, and the northeastern portion of the City is without adequate access to the new north-south road. The estimated cost to complete the project is \$1.8 million.

The problem was taken up with the Office of Management and Budget. By letter dated June 25, 1975, that agency stated:

"We have researched both the legislative and financial history of the Vicksburg National Military Park and the road situation and have concluded that the City of Vicksburg is entitled to sufficient financial reimbursement to complete construction of the Mission 66 road. However, before such reimbursement can be provided, an increase in the ceiling on development funding for the Vicksburg Park will be necessary. We would have no objection to enactment of such legislation."

S. 2158, as introduced by Senator Eastland and myself, provided for an increase of \$2 million in the authorization for the Mission 66 Bypass Road. I understand that the latest estimate indicates that the road can be completed for \$1.8 million, and with that understanding I support the latter figure.

Mr. Chairman and members of the Subcommittee, I urge your favorable consideration of this legislation. It will correct a situation which has been unsatisfactory for the Park Service and the many tourists visiting this historical site, and it will meet a longstanding need of the citizens of Vicksburg.

I appreciate the opportunity to present this statement.

STATEMENT OF HON. JAMES O. EASTLAND, A U.S. SENATOR FROM THE STATE OF MISSISSIPPI

I appreciate very much your holding hearings on S. 2158 today.

The passage of this bill and its funding, will fulfill a commitment by our government to the city of Vicksburg, Mississippi. The city and its citizens have waited patiently for ten years. The full enjoyment of the park facilities has been restricted to our visitors due to the delay.

I am happy that OMB concurs with the Park Service and the city in addressing this road problem now. The funding should be accomplished as quickly as possible to prevent erosion of the limited authorization through inflation in construction costs. I will work for funding as soon as authorization is provided.

I shall not address the merits of the bill as Mayor Bullard and the Park Service are more conversant with the details and needs. I am sure they will provide ample information to justify the increased authorization.

I will appreciate the committee's early and favorable consideration of the bill and for making this statement a part of the record.

Senator JOHNSTON. Next we have a most important bill to consider, S. 1689, to amend the Pennsylvania Avenue Development Corporation Act of 1972. This is an extremely important piece of legislation for this country, and involves considerable expense, we would hope avenues of beauty around the country. Yet it has fallen all below the standards that the principal avenue in this Nation's Capital should have. We want to upgrade it, and put money where private enterprise money could not do the job.

We are here to consider further implementation of that act. We have a large number of witnesses. We have a very high quality group of witnesses, but not very large in number.

We begin with Mr. Elwood Quesada, Chairman of the Pennsylvania Avenue Development Corporation, and accompanied by John Woodbridge, Executive Director; Mr. Peter Meszoly, General Counsel; and David Harris, Assistant Director for Finance.

STATEMENT OF ELWOOD R. QUESADA, CHAIRMAN, PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION; ACCOMPANIED BY JOHN WOODBRIDGE, EXECUTIVE DIRECTOR; PETER MESZOLY, GENERAL COUNSEL; DAVID HARRIS, ASSISTANT DIRECTOR, FINANCE

Mr. QUESADA. Mr. Chairman, we have given your committee a prepared statement to suit your purposes.

Senator JOHNSTON. It will be entered in the record without objection.

Mr. QUESADA. This is relatively simple. What we are asking your committee to consider is the authorization of the necessary funds that would permit the staff to function for the next 5 years. That is an average of about \$1.5 million for the next 5 years.

This has been delayed for one reason or another. We are operating on a continuing resolution, and we would like to formalize it if possible.

We are now changing from planners to doers. The bill provides for increase of our staff from 20 to 30, which is by any standard a small number, because we think we can be more efficient at that size, and that is the substance of the bill.

Senator JOHNSTON. The question really is whether the Congress intends to go through the Pennsylvania Avenue development plan. That is really the question. If we are there is no question then, that this bill must be enacted. In my view we have no choice but to fulfill the commitment we have already made, and to go ahead and consummate that plan.

I think frankly, gentlemen, we can in the staff budget, cutting and the staff resistance to expenditures of money, a sentiment we all share. coming up with this kind of money is always difficult, but as far as I am concerned it is necessary.

The Willard Hotel, for example, is perhaps the most historic building in the city of Washington yet to be brought under Government control. We cannot lose that. We must proceed with the plan. That means in my view, we must enact this bill to keep you and your staff going for the next few months.

Is there anything else you would like to add?

Mr. QUESADA. Just to reinforce what you have said, and it will be very short. We have every reason to believe the administration is going to ask Congress to fund the whole bill, the whole requirement, in the upcoming appropriations act. I would like to make sure it is understood that the vast majority of the cost of rehabilitating Pennsylvania Avenue will be borne by the private sector, the vast majority. If it is not that way, I don't think it can possibly succeed. I would not be brazen enough to ask the government to do it.

Senator JOHNSTON. We understand that it will take some government money if we want to keep the Willard as it is, and I think all Americans, who are familiar with its historical significance, do. It will cost money to keep it as it is. It was not designed to be a modern hotel. It will take some major refurbishing private enterprise could not hope to do on its own. But there is a place and a role for the Government to play. How far have you gotten with your plans for the Willard Hotel?

Mr. QUESADA. We have plans for the land use of it. We are hoping, as you are, that the Willard can be saved. There are interested parties who have indicated a desire, as an entrepreneur to come in and operate it as a hotel.

My opinion, and it is a firm opinion, if the Pennsylvania Avenue plan is fully funded that the Willard Hotel or that building will be an active hotel again.

Senator JOHNSTON. We must say it is not just the hope of this committee, but I think the highest priority should be to save the Willard. If we don't save the Willard, then we haven't done anything, and I am sure you share that view.

We shall get your bill out. I am very glad to hear you say you have commitments from the administration to fund the act.

Thank you very much, sir.

[The prepared statement of Mr. Quesada follows:]

STATEMENT OF

ELWOOD R. QUESADA
CHAIRMAN, PENNSYLVANIA AVENUE
DEVELOPMENT CORPORATION

before the
Subcommittee on Parks and Recreation
Committee on Interior and Insular Affairs

UNITED STATES SENATE

November 13, 1975

Mister Chairman and Members of the Committee:

I am Elwood R. Quesada, Chairman of the Pennsylvania Avenue Development Corporation. Accompanied by members of the Corporation's staff, I am here in support of S. 1689, and to answer questions which the Committee may have on our operations and on the Pennsylvania Avenue Plan.

We have not had the opportunity to appear before this Committee since May of 1974, when we testified on a bill similar to this one, to amend the Corporation's authorizing legislation. The present measure, S. 1689, would authorize the appropriation of the Corporation's salaries and expenses for the current and the next four fiscal years. Before outlining our support for this legislation, I would like to briefly bring the Committee up to date on the status of the Pennsylvania Avenue Plan.

Established in October of 1972 the Corporation was first funded in July, 1973, at which time work began on the comprehensive development plan called for by our Act. The statutory objectives stated in the law are to eliminate the economic and physical blight of the Avenue's northern environs and to create an environment befitting the historic and symbolic importance of the Avenue linking the Capitol and the White House. The plan prepared by the Corporation was formally reviewed by the Mayor of the District of Columbia and the Secretary of the Interior and was commented on by numerous Federal and District agencies, community, and civic groups. It was then transmitted to Congress in November 1974, and held by both the Senate and the House for a review period of sixty legislative days. On May 19, 1975, the plan became effective, neither House having passed a resolution in opposition to it. The Corporation is prepared to implement the plan upon authorization and appropriation of funds in accordance with the financial program described in the "Pennsylvania Avenue Plan - 1974".

The financing program outlined in the plan calls for a Federal appropriation of \$130 million for all public improvements and attendant costs, and an increase in the borrowing authority of the Corporation from \$50 million to \$200 million. The \$130 million in appropriations is recommended to be made available at the beginning of development for outlay over the 14 years estimated for carrying out the plan. The money is for public projects, amenities and costs, which private developers do not assume. These include: repaving and landscaping of Pennsylvania Avenue with a broadened sidewalk; creation of public open spaces, special lighting, street furniture and other streetscape fixtures; preservation and restoration of designated landmark and other significant structures;

changes in land use enabling development of a residential complex of 1500 units along the Avenue, which will give the area a more human quality and activity past the end of the working day; and, relocation assistance to help local businesses return successfully to redeveloped space in the area.

Borrowed funds would be used for land acquisition and preparation. The Corporation would repay its borrowings, with interest, from proceeds derived from the sale or lease of acquired and cleared parcels to private developers. The Corporation has estimated that the present authority in our Act to borrow up to \$50 million from the Treasury needs to be expanded to allow incurred debt up to \$200 million. In response to this Federal investment, the Corporation estimates that over \$350 million in private investment will be generated in the development area once the federal commitment to the plan becomes a reality.

Beyond the financing requirements for implementation outlined above, the Corporation will also need approximately \$1.5 million annually for salaries and expenses. This requirement is the subject of the legislation now being considered by this Committee. Further legislation will be needed to authorize the appropriation of \$130 million for public projects, and to authorize borrowing up to \$200 million. A draft proposed bill to provide such authority has recently been submitted to OMB with the Corporation's FY 77 budget estimate. We have been advised that OMB will act promptly on reviewing the draft, so that we may submit the bill to Congress for consideration, and hopefully enactment, in this fiscal year.

Mister Chairman, having summarized some of the broader aspects of financing the development plan, I would now like to address the bill being considered by the Committee, and its companion measure, H.R. 7743. The need for requesting a further authorization for operating expenses became apparent last year during preparation of the fiscal 1976 budget estimate. Accordingly, as the period of Congressional review of the plan drew toward a favorable close last spring, we submitted draft legislation subsequently introduced as the pending bill, S. 1689. Language to authorize capital funding was not included at that time because the plan had not been accepted by Congress, and such a request would have been premature.

The original authorization in our act, as amended, provided a total amount of \$1,750,000 for salaries and expenses. All but \$76,000 of that amount had been appropriated through fiscal year 1975. When the Corporation testified on its fiscal 76 request before the Appropriations Committees, we advised them that legislation had been requested to provide adequate authorization for the FY 76 request of \$1,256,000. The Corporation's testimony was received favorably; however, the House Appropriation

Subcommittee on Interior excluded, without prejudice, our request from the pending appropriation Act, H.R. 8773. We have since requested that the Senate Appropriations Committee restore us to the Act, contingent upon the enactment of authorizing legislation. While these matters have been pending, our funding since July 1 has been under a continuing resolution.

In the meantime, the House Subcommittee on National Parks and Recreation held hearings on our authorizing legislation in July, and marked-up the bill on September 19, 1975. Although a copy of the mark-up of H.R. 7743 is not yet available to us, we understand that the following changes were made in the course of favorably reporting the bill out of Subcommittee: (1) the authorization period was limited to this and the next fiscal year (FY 76 and FY 77); and, (2) additional authorization was included for approximately \$36 million to fund public activities under the plan, specifically including a set-aside of not to exceed \$6 million for acquiring the Willard Hotel.

The Corporation is encouraged by the House Subcommittee's amendment to authorize funding of development activities, in addition to granting salaries and expenses authorization. However, we have some difficulty with the approach which was used. I do not think it prudent to single out the Willard and to specify an amount of appropriated money for its acquisition. There are other properties in similar, although not identical, distress. The Corporation has in fact been approached by many owners of both small and large properties asking to be taken at a fair price as soon as possible. In addition to our desire not to single out a sole property for particular attention, our biggest reservation to the proposed amendment is the earmarking of an appropriated sum for the Willard's acquisition. The Corporation's financing plan is predicated on using borrowed money which is to be repaid, to acquire property and to prepare parcels for commercial development. Appropriated funds are requested for our public sector projects and activities. The Willard would, of course, require a subsidy from appropriated funds to cover non-recoverable restoration costs. But this subsidy would be determined later, upon lease of the property to a commercial developer by the Corporation at a price which establishes the restoration deficit.

To preserve the flexibility in implementing the plan, the Corporation's plan recommends legislation which would make available both appropriated funds and borrowing authority in accordance with our projected yearly needs. This will enable us to use borrowed funds for property acquisition and to repay debts incurred out of lease revenues or land sales. Appropriated funds would be used, as needed, to pay for public things, such as: repaving and landscaping the Avenue; restoring landmark structures; and making relocation payments. Financing development along these lines will encourage flexible decision making on projects and costs. Development would proceed in accordance with a schedule

which keeps costs to a minimum and reduces disruptions to the life of the city along the Avenue.

Let me emphasize, however, that my procedural reservations with regard to the amendments to H.R. 7743 do not conflict with my concern for the plight of the owners of the Willard Hotel and others similarly situated. The moratorium imposed by the Act is a necessary planning tool, but it cannot remain in effect too long without becoming onerous. The owners who wish to be bought out should have that opportunity very soon. Furthermore, the Corporation is committed to buying their properties as soon as loan funds are available, and as soon as appropriated funds to finance public aspects of the plan are committed by Congress.

As the most immediate purpose of S. 1689 is to authorize the Corporation's operating funds for the current fiscal year, I will briefly summarize our justification for this year's budget estimate. Our request for the fiscal year begun this past July 1st asks for \$1,256,000 for salaries and expenses, an increase over the \$824,000 appropriated in FY 75. This increase is predicated on the Corporation switching from a general planning function, to the preparation and beginning of implementation of projects under the plan. Accordingly, the FY 76 budget contemplates increasing the present personnel ceiling from 20 to 30 employees.

Although the comprehensive plan has been completed, reviewed by many agencies, and accepted by Congress, a great deal of crucial work preparatory to implementation remains to be done. The Corporation must complete detailed development data and draft prospectuses for key blocks in the area. We must establish and publish simple, fair procedures for dealing with developers, and District and Federal agencies which have review authority in the development area. The Corporation must promulgate internal procedures and schedules for obtaining property appraisals and the acquisition of land by negotiation or condemnation. We must prepare detailed engineering and architectural studies of historic buildings which we wish to preserve, and prepare working plans for major public projects, such as the paving and landscaping of the Avenue. Programs for business relocation assistance and affirmative action with respect to minorities also require additional administrative preparation.

In view of the important tasks that must be done in the remainder of this fiscal year, we urge enactment of S.1689 to authorize our operating funds. This will take us out of the continuing resolution to be funded by a regular appropriation. Additional staff which we require may then be retained. If we do our work well in the next six to nine months--and I shall see to it that we do--we will be ready for prompt and painless implementation when funds become available.

Thank you.

Senator JOHNSTON. We have two additional witnesses; Mr. Charles B. Benenson, president of the Benenson Realty Co., accompanied by Morris Kreppel, executive vice president.

STATEMENT OF CHARLES B. BENENSON, PRESIDENT, BENENSON REALTY CO.; ACCOMPANIED BY MORRIS M. KREPPEL, EXECUTIVE VICE PRESIDENT, BENENSON REALTY CO.

Mr. BENENSON. My name is Charles B. Benenson. I am one of the owners of the Willard Hotel, and I appreciate what you say, and I agree with you that it is a very important landmark. My partners and I have made an effort for many years to cooperate with the Government in efforts to exchange property. We have looked at many properties suggested by GSA, we thought of exchanging for the Willard so it became owned by the Government. However, from 1962 until now, property owners in that area have seen three plans for the development of Pennsylvania Avenue and we have been under the constant threat of condemnation through eminent domain proceedings.

Consequently, since 1962 owners have failed to maintain and improve the property. Decay and deterioration have set in all along northern Pennsylvania Avenue between the Capitol and the White House.

In July 1968 the tenant of the Willard Hotel discontinued operations and the hotel was closed. On October 24, 1968 Secretary Udall authorized the General Services Administration to acquire the Willard Hotel for the proposed National Square via a trade for surplus Federal property.

We then spent thousands of dollars looking at various Federal properties offered by GSA. A contract was entered into with GSA, which involved the exchange of the Willard Hotel and cash for surplus Federal property and thereafter, pursuant to the request of GSA, we made an offer to exchange the Willard Hotel and cash for other surplus Federal property. GSA, however, was unable to go forward with the exchanges.

At this time, in addition to the exchanges with GSA, I looked into the possibility of building an office building. I also discussed the leasing of the Willard to a hotel chain which could modernize and refurbish it. This deal, however, collapsed when I was asked to guarantee Sky Chef, an American Airlines subsidiary, that the property would not be condemned for a definite period of time.

I would like to point out that in approximately 1968 the Chairman of the Regional Capital Planning Commission, Mr. Hammer, said I could not get a permit to build an office building.

The Fine Arts Commission would not approve a permit, and that led to the hiring of a law firm to obtain one. The corporation counsel for the District of Columbia rendered an opinion wherein he concluded that we were entitled to a permit to construct a new office building where the Willard Hotel presently sits.

We did not go forward at that time to demolish the old Willard Hotel and construct a new office building because Mr. Nathaniel Owings, the then head of the Temporary Pennsylvania Avenue Commission, assured me that the Pennsylvania Avenue plan would be

implemented very soon and, indeed, he was quite upset when he heard that I was exploring the possibility of building a new building. As a matter of fact, he went so far as to tell me to forget the building because the plan was a certainty, which would mean that the Willard Hotel would be condemned and demolished for a national square.

Indeed, the mood of the times in 1968-69 was not to preserve the Willard Hotel. The Willard thus was to be demolished for a national square.

Thereafter, I met with Daniel Moynihan, then a Presidential Assistant in the White House, on various occasions in 1969 and 1970, who repeatedly assured me that a trade for the Willard Hotel would be arranged by the GSA within a short period of time, and that he recognized that the owners of the Willard Hotel were being badly treated by the delay and inequities of the situation.

A strong indication that GSA intended to go forward on the trade took place in the late fall of 1970. At that time the Inter-American Development Bank, which is connected with the World Bank, advised that it was interested, from a purchase viewpoint, in the Willard Hotel because of its prominent location, the large plot size and its vacant condition.

The Director of the Bank advised me that GSA would have to approve any deal that the Inter-American Bank made. I, therefore, went to see Mr. Moreland of GSA and frankly told him that I did not want to create a conflict but that I would like to sell our property to the Inter-American Bank, provided GSA would permit it. Mr. Moreland emphatically stated that this would be in direct conflict with the Pennsylvania Avenue plan for a national square. GSA, therefore, refused to permit the Bank to discuss the purchase of our property. This resulted in irreparable harm to us.

When a trade to the General Services Administration failed to materialize by 1973, I elected to proceed with efforts to demolish the Willard Hotel and construct an office building. The Fine Arts Commission and the D.C. Government objected to the demolition of the landmark, and a permit was refused.

Though the Willard was sitting unoccupied as a wasting asset, we were compelled to pay full taxes, interest, insurance and other maintenance charges, and were receiving no return on our investment.

Our recent balance sheet indicated that we are losing approximately \$1,400 per day. Consequently, to protect and develop our valuable real estate, I and the other owners went to court in late 1973 to obtain a permit to demolish the nonstructural elements of the Willard Hotel.

Immediately a great hue and cry arose from the general public and the newspapers were filled with articles and editorials calling for the saving and the preservation of the Willard.

We know it is an historic landmark, an architectural gem, but should we do the preserving for the whole country?

Senator JOHNSTON. Not at \$1,400 a day.

Mr. BENENSON. My partner is a wealthy man. I am not that wealthy, but if this were the only property we owned, we would have been bankrupt long ago. There is a very good chance if this continued for another 12 or 13 years, they will be bankrupt.

Senator JOHNSTON. What did the court do on your permit?

Mr. BENENSON. We won in the local court, and we won in the court of appeals unanimously, but then we were brought to Federal court by a group called, "Don't Tear It Down," and they got an injunction against it of tearing the facade down. They wanted it preserved, and the Federal judge, Judge Jones, turned our request down. He said the PADC had jurisdiction. In fact, he said parenthetically we belong in the Court of Claims, and actually we are in the Court of Claims.

Senator JOHNSTON. We will put your full statement in the record.

Mr. BENENSON. I understand that, but one thing I want you to know about, on July 8, 1975 we got a letter from PADC, and this letter said that, "The Corporation does not intend to acquire property or displace business in the immediate future due to the need for additional funding legislation." The letter then proceeds to tell us to wait a year or more. We cannot wait another "year or more." A year or more—we remember 12 years, 13 years of waiting. We are very, very jittery about this problem, as anyone would be with such a huge outlay. Maybe somehow an income-producing business along the avenue can wait, but we should not be expected to.

Senator JOHNSTON. You had a deal to lease it previously conditioned upon no condemnation, and you lost that. Could you make a similar deal today?

Mr. BENENSON. Not to a hotel chain. The difference in cost between then and now, the cost is a huge amount. Maybe there is a hotel chain that would lease it, but I don't know of any.

Senator JOHNSTON. That is particularly why we need the Federal input here to supply that difference.

Mr. BENENSON. That is exactly right.

I won't read all the statement obviously, but we have been litigating our position in the courts for 2 years at great expense, and I can assure you it is great expense with no immediate relief in sight.

We do not believe that the Congress intended to give the Pennsylvania Avenue Development Corporation the power, directly or indirectly, to confiscate private property, and they don't want to confiscate our property, I am sure, without paying for it. But that surely could be the result if funds are not appropriated.

Senator JOHNSTON. The Federal court has ruled that PADC has jurisdiction, and it cannot be torn down without their consent.

Mr. BENENSON. Right.

Senator JOHNSTON. Your recourse would be in the Court of Claims for this \$1,400 per day or the full value or the measure of the value is that you are losing.

Mr. BENENSON. Right.

Senator JOHNSTON. So in effect we are spending money now by doing nothing.

Mr. BENENSON. That is right exactly.

Senator JOHNSTON. If we are going to save the Willard we had better get on about our business immediately.

Mr. BENENSON. There is something I have not mentioned here that you have just put your finger on. There is more money being spent than just that carrying cost. The deterioration of the building. We are not spending money for preservation. For instance, the roof. I am

sure we should spend \$50,000 right now to put a new roof on. We are not doing it. We don't know what our position is.

If we are going to convert—if we win one of our lawsuits to get a permit, we will make a new office building out of it. We don't need a new roof. However, if it is going to be preserved, a lot more than \$50,000 is going to be wasted by the leaks. That could be stopped right this minute. But should we be expected to spend that money? What are we spending it for? Why should we do it? It is really a very peculiar position we are in.

Senator JOHNSTON. I can promise you this, Mr. Benenson, I will do, and I think this committee will do what it can to see this plan is implemented, and that it is funded. I think we will pass this bill, which provides for the ongoing budget, which is really the immediate question at issue.

I think we committed ourselves in 1972 to saving the Willard, not specifically perhaps with PADC legislation, but certainly that is the centerpiece of the whole Pennsylvania Avenue. We will certainly do what we can to save it. I hope and trust the administration and the rest of Congress shares the enthusiasm of the committee.

Your whole statement will be incorporated in the record.

Mr. BENENSON. Thank you. I understand that. It is long, but there has been a long history.

Senator JOHNSTON. I think the Nation owes you gratitude for having been as patient as you are.

[The prepared statement of Mr. Benenson follows:]

Statement of Charles B. Benenson, one of the owners of the
Willard Hotel, on the Pennsylvania Avenue Development Plan

before the

Senate Subcommittee on Parks and Recreation

Senate Committee on Interior and Insular Affairs

United States Senate

November 13, 1975

STATEMENT OF CHARLES B. BENENSON

My name is Charles B. Benenson. I am one of the owners of the Willard Hotel. The Willard Hotel is a D.C. Landmark and is also on the Register of the National Historic Landmarks and is located on the blockfront of 14th Street between Pennsylvania Avenue and "F" Street.

Since 1962 to the present time, property owners in the area have seen three plans for the development of Pennsylvania Avenue and have been under the constant threat of condemnation through eminent domain proceedings. Consequently, due to the uncertainties since 1962, property owners have failed to maintain properly and improve their properties. Decay and deterioration have generally set in all along the northerly side of Pennsylvania Avenue between the Capitol and the White House.

In July 1968 the tenant of the Willard Hotel discontinued operations and the hotel was closed. On October 24, 1968 Secretary Udall authorized the General Services Administration to acquire the Willard Hotel for the proposed National Square via a trade for surplus Federal property. We then spent thousands of dollars looking at various Federal properties offered by G.S.A. A contract was entered into with G.S.A. which involved the exchange of the Willard Hotel and cash for surplus Federal property and thereafter, pursuant to the request of G.S.A., we made an offer to exchange the Willard Hotel and cash for other surplus Federal Property. G.S.A. however was unable to go forward with the exchanges.

At this time, in addition to the exchanges with G.S.A., I looked into the possibility of building an office building. I also discussed the leasing of the Willard to a hotel chain which could modernize and refurbish it. This deal, however, collapsed when I was asked to guarantee Sky Chef, an American Airlines subsidiary, that the property would not be condemned for a definite period of time. I would like to point out that in approximately 1968 the Chairman of the Regional Capital Planning Commission, Mr. Hammer, said I could not get a permit to build an office building. The Fine Arts Commission would not approve a permit, and that led to the hiring of a law firm to obtain one. The Corporation Counsel for the District of Columbia rendered an opinion wherein he concluded that we were entitled to a permit to construct a new office building where the Willard Hotel presently sits.

We did not go forward at that time to demolish the old Willard Hotel and construct a new office building because Mr. Nathaniel Owings, the then head of the Temporary Pennsylvania Avenue Commission, assured me that the Pennsylvania

Avenue plan would be implemented very soon and, indeed, he was quite upset when he heard that I was exploring the possibility of building a new building. As a matter of fact, he went so far as to tell me to forget the building because the Plan was a certainty, which would mean that the Willard Hotel would be condemned and demolished for a National Square. Indeed, the mood of the times in 1968-1969 was not to preserve the Willard Hotel. The Willard thus was to be demolished for a National Square. Thereafter, I met with Daniel Moynihan, then a presidential assistant in the White House, on various occasions in 1969 and 1970, who repeatedly assured me that a trade for the Willard Hotel would be arranged by the G.S.A. within a short period of time, and that he recognized that the owners of the Willard Hotel were being badly treated by the delay and inequities of the situation. A strong indication that G.S.A. intended to go forward on the trade took place in the late fall of 1970. At that time the Inter-American Development Bank, which is connected with the World Bank, advised that it was interested, from a purchase viewpoint, in the Willard Hotel because of its prominent location, the large plot size and its vacant condition. The Director of the Bank advised me that G.S.A. would have to approve any deal that the Inter-American Bank made. I, therefore, went to see Mr. Moreland of G.S.A. and frankly told him that I did not want to create a conflict but that I would like to sell our property to the Inter-American Bank, provided G.S.A. would permit it. Mr. Moreland emphatically stated that this would be in direct conflict with the Pennsylvania Avenue Plan for a National Square. G.S.A., therefore, refused to permit the Bank to discuss the purchase of our property. This resulted in irreparable harm to us.

When a trade to the General Services Administration failed to materialize by 1973, I elected to proceed with efforts to demolish the Willard Hotel and construct an office building. The Fine Arts Commission and the D.C. Government objected to the demolition of the landmark and a permit was refused.

Though the Willard was sitting unoccupied as a wasting asset, we were compelled to pay full taxes, interest, insurance and other maintenance charges, and were receiving no return on our investment. Our recent balance sheet indicated that we are losing approximately \$1,400.00 per day. Consequently, to protect and develop our valuable real estate, I and the other owners went to Court in late 1973 to obtain a permit to demolish the non-structural elements of the Willard Hotel. Immediately a great hue and cry arose from the general public and the newspapers were filled with articles and editorials calling for the saving and the preservation of the Willard. Yet no one came forward with any money to accomplish the preservation. Thus, since 1968 we have been denied the free use of our property and have been sustaining brutal losses. If my partner, Mr. Arnow, and I did not have other resources, the Willard would have been foreclosed by the mortgagee or the District of Columbia for tax liens. This is tantamount to confiscation.

We prevailed in both the Superior Court and the Court of Appeals of the District of Columbia who ordered that a permit be issued for such proposed demolition of the Willard. We believed at that point that we would finally be allowed to make some economic use of our property, but such was not to be the case. Litigation was brought against us in the United States District Court by a private group, supported by the Pennsylvania Avenue Development Corporation and the D. C. Government, all seeking to enjoin our demolition of the Willard. Again this is a denial of our rights to use our property as we see fit and is tantamount to confiscation. In a pleading filed in Court by the Pennsylvania Avenue Development Corporation it was stated that:

"Pursuant to its Congressional mandate, PADC completed a comprehensive development plan for the Pennsylvania Avenue area. That plan, specifically calling for the preservation of the Willard Hotel building, has now been approved by both houses of Congress. On May 20, 1975, the day after the plan was approved by Congress, PADC submitted a request to the Office of Management and Budget for the appropriations necessary to implement the plan, including the appropriations necessary for the preservation and restoration of the Willard Hotel."

The District Court in a memorandum and order recently issued, made reference to this stated intention of PADC to preserve the Willard, and enjoined us from "demolishing, converting, removing or otherwise altering the exterior facade of the Willard Hotel" unless PADC gives its approval. PADC has informed us emphatically that it would give us no such approval. It has stated in writing:

"The Corporation objects to the issuance of the permit as the projected work is inconsistent with the carrying out of the development plan for the area."

As a result, we are completely stymied in our attempts to utilize our property. We have filed a Notice of Appeal from the District Court's order to the United States Court of Appeals for the D. C. Circuit, and the matter is presently pending.

In view of the statement by PADC to the Court, I hope you will at least appropriate sufficient funds to acquire the Willard, as the PADC implied to the Court would be done. My cause for alarm has been increased by receipt of a letter from the PADC dated July 8, 1975. In this letter addressed to property owners, the statement appears that "The Corporation does not intend to acquire property or displace business in the immediate future due to the need for additional funding legislation." The letter then proceeds to tell us that:

"We have submitted a capital budget to the Office of Management and Budget, and have been discussing necessary legislation with the appropriate Congressional Committees. The time required for the remaining legislative matters to be completed is rather difficult to predict. At any rate, property acquisition and the displacement of businesses by the Corporation, in those areas where it is contemplated, is not likely for a year or more. You will be notified well in advance of any potential displacement."

Gentlemen, we cannot wait another "year or more." Maybe some ongoing income producing businesses along the Avenue can wait. We cannot -- nor should we be expected to. I therefore repeat what I said earlier: I hope that you will at least appropriate sufficient funds to acquire the Willard.

At the suggestion of the District Judge, who rendered the opinion that the proper remedy for our grievance might be a suit against the United States in the U. S. Court of Claims for a wrongful taking of our property without just compensation, we have now brought an "inverse condemnation" suit in that court, alleging that the United States has deprived us of all reasonable or practical use of our property without just compensation in violation of the Fifth Amendment to the United States Constitution. We are claiming damages of more than \$8 million. The answer of the United States is expected shortly.

We have now been litigating our position in the courts for two years, at great expense, and with no immediate relief in sight.

We do not believe that the Congress intended to give the Pennsylvania Avenue Development Corporation the power, whether directly or indirectly, to confiscate private property without paying for it. But that surely could be the result if funds are not appropriated so that the PADC can acquire the Willard and other properties along Pennsylvania Avenue in the lawful manner prescribed in the legislation, to wit, by eminent domain.

There is now a plan, and once funds are appropriated and expended, those who wish the Willard preserved will legitimately have it preserved. Indeed, we, as owners, have never objected to the preservation of the Willard Hotel and, as you can see from what I stated earlier, cooperated for a five year period, until we came to the judgment that we alone could not preserve nor should be expected to preserve the Willard Hotel for the general public. As unwilling private parties we should not be required to bear the expense of preserving the Willard Hotel any longer. Those calling for the preservation should be the ones who pay for it and should come up with their own dollars to preserve the Willard for the benefit of the entire nation.

One may ask, why the urgency and why have I come to testify before the Committee today? The answer is simple. The Willard Hotel, which has remained vacant since July 1968, has resulted in about a loss of more than two million dollars to us. With each day that passes, more money is lost. The Willard as it sits today cannot be used without the expenditure of very substantial funds. In short, we cannot, on our own, continue to sustain these financial losses any longer to preserve the Willard Hotel intact for others to look at. An economically viable, income producing building is necessary so as to be able to pay the real estate taxes, mortgage payments, etc.

If the Willard Hotel is the key to the revitalization of Pennsylvania Avenue as so many people passionately believe, then, for that reason as well as the above reasons, it should be the first property to be acquired so that it may be renovated, once again occupied and sit with dignity on historic Pennsylvania Avenue. In closing, let me thank you for the opportunity of appearing before you today and requesting that you give to the Pennsylvania Avenue Development Corporation the funds they seek. You have permitted the proposed Pennsylvania Avenue Development Plan to pass before you without change and, therefore, to become a reality. It would be a shame if the Plan were permitted to languish now without the necessary funds to implement it. A plan without funds is no plan at all. Without funds, the uncertainties that have prevailed for many years with respect to the development of Pennsylvania Avenue will increase. Indeed, the Plan should be immediately funded or killed. The owners of private property along Pennsylvania Avenue should not have, nor do they want, imposed upon them another thirteen year period of uncertainty brought about by bureaucratic inertia.

The House of Representatives has begun to recognize our plight, and to take action to rectify it. The House Subcommittee on National Parks and Recreation, Committee on Interior and Insular Affairs, has approved a bill to provide salaries and expenses to PADC. The Taylor Amendment to this bill, approved by the Subcommittee, provides for \$36 million to commence the implementation of the Pennsylvania Avenue Plan, and to start with Square 225, where the Willard is situated, as a model block. The Skubitz Amendment to the Taylor Amendment, also approved by the Subcommittee, goes a step further and provides that up to \$6.2 million of the \$36 million be used to acquire the Willard Hotel.

I, therefore, respectfully request, that you appropriate the necessary funds so that all Americans thereby become owners, which they so richly deserve, in a joint venture for the development and beautification of the nation's ceremonial Pennsylvania Avenue. Thank you.

Senator JOHNSTON. Our next witness is Mr. Robert I. Sonfield, vice president and director of City Stores Co., New Orleans, La. Mr. Sonfield will be accompanied by Mr. Richard C. Stempel, House Counsel.

STATEMENT OF ROBERT I. SONFIELD, VICE PRESIDENT AND DIRECTOR, CITY STORES CO.; ACCOMPANIED BY RICHARD C. STEMPEL, HOUSE COUNSEL, CITY STORES CO.

Mr. SONFIELD. My name is Robert I. Sonfield. I reside at 6161 Loyola Street, New Orleans, La. I am going to testify in much the same vein as the previous witness, because the subject is much the same.

I am a vice president and director of City Stores Co., which operates 140 stores in 18 States and the District of Columbia. City Stores is the owner of the building located between seventh and eighth Streets and D and E Streets, Washington, D.C., formerly occupied and operated by Lansburgh's, the department store, which I will refer to as the "Lansburgh's buildings." I am also the president of Maison Blanche Division, a group of eight department stores located in New Orleans, La., and Baton Rouge, La. City Stores Co. has owned the Lansburgh's Buildings, since 1951, when Lansburgh's was purchased and merged into City Stores Co.

In June 1973, City Stores closed its entire Lansburgh's division, including its main downtown store. Lansburgh's was closed because of increasing losses incurred during the prior 6 years.

All of the Lansburgh's branch stores have been sold or leased. Only the main downtown store remains.

The Lansburgh's buildings consist of a number of old interconnected buildings which were operated as an integral, full-line department store.

The buildings have been continuously modernized and at the time Lansburgh's was closed the buildings were centrally air conditioned, fully sprinklered and well fixtured and gave the appearance of a fully modern department store.

Since June 1973, the Lansburgh's buildings, consisting of almost 330,000 square feet of retail, office and storage space, have remained vacant at a considerable cost to City Stores Co. (See attached Exhibit.) Numerous attempts to sell or lease all or part of the buildings have been unsuccessful.

We have received more than one-half dozen bona fide inquiries to purchase the Lansburgh's buildings. However, when we have advised the prospective purchasers that the buildings were within the Pennsylvania Avenue development area, their interest in the Lansburgh's buildings promptly ceased.

The Lansburgh's buildings have, in effect, been condemned by the very existence of the Pennsylvania Avenue development plan. The "condemnation" has deprived City Stores Co., without compensation, of the rights and privileges of ownership such as the ability to sell or lease its real property. The financial drain caused by this "de facto" condemnation is unfair and unwarranted, and is a deprivation of property without due process.

"The Pennsylvania Avenue Plan 1974," published by the Pennsylvania Avenue Development Corporation (PADC) in October 1974 designates block No. 431, in which block the Lansburgh's buildings are

situated, as one of the initial sites to be acquired and used in the development area (See Plan, pages 15, 16, 42, 79, 81, and 82).

It is to be acquired within the first year of the east site staging (See Plan, page 81). PADC's press release of October 24, 1974 lists as a "major element" of the plan:

Assuring that the greatest possible number of existing businesses can remain in the area through two special assistance programs. The now-vacant Lansburgh's Department Store would be renovated for use as a retail mall where businesses could move temporarily while awaiting completion of new space. Special rental assistance would be given to existing businesses when they move into the new space in order to help them adjust to higher rents and changed circumstances redevelopment will bring.

When will the PADC acquisition program commence? For more than a year we have been awaiting some sign that the Lansburgh's buildings will be acquired by PADC. At present, it appears that we are now no closer to an acquisition date than we were over a year ago. In fact, it appears that acquisition is years away, if it is to come at all.

It is imperative that PADC not only be given an appropriation for its administrative and personnel expense, but also sufficient funds to commence its acquisition program. For until it is able to acquire the land and buildings with the development area, the unconscionable burden on owners of property such as the Lansburgh's buildings shall continue. Since the closing of Lansburgh's, City Stores Co. has had to expend more than \$450,000 to operate and maintain the Lansburgh's buildings in a safe condition in accordance with the District code. We have had to employ a full-time onsite operating engineer, a porter, and part-time employees. Our total payroll expense for 1975 will exceed \$40,000. The operating expenses for the buildings, including fuel, repairs, replacements and general maintenance, have already exceeded \$93,000 for the first 10 months of 1975. Our real estate taxes were \$72,860.24 in 1975. Our total 1975 out-of-pocket expenses for maintaining these vacant buildings shall exceed \$220,000. (See attached exhibit). And we are prevented from privately disposing of these buildings by the very existence of PADC. How much longer shall we be burdened by these expenses?

The Lansburgh's buildings are exceptionally valuable and are vital to the development of the District of Columbia. Were it not for the existence of the Pennsylvania Avenue development plan, we are certain that we would have been able to dispose of the Lansburgh's buildings several years ago.

It does not benefit anybody, the District of Columbia, PADC, or City Stores Co., for the Lansburgh's buildings to continue to remain vacant. Until the buildings are sold by us or taken by condemnation, they must remain vacant and as long as they are vacant, they will continue to adversely affect the retail community which surrounds the buildings.

A vacant, boarded up department store does nothing but have a serious adverse affect on the community which surrounds it. The buildings will remain vacant and boarded up until the Pennsylvania Avenue Development Corporation is given sufficient funds to acquire the land and buildings and utilize the vast resources for the betterment of the community.

Senator JOHNSTON. Let me interrupt you there. You have received over half a dozen bona fide inquiries for the leasing of the space?

Mr. SONFIELD. That is correct.

Senator JOHNSTON. There was nothing wrong with that space in 1973 when the entire Lansburgh operation closed down, and it would have been a good retail outlet for another store, would it not?

Mr. SONFIELD. Yes, sir, it would have.

Senator JOHNSTON. The only thing fortunate about your situation is you have not had to wait 13 years, as Mr. Benenson has, but I think this kind of situation underlies the emergency nature of the situation. Congress must act, and really make up its mind, and I think we have made up our mind in the 1972 act.

This is precisely the kind of action on the part of the Congress to cause people in this nation generally to be frustrated, to say Government can operate, but the Government is insensitive to economics, that the Government is insensitive to people.

I think it is an absolute outrage to tell people they cannot use their property, they cannot sell it, and they cannot be compensated for it. And I think this case is, that your case is undeniable as far as I am concerned. I am going to do what I can, Mr. Sonfield, to see that this injustice, and I think it is a severe injustice, is righted as quickly as possible. It is part of the plan here. If the PADC wants to include the Lansburgh building and plan, if they want to, then it ought to be funded, and I hope we can proceed to get that funding as quickly as possible, and I think your case has a lot of justice to it.

Mr. SONFIELD. Senator, I thank you for allowing me to appear before your committee. I will be more than happy to answer any questions.

Senator JOHNSTON. I think you have told the whole story. It is very clear.

Mr. SONFIELD. It is very much parallel to Mr. Benenson's story. It is a drain on our limited financial ability. I think it would be most helpful to my company if we can dispose of this building, either to the Government or privately.

Senator JOHNSTON. Thank you very much indeed.

[The prepared statement of Mr. Sonfield follows:]

Statement of Robert I. Sonfield
November 13, 1975

My name is Robert I. Sonfield. I reside at 6161 Loyola Street, New Orleans, Louisiana 70118. I am a Vice President and Director of City Stores Company, the owner of the buildings located between 7th & 8th Streets at "E" Street, NW, Washington, D. C., formerly occupied by and operated as the Lansburgh's Department Store (herein after referred to as the "Lansburgh's buildings.") I am also the President of the Maison Blanche Division of City Stores Company, a group of eight department stores located in New Orleans and Baton Rouge, Louisiana.

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staging (see Plan, page 81). PADC's press release of October 24, 1974 lists as a "major element" of the Plan :

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which surrounds the buildings. A vacant, boarded-up department store does nothing but have a serious adverse affect on the community which surrounds it. The buildings will remain vacant and boarded up until the Pennsylvania Avenue Development Corporation is given sufficient funds to acquire the land and buildings and utilize the vast resources for the betterment of the community.

Until the PADC acquires the Lansburgh's buildings, the District of Columbia government will suffer financial harm. As a result of the vacancy of the buildings and the present suspension of our ability to dispose of them, we have been able to obtain a reduction in the real estate assessment on the buildings which will reduce the real estate tax in 1976 to about \$53,000.00, a loss of over \$20,000 in tax revenue. When the buildings are owned by PADC, they will pay a sum to the District in lieu of taxes, which sum should be in excess of the reduced taxes which we will now be paying. But more importantly, the retail community in which the Lansburgh's buildings are located will be revitalized and will generate greatly increased tax revenue from the increased sales volume.

We respectfully request that this Subcommittee immediately authorize the necessary funding for PADC to acquire the Lansburgh's buildings. This action will:

1. Alleviate the extreme economic hardship to City Stores Company caused by the de facto

taking of the Lansburgh's buildings without any compensation.

2. Permit the PADC to implement the initial stages of its Plan.

3. Benefit the retail community surrounding the Lansburgh's buildings by restoring a viable retail space, encouraging retail pedestrian traffic, and giving the necessary uplift to a community of which is being drained by having vacant boarded-up store premises.

I thank this Subcommittee for the opportunity to appear before it.

I trust that this matter, small when compared to the magnitude of some of the problems of government, shall receive the full and proper consideration it deserves.

I am willing to answer any questions which you may have.

Footnotes.

1. We have submitted an offer to lease 65,000 square feet of the Lansburgh's buildings to the General Services Administration for a term of five (5) years. This offer has not been accepted and we have reason to believe that the offer, as submitted, will be rejected.

EXHIBIT TO STATEMENT OF
ROBERT I. SONFIELD

OPERATING EXPENSES
 FOR LANSBURGH'S BUILDINGS
BLOCK #431, WASHINGTON, D.C.

	<u>1974</u>	<u>1975</u>
Utilities, repairs, oil, alarm system	\$ 64,000.00	\$ 93,725.00*
Salaries for On-Site employees	28,735.00	40,000.00
Insurance	5,000.00	5,000.00
Real Estate Taxes (approximate)	<u>71,000.00</u>	<u>72,860.00</u>
	\$168,735.00	\$211,585.00

* First ten months only, estimated total \$105,000 for
 calendar 1975.

Senator JOHNSTON. The next item is S. 867, to amend the act entitled "An act to establish the Fire Island National Seashore." We have a long list of witnesses here. Senator Javits is at another hearing—Senator Javits I have been informed is coming over.

Neither of the Congressman is here, Congressman Downey or Congressman Solarz. But Assistant Secretary Reed is still here, and we will be glad to hear from you again.

**STATEMENT OF HON. NATHANIEL P. REED, ASSISTANT SECRETARY,
FISH, WILDLIFE AND PARKS, U.S. DEPARTMENT OF THE
INTERIOR**

Secretary REED. Thank you, Mr. Chairman.

Mr. Chairman, as recommended in the Department's report on S. 867, we believe that action on this bill should be deferred until such time as we have completed the master planning process for Fire Island National Seashore.

The Fire Island master planning process began in 1969, culminating in a draft plan in 1972. After intensive review the plan was deemed inadequate. I instructed the National Park Service to initiate a major research contract to supplement the rejected plan.

From that effort, the National Park Service made public a draft master plan in May, 1975. The Services plan was received with considerable criticism. The Director then ordered the master planning process made over, encouraging public participation.

Last summer hearings and workshops were held involving literally thousands of concerned citizens. The public input has been carefully considered. Now a new draft is in preparation with a due date of March, 1976. A series of public hearings will be held next summer to receive additional input, and to complete the environmental impact statement, and prepare a full report to the Congress on the alternatives available, and a recommended course of action.

Fire Island National Seashore in New York was authorized by the act of September 11, 1964, to include approximately 19,311 acres. The act authorized the appropriation of not more than \$16 million for land acquisition within the boundary.

The seashore is currently used by many for swimming and nature study. Visitation in 1974 was 550,400.

Senator JOHNSTON. Let me interrupt. How much beach do you have?

Secretary REED. In one of several towns at the west end there has been severe erosion. However, on the Federal entity end, and there is a fine State park on the east end, as well, there is an extensive beach. Obviously, Mr. Chairman, it moves due to the frequency of storms, but there is a broad coastal dune arrangement with a very broad, fine beach.

Senator JOHNSTON. How long is that?

Secretary REED. Thirty miles long inlet to inlet.

Senator JOHNSTON. Most of that is not beach. It would not be seashore.

Secretary REED. No, sir, what is the beach.

Senator JOHNSTON. Thirty miles of beach?

Secretary REED. Yes, sir, this is the Atlantic ocean here. It is a coastal barrier dune beach.

Senator JOHNSTON. It is a good bathing beach?

Secretary REED. To be this close to New York City, to be such a wild place is extraordinary. I look forward to taking you on a field trip there so you can inspect it. It is one of the real gems in the East.

Senator JOHNSTON. Behind the bench, what do you have?

Secretary REED. There is a high series of coastal dunes dropping off into a mixed community of poison ivy and a very peculiar pine tree that has become extremely resistant to salt. It can take the tremendous salt air, but usually it is at a low elevation. The dunes give it protection. It is an extraordinary community. When you first look at it, you don't think it is extraordinary, but when you consider the salt it must take it is an extraordinary system. Then there is the great bay behind it, a major clamming area, and the towns across the way.

Senator Johnston. Does anyone live there?

Secretary REED. Yes, sir. In the summertime literally thousands of people live here. The total number of houses is 3,600 habitable dwellings in 17 communities. This is where the rub is, Mr. Chairman, as you will see as we get into this bill.

The Congress authorized this bill. It authorized the Secretary to put zoning regulations in those towns, and that is the source of contention that has been ongoing since the authorization.

Senator JOHNSTON. I interrupted you, Mr. Secretary. Please proceed with your statement.

Secretary REED. Since the area was authorized in 1964, the National Park Service has acquired 5,934.59 acres. There has been appropriated to date \$15,730,838 for the acquisition.

A balance of \$269,162 remains under the existing authorized but unappropriated ceiling. There remains to be acquired within the authorized boundary 12,378.19 acres of public land, which constitutes in large part submerged lands owned by the state of New York, and 998.22 acres of private land.

In the main, this latter figure represents private land which, under subsection 2(E) of the 1964 law, cannot be acquired by condemnation so long as an appropriate local zoning agency—these are the private lands within the bounds of the community—shall have in force and applicable to the property a valid zoning ordinance satisfactory to the Secretary.

Following the enactment of the 1964 law, the National Park Service worked with local zoning authorities to promulgate regulations specifying standards for approval by the Secretary for zoning ordinances.

These standards in the words of the law must have the object of: (1) prohibiting new commercial or industrial uses other than commercial or industrial uses which the Secretary considers are consistent with the purposes of this act, of all property within the national seashore, and (2) promoting the protection and development for purposes of this act of the land within the national seashore by means of acreage, frontage, and setback requirements.

However, of the four local zoning jurisdictions involved, ordinances have been approved for only one, the town of Islip.

Mr. Chairman, with one exception, we have acquired with the funds appropriated to date virtually all the private land that was proposed, outside of the areas subject to zoning, and which are not subject to condemnation procedures.

The exception, which we acquired at one time but revested, consists of an 8.5 acre strip which we believe is not needed for management or public use.

We did take a piece of land, and fearing we did not have enough money to cover the cost of taking, the land was revested to its owners.

S. 867 would amend the 1964 act to add an additional \$10 million to the ceiling for land acquisition. In addition, the bill would amend the act to authorize the Secretary of the Interior to request, and the appropriate U.S. district court to grant, an injunction concerning any action which the Secretary determines is inconsistent with the purposes of the act or which he considers adverse to the protection and development of the area.

Senator JOHNSTON. Let me interrupt you there. You say you have acquired all of the land outside of the zoning jurisdiction.

Secretary REED. Except for this one piece, this 8.5 acres.

Senator JOHNSTON. Where is that piece of land?

Mr. WAGERS. This is the tract of land down near the west end.

Secretary REED. It separates a county park and another community.

Senator JOHNSTON. Do you own all of the seashore?

Mr. WAGERS. We own all the area shown in green. The white areas are Ocean Ridge, Davis Park, and the other communities.

Senator JOHNSTON. What would the \$10 million be used for, what areas?

Secretary REED. As I understand it, sir, it would be used to give the Secretary the power to condemn if we are unable to get the local enforcement of zoning law.

Now, several significant things have happened, Mr. Chairman. I am not sure I should be the one to develop Suffolk County's political problems to you, but we have been unable to arrive at agreement with the local communities and the zoning powers on the opposite side of the bay over zoning in Islip. Mr. Cohalan is here, has rigorously enforced zoning standards from Islip.

If there were going to be a change in zoning—if there were variances going to be allowed, which in the decisionmaking of the Secretary were adverse to the seashore, to the overall ambience of the seashore, this money would be used to buy them out, to take them out.

We had this authority under the original act—

Senator JOHNSTON. Let me interrupt you there. The \$10 million would do what you want the local community to do?

Secretary REED. Yes, sir.

Senator JOHNSTON. If the local communities don't want to undertake their responsibility, and they have the people closest, who most enjoy the seashore, then why are we spending Federal dollars to supplant their responsibility?

Secretary REED. It was determined in 1964 by the Congress, and I don't disagree, that this is such a magnificent national resource, the Government should exercise a club, if you wish, to insist local zoning problems are rigorously enforced. All our relationship with Islip has been excellent. We regret we have not been able to enter into the same hardnose agreement with Brookhaven.

Senator JOHNSTON. We recognize it is a national resource. We have spent \$15 million for its acquisition, but why is it a national resource?

Secretary REED. It is close to the metropolitan area of 20 million people. This represents an extraordinarily wild coastal barrier ecosystem, which affords hundreds of thousands of people great pleasure.

In the future, as access is increased, it will afford even more pleasure without being destroyed.

Senator JOHNSTON. I don't ask that question to quarrel with you. It is one of the basic questions we have to answer on this committee; that is to say, is a national resource that which is pretty, that which has a valuable ecosystem, and that which affords recreation to areas of dense population? I am inclined to think the answer is yes, but the answer is not very clear to this committee. If you answer yes to Fire Island, and Congress has already answered yes to the tune of \$15 million, then why not for all of the other parks, for the Chattahoochee in Atlanta, and I think we are ready to answer yes to that, and for recreation advantages all over this Nation? But one thing is perfectly clear to me, and that is when you have a resource of this kind, it is a national resource only for those reasons, not because people want to come from all over the world to go there, but because it is just so valuable for those who are close to it. If those closest to it do not want to do anything to preserve it, I don't see that this committee ought to put up \$10 million to develop it.

Secretary REED. Before I can make a recommendation to you, Mr. Chairman, and to this committee, I need a good master plan. We can be criticized for a faltering effort between 1968 and 1971. We can be criticized for entering into a contract to complete a master plan in 1971, which the contractor did not successfully complete.

I went and inspected the Fire Island seashore in 1972. I met with officials of the town of Suffolk County, and we agreed at that time for a new start. A new start has taken longer than anybody has anticipated. We can be criticized for that. We can be criticized for what is perceived by some to be not a good master plan effort.

We are on target now with a good process. We are going to be able to give you a good master plan and EIS, and a series of alternative actions. Before I would recommend \$10 million to this committee, I would again reiterate my desire to complete that process before I testify in favor of any course of action. That is what I am doing here today. I am telling you the problems, but I would like to complete this process, which has been made public, which hundreds of people have testified at in workshops, and I would like to come and tell you what the right thing is to do, what the consensus is.

Senator JOHNSTON. How many State dollars have been put up?

Secretary REED. None. They have a fine State park. They have a county park here in brown, and the State park is in yellow. The State park is one of the best in the system. That is Robert Moses State Park.

Senator JOHNSTON. I don't want to prejudge this until I have heard all of the witnesses, but I think at a minimum a State should be heavily involved in both the planning and the funding, and I think they should have been up to this point.

We have so many things of this sort. Perhaps not as pretty, perhaps not as valuable, but they meet the same standards of a national resource that you describe. There is a Federal interest, but I think there is a State interest.

Secretary REED. The two governing bodies are even closer than that, the communities of Islip and Brookhaven. That is where we must make agreement.

I am going up on the 10th of December or early December, and I am going to dine with the new commissioners from Brookhaven, that have just been elected. Mr. Cohalan, who by an enormous plurality, was reelected, and Mr. Biderman, head of the Fire Island Association. We opened the dialog last year. We are attempting to solidify the dialog into prudent action enforceable by local jurisdiction. I hope to be able to report to you we have been able to make agreement, and the agreement is going to be lasting.

Senator JOHNSTON. If you have that agreement, you probably won't need the \$10 million.

Secretary REED. I shouldn't say that. I have not finished the EIS, and before I give you an answer on that I am sure the Secretary would like to have a sum of money in his hip pocket as an enforcement tool if need be, but I don't want to get into that figure until we have wrestled that out. If I told you what I thought right now, I would be in violation of the law, and the court would find I am prejudging something in motion, and I do not want to be in that position.

The rest of the statement stands on its own merits, and it basically goes into the act.

Thank you.

[The prepared statement of Secretary Reed follows:]

STATEMENT OF HON. NATHANIEL P. REED, ASSISTANT SECRETARY OF THE
DEPARTMENT OF THE INTERIOR

Mr. Chairman, as recommended in the Department's report on S. 867, we believe that action on this bill should be deferred until such time as we have completed the master planning process for Fire Island National Seashore.

Fire Island National Seashore in New York was authorized by the act of September 11, 1964, to include approximately 19,311 acres. The act authorized the appropriation of not more than \$16 million for land acquisition within the boundary. The seashore is currently used by many for swimming and nature study. Visitation in 1974 was 550,400.

Since the area was authorized in 1964, the National Park Service has acquired 5,934.59 acres. There has been appropriated to date \$15,730,838 for this acquisition. A balance of \$269,162 remains under the existing appropriation ceiling. There remains to be acquired within the authorized boundary 12,378.19 acres of public land, which constitutes in large part submerged lands owned by the State of New York, and 998.22 acres of private land. In the main, this latter figure represents private land which, under subsection 2(e) of the 1964 law, cannot be acquired by condemnation so long as an appropriate local zoning agency shall have in force and applicable to the property a valid zoning ordinance satisfactory to the Secretary.

Following the enactment of the 1964 law, the National Park Service worked with local zoning authorities to promulgate regulations specifying standards for approval by the Secretary for Zoning Ordinances. These standards in the words of the law must have the object of "(1) prohibiting new commercial or industrial uses other than commercial or industrial uses which the Secretary considers are consistent with the purposes of this act, of all property within the National Seashore, and (2) promoting the protection and development for purposes of this act of the land within the National Seashore by means of acreage, frontage, and set back requirements." However, of the four local zoning jurisdictions involved, ordinances have been approved for only one—the town of Islip. Mr. Chairman, with one exception, we have acquired with the funds appropriated to date virtually all the private land that was proposed, outside of the areas subject to zoning and which are not subject to condemnation procedures. The exception,

which we acquired at one time but revested, consists of an 8.5-acre strip adjacent to a county park which we believe is not needed for management or public use.

S. 867 would amend the 1964 Act to add an additional \$10 million to the ceiling for land acquisition. In addition, the bill would amend the act to authorize the Secretary of the Interior to request, and the appropriate United States District Court to grant, an injunction concerning any action which the Secretary determines is inconsistent with the purposes of the act or which he considers adverse to the protection and development of the area.

Mr. Chairman, under the 1964 act which prohibited condemnation of zoned properties, we have assumed it was the intent of Congress that zoned areas not be acquired if zoning remains in effect. We have therefore acquired substantially all the property outside of the zoned areas. It is the intent of S. 867 to permit the Secretary of the Interior to enforce local zoning by authorizing funds to acquire any properties which are used in a manner inconsistent with approved local zoning. New development and zoning variances have occurred. If a single property is used inconsistently with zoning, the 1964 act would permit condemnation of that property, but the United States would be left with ownership of a residence as a result, with maintenance responsibility and difficult management problems if the property is but one surrounded by other residences.

More importantly, Mr. Chairman, the National Park Service is currently undergoing a master planning process with respect to Fire Island National Seashore, which includes involvement of the public and the users of this area. Until we are able to complete this master planning process, and to assess the environmental consequences of alternative courses of action, we cannot recommend an increase in land acquisition authorization, nor can we support at this time the need for authority of the Secretary to enjoin inconsistent uses. Presumably, the inconsistent uses would also be those which would permit condemnation of zoned properties.

The bill, therefore, presents the question of whether or not the United States should acquire the 998.22 acres of improved properties which are now exempt from condemnation under the law. Our master plan will address this issue as well as others, and we ask the committee to withhold action on S. 867 until such time as we are able to present a reasoned analysis, supported by the appropriate environmental documents, of the master plan alternatives. We believe that we will be in a position to report substantively on the bill by spring of 1976. Thank you very much, Mr. Chairman, this concludes my prepared testimony.

Senator JOHNSTON. The next on the list is the Honorable Peter F. Cohalan, supervisor of the town of Islip, and we are very glad to have you, Mr. Cohalan.

STATEMENT OF HON. PETER F. COHALAN, SUPERVISOR, TOWN OF ISLIP, N.Y.

Mr. COHALAN. With me on my right is Frank Jones, deputy supervisor of the township of Islip.

I was listening to the comments you exchanged with Mr. Reed. I have a prepared statement.

I am supervisor of the town of Islip, Suffolk County, a municipality with a population of 320,000 people under whose jurisdiction a portion of the Fire Island National Seashore falls.

As supervisor of Islip, I am here to lend my support to Senator Javits' proposal for increased authorization and an expansion of the seashore's injunctive authority.

The Fire Island National Seashore lies within two local jurisdictions on Long Island, Islip Town and Brookhaven Town, with the westernmost portion in Islip. The boundaries were set by King's patents from King Charles II back in 1766.

During the past 4 years I served as supervisor of Islip, I have extended my full cooperation to the Interior Department in carrying out their congressional mandate at the seashore. However, it is ap-

parent that insufficient funds, lack of clear-cut objectives and the absence of a clear interpretation of the original mandate has led to confusion and an inability to act decisively by the Park Service officials, through no fault of their own.

The Seashore Act was an ambitious one, one that was to guarantee the preservation of the barrier beach for its conservation and its protective values. It was to allow for reasonable recreation facilities, compatible with the conservation effort, for the enjoyment of our people without destroying the primary intent. The monies authorized to the Seashore, to date, fall far short of the kind of financial commitment that would permit the Department to carry out its total responsibility.

The task of preserving Fire Island is neither easy nor inexpensive. However, it was agreed by Congress, more than a decade ago, that its preservation was vital to a region of this country inhabited by more than twelve million people, all living within reasonable travel distance of the Park.

Congress also recognized at that time that it was clearly a national goal to protect our ocean fronts and our inland bays as well as the economies and ecologies which are dependent on this protection. Yet, in all this, the Department does not have adequate funds to acquire properties in the seashore threatened with development. It has not received funding to adequately police and maintain properties already owned by the Government.

Senator JOHNSTON. Let me interrupt you at this point. I have read your statement. Let me ask you some questions.

You say you desperately need control and land management. What will happen if you don't have control and land management on Fire Island?

Mr. COHALAN. Under New York State law, the local municipalities control zoning and land management. In Suffolk County, N.Y., which has been undergoing tremendous growth in the last 15 years, an example would be the town of Islip. The population has increased from 80,000 to 120,000. Suffolk County is 1.2 million. Fire Island's total population varies from approximately less than 1,000 during year around to many thousand, 50,000, hundreds of thousands of people during the summer months.

It is a recognized, well-known regional summer resort. The zoning power, however, the control of land uses vested by New York State law and the local municipality, there are four local municipalities that regulate land use on Fire Island. The town of Brookhaven, the town of Islip, and in small measure the salt there, the village of Ocean Beach. In past years, Islip's local administration and Brookhaven adopted a laissez faire policy on land use on master plan. In other words, they let whatever wanted to be, be. They recognized property rights almost to a fault in letting people whenever they wanted to build, and they granted variances for people to build on small size lots. In Islip, our minimum lot is 60 by 100 on the beach, but people have been allowed in past years to build on smaller lots.

Senator JOHNSTON. What does this do to Fire Island?

Mr. COHALAN. It overpopulates it. Since I have been supervisor, for the town of Islip, we have instituted in conjunction with the master plan of Fire Island, we have instituted a moratorium on all

variances to be granted through our township board of appeals. In other words, our board of appeals has lost its power due to our executive—lost its power to grant variances. Unfortunately, the other town, Brookhaven Township, has not done that, and it is still undergoing a heavy growth due to lack of control.

Senator JOHNSTON. If they did that, would that solve the problem?

Mr. COHALAN. No; it won't solve the problem in Islip either because of the fact another town administration could come in in the future and exercise its authority under New York State law, allow variances helter-skelter on Fire Island.

Senator JOHNSTON. If we could preserve the status quo, that would solve the problem of Fire Island?

Mr. COHALAN. Your question was directed at zoning. It would preserve the status quo on zoning so there would be no property built, no more homes built. That would be a step toward preserving the original concept of a national seashore, the concept of stopping proliferation of land development.

Senator JOHNSTON. What I am getting at is, do you want to go into some of these areas and tear down homes and restore or is it basically to stop development where it is now?

Mr. COHALAN. I would like to stop development where it is now. My private feeling is we would go down and tear down the homes, and revert to its natural state, but my public posture here today is to control growth.

Senator JOHNSTON. Do these towns have the legal power, if they exercise it, to stop growth where it is now or would they require compensation?

Mr. COHALAN. The town of Brookhaven could do what the town of Islip has done. We established an ocean front dune which limits any building on the dune. If a house has been built on the dunes, and the house has gone into the ocean due to a hurricane, we have a right to go in and buy that property, and stop any more development on the dunes.

The town of Brookhaven could do that. It could put a ban on the granting of variances on Fire Island, which variances allow for multiplicity of homes in a small area. They have not seen fit to do so. I don't know if they will in the future. They don't have the money either. Our major concern behind all of this is in desiring the right of a national seashore. One is to have injunctive relief, to have a basic zoning power, and to give them the money for acquisition of land.

Our basic desire is to control the growth of Fire Island, and also at the same time to make sure that no one in the future will be able to reverse policies of controlled growth by not buying property to be bought up or allowing homes to be built. That is our major concern.

Senator JOHNSTON. Do you have many people who use Fire Island outside the immediate area?

Mr. COHALAN. The answer is yes. By the immediate area I assume you mean Suffolk County. There are many thousands of people who use Fire Island from outside the Suffolk County area.

The bulk of the people who use Fire Island come from New York City, the bulk of the people who come to that island in the summer months. The small amount of people who live there year around, less than 1,000 people, have use of it, and residents from Long Island com-

mute by ferry or boat to the beach. But most of the people come from New York City.

Senator JOHNSTON. Mr. Cohalan, should we give this power in advance of this master plan being perfected?

Mr. COHALAN. No.

Senator JOHNSTON. Secretary Reed has said he wants to meet with the jurisdictions concerned, and complete his master plan before this kind of legislation is passed.

Mr. COHALAN. I represent one of the jurisdictions concerned. We do want an expansion of the seashore's injunctive authority. We would like to have the ability to preserve the status quo.

Right now I could drop dead tomorrow. There would be a new administration in the town of Islip who believes in the development of Fire Island, who might want to make it into another Miami Beach.

Brookhaven has the same attitude. They have allowed for heavy development. We want to be able to freeze things as is so there will not be any more development on Fire Island. The quicker we can get to the seashore to stave off development, the better the protection of Fire Island will be.

Senator JOHNSTON. Do you have to have the money for that to do any good?

Mr. COHALAN. Yes. As you mentioned before, Mr. Chairman, in your discussion with Mr. Sonfield from New Orleans, from your home State, you are upset about the fact the right of the private citizen would be shunted aside by Federal or State entities who said he couldn't develop his own property.

I agree with your philosophy. The Government should not have the right to tell someone that "You cannot use your property," but not reimburse them. We don't have the economic tax base to go in and buy up all of the property. Presently our township is acquiring over 1 million acres of wetlands. We have the State of New York through a multimillion dollar development of Jones Beach somewhat to the west. It has a multimillion dollar infusion of moneys, and has made a major contribution in expenditure of public money for the assistance of Fire Island.

The county of Suffolk has also through development of Smithpoint Park—locally we don't have the money available to preserve Fire Island and, therefore, we have turned to the Federal Government and Congress in 1964, did authorize it as part of the national seashore.

So we are coming now to the Federal Government to ask them to develop Fire Island, not develop—but to develop its national seashore plan, which provides for the preservation of Fire Island in conjunction with the 1964 national seashore legislation. That is basically it.

Senator JOHNSTON. I appreciate very much your testimony. I share your view. We have to stop development in its tracks, and certainly I think Secretary Reed is correct. We need to get a master plan. That is the problem here. We went in with a national park without a means—without a plan or without the means to effect that plan.

Mr. COHALAN. As you know, we have a megopolis from Boston to Washington, D.C., on the east coast of the United States. We are heavily overdeveloped. Fire Island is an oasis in this sea of megopolis. It is one of the few areas left that represents the pristine way in which the

east coast is to be, to allow—I don't mean this as a pun—but to allow it go down the drain would be a tragedy.

We have turned to the Federal Government for support to keep Fire Island as much as possible the way it is because of its uniqueness, and because it is about all we have left from Boston to Washington, D.C. along the coastline.

I think its preservation is vital to our national interests because insofar as the northeast is concerned, it is one of the few areas—it is one of the finest bathing beaches on the east coast, and I hope you will do us the honor some day of visiting with us, and when Nat Reed travels around with you on Fire Island I would like to be there. There are some great local restaurants that specialize in seafood.

Senator JOHNSTON. You are talking my language. Thank you very much, Mr. Cohalan.

[The prepared statement of Mr. Cohalan follows:]

STATEMENT OF PETER F. COHALAN, SUPERVISOR,
TOWN OF ISLIP, LONG ISLAND, NEW YORK

BEFORE THE SUB-COMMITTEE ON NATIONAL PARKS
AND RECREATION, SENATE COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS. NOVEMBER 13, 1975.

MY NAME IS PETER F. COHALAN. I AM THE SUPERVISOR OF
THE TOWN OF ISLIP, A MUNICIPALITY WITH A POPULATION OF
320,000 PEOPLE UNDER WHOSE JURISDICTION A PORTION OF THE
FIRE ISLAND NATIONAL SEASHORE FALLS.

AS SUPERVISOR OF ISLIP, I AM HERE TO LEND MY SUPPORT
TO SENATOR JAVITS' PROPOSAL FOR INCREASED AUTHORIZATION AND
AN EXPANSION OF THE SEASHORE'S INJUNCTIVE AUTHORITY.

THE FIRE ISLAND NATIONAL SEASHORE LIES WITHIN TWO
LOCAL JURISDICTIONS ON LONG ISLAND, ISLIP TOWN AND BROOKHAVEN
TOWN, WITH THE WESTERNMOST PORTION IN ISLIP.

DURING THE PAST FOUR YEARS THAT I SERVED AS SUPERVISOR
OF ISLIP, I HAVE EXTENDED MY FULL COOPERATION TO THE INTERIOR
DEPARTMENT IN CARRYING OUT THEIR CONGRESSIONAL MANDATE AT
THE SEASHORE. HOWEVER, IT IS APPARENT THAT INSUFFICIENT FUNDS,
LACK OF CLEAR-CUT OBJECTIVES AND THE ABSENCE OF A CLEAR
INTERPRETATION OF THE ORIGINAL MANDATE HAS LED TO CONFUSION
AND AN INABILITY TO ACT DECISIVELY BY THE PARK SERVICE
OFFICIALS, THROUGH NO FAULT OF THEIR OWN.

THE SEASHORE ACT WAS AN AMBITIOUS ONE, ONE THAT WAS TO GUARANTEE THE PRESERVATION OF THE BARRIER BEACH FOR ITS CONSERVATION AND ITS PROTECTIVE VALUES. IT WAS TO ALLOW FOR REASONABLE RECREATION FACILITIES, COMPATIBLE WITH THE CONSERVATION EFFORT, FOR THE ENJOYMENT OF OUR PEOPLE WITHOUT DESTROYING THE PRIMARY INTENT. THE MONIES AUTHORIZED TO THE SEASHORE, TO DATE, FALL FAR SHORT OF THE KIND OF FINANCIAL COMMITMENT THAT WOULD PERMIT THE DEPARTMENT TO CARRY OUT ITS TOTAL RESPONSIBILITY.

THE TASK OF PRESERVING FIRE ISLAND IS NEITHER EASY NOR INEXPENSIVE. HOWEVER, IT WAS AGREED BY CONGRESS, MORE THAN A DECADE AGO, THAT ITS PRESERVATION WAS VITAL TO A REGION OF THIS COUNTRY INHABITED BY MORE THAN TWELVE MILLION PEOPLE, ALL LIVING WITHIN REASONABLE TRAVEL DISTANCE OF THE PARK. CONGRESS ALSO RECOGNIZED AT THAT TIME THAT IT WAS CLEARLY A NATIONAL GOAL TO PROTECT OUR OCEAN FRONTS AND OUR INLAND BAYS AS WELL AS THE ECONOMIES AND ECOLOGIES WHICH ARE DEPENDENT ON THIS PROTECTION. YET, IN ALL THIS, THE DEPARTMENT DOES NOT HAVE ADEQUATE FUNDS TO ACQUIRE PROPERTIES IN THE SEASHORE THREATENED WITH DEVELOPMENT. IT HAS NOT RECEIVED FUNDING TO ADEQUATELY POLICE AND MAINTAIN PROPERTIES ALREADY OWNED BY THE GOVERNMENT.

AN ATTEMPT AT PREPARING A MASTER PLAN FOR THE

DEVELOPMENT OF FIRE ISLAND THIS YEAR RESULTED IN A PLAN STATEMENT THAT REFLECTED THE FUTILITY OF ANY EFFORTS TO CARRY OUT THE ORIGINAL MANDATE. SPECIFICALLY, THE PLAN RECOMMENDED THE DROPPING OF THE PREVIOUS EXEMPTED COMMUNITIES FROM THE NATIONAL SEASHORE, I.E., THOSE COMMUNITIES DEVELOPED AS RESIDENTIAL AREAS ON THE WESTERN PART OF THE SEASHORE. YET IT IS IN THESE VERY AREAS THAT WE, THE TOWN OF ISLIP, HAVE INVOKED SEVERE DEVELOPMENT CONSTRAINTS TO SLOW GROWTH IN AN ATTEMPT TO GIVE THE SEASHORE AN OPPORTUNITY TO STRAIGHTEN ITS PRESERVATION OBJECTIVES. WE HAVE INSTITUTED TOTAL MORATORIUMS ON DEVELOPMENT ALONG THE DUNE LINE AND A TOTAL BAN ON VARIANCES WHICH WERE FORMERLY GIVEN OUT QUITE LIBERALLY BY OUR BOARD OF APPEALS.

ALL OF OUR EFFORTS APPEARED FRUITLESS WHEN THE PARK SERVICE ANNOUNCED A PLAN TO DROP THAT LARGE SEGMENT OF THE SEASHORE, A SEGMENT WHICH DESPERATELY NEEDS CONTROL AND LAND MANAGEMENT. THE PROPOSED PLAN WAS, I SUPPOSE, BASED ON A SUPPOSITION THAT CONGRESS WAS PLANNING TO ABANDON ITS ORIGINAL MANDATE BY IGNORING REQUESTS FOR FUNDING AT SUFFICIENT LEVELS TO CARRY OUT ITS ORIGINAL BOLD PLAN THAT WOULD, IN FACT, HAVE PRESERVED THE SEASHORE AS WAS INTENDED!!

CONTRARY TO THE SUPPOSITION OF THE PLANNERS, WE IN ISLIP ARE COUNTING ON AN EXPANDED ROLE BY THE NATIONAL SEASHORE TO

CONTROL GROWTH. I MUST ADMIT THAT THIS REPRESENTS A MARKED DEPARTURE FROM MY USUAL REPUTATION AS BEING THE CHAMPION OF HOME RULE ON LONG ISLAND. I HAVE CONSISTENTLY OPPOSED THE EROSION OF LOCAL POWER TO HIGHER LEVELS OF GOVERNMENT, BUT IN THE CASE OF THE FIRE ISLAND NATIONAL SEASHORE, I RECOGNIZE THE NEED FOR EXPANDED AUTHORITY AND CONTROL BY THE FEDERAL AGENCY RESPONSIBLE FOR THE SEASHORE. THIS PROBABLY REPRESENTS THE ONLY KNOWN EXCEPTION TO MY PHILOSOPHY OF HOME RULE IN THAT I STRONGLY RECOMMEND THAT THE SEASHORE BE GIVEN SUFFICIENT INJUNCTIVE POWER AND FUNDING TO BE EFFECTIVE IN OUR AREA. I WOULD ALSO URGE THAT ANY EXPANDED AUTHORITY BE SIMPLE AND SOLIDLY ENFORCED.

I WISH TO PERSONALLY THANK SENATOR JAVITS FOR HIS ATTENTION TO THE PROBLEMS OF THE NATIONAL SEASHORE. I WISH ALSO TO EXPRESS MY SINCERE APPRECIATION TO THE DEPARTMENT OF THE INTERIOR AND THE PARK SERVICE FOR THEIR EFFORTS, ESPECIALLY FORMER PARK SUPERINTENDENT JAMES GODBOLT, AND I PLEDGE THE CONTINUED COOPERATION AND SUPPORT OF THE TOWN OF ISLIP

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Senator JOHNSTON. I see Congressman Thomas Downey is here, and we are pleased to have the Congressman testify on behalf of this bill.

**STATEMENT OF HON. THOMAS J. DOWNEY, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEW YORK**

Congressman DOWNEY. Senator, we have provided a copy for the record.

Senator JOHNSTON. The full text will be printed in the record.

Congressman DOWNEY. Thank you, sir.

Let me read portions of it. There is very little I can add to what our supervisor has already told you about Fire Island beach. Let me say that for concerned citizens in New York and around the country this hearing is long overdue. Over the 11 years since the seashore's inception the Park Service has, in my opinion, evaded and at times violated its statutory obligation to protect and conserve this fragile barrier beach. The Service has either failed or been unable to provide the kind of administrative commitment so desperately needed if we are to support and maintain this national urban park, and I believe that this has been caused, in part, by the inability of the Park Service to deal with the kinds of urban pressures so prevalent on Long Island.

Senator JOHNSTON. Could you suspend for a moment. I have an important phone call. It will take just a moment.

[Brief recess.]

Senator JOHNSTON. Congressman Downey, please continue.

Congressman DOWNEY. S. 867 and my companion measure, H.R. 3994, would provide the powers which the experience of the past 11 years has proved are necessary for the continued protection of this dynamic barrier beach. Moreover, these bills would increase the present authorization for the seashore, a vital step if we are to create a truly outstanding national urban park.

I want to address some of the points Secretary Reed raised in his testimony. I think focusing on the master plan is vitally important. In 1964, when the act was passed, the creation of a master plan was anticipated. But it has taken a group of concerned citizens filing suit, a writ of mandamus and 11 years to get the seashore to finally come up with a plan—and an unacceptable one at that.

Now, we are told by the Secretary that we should wait again for a new master plan, which he claims would be ready next year some time. But we need to provide the seashore with the funds it needs to maintain its ability for condemnation—Secretary Reed said there are condemnation funds still remaining. That is not so.

We have heard from one of his deputies that \$250,000 has been transferred for the seashore to other parks, the Golden Gate and Delaware Watergap recreation areas.

Senator JOHNSTON. What do you need to acquire?

Congressman DOWNEY. Nonconforming land uses. The supervisor of the town of Islip stated the ability of the towns to control growth, it is very limited. In 1964 the act required the Secretary to come up with a plan so the towns could mesh zoning with the National Park Service attitude that this beach should be protected.

The supervisors of the towns of Islip and Brookhaven have been pretty good in the last couple of years. They have attempted to slow down the rate of growth. They have not been as good in Brookhaven as they have been in Islip. But still the towns zoning power is the only power outside of Federal condemnation or injunctive relief with which to control development.

The towns are the only main stay against any future development in the park without the power of injunctive relief or without the power to acquire and condemn. Realistically wholesale development may not take place, but it is a possibility.

The reason, quite frankly, that I am concerned about waiting for a master plan—and I am sure the Senator is also, although I am not going to speak for him—is that we have waited 11 years for this master plan. In addition, one of the major proposals of the draft master plan was to lop off 6 miles of the beach—a proposal which runs contrary to one of the Park Service's own environmental studies which said that we should not be thinking about reducing its barriers, but that on the contrary we should be thinking about expanding it. Furthermore, the Park Service's master plan ignored the recommendations of their own planning commission and decided to alter the boundaries for the reason, I believe, that they were tired of dealing with exempted communities within the existing seashores.

Senator JOHNSTON. What would be the consequences of overdevelopment?

Congressman DOWNEY. The consequences of overdevelopment, as I think the supervisor pointed out, would be too many people on the beach and in the communities, themselves. The communities would be overpopulated. Thereby making the whole resort area less attractive.

You asked before who uses this beach. We have gotten letters from California and Florida from people who come up here. The Secretary himself has stated that there are 550,000 people who come to this beach seasonally. Thousands of them are not from Suffolk County, but from New York, the New York metropolitan area, and other portions of the country.

It is a beautiful beach. You don't need to hear that again. Some day when you come out, you can join us at the seafood restaurants, and see that beach.

The point I am trying to make is that we need the money now. If we wait for a master plan it places additional pressure on the town of Islip and the town of Brookhaven to use their zoning powers to prevent development. This can work for a while, but it will not work forever.

Senator JOHNSTON. Why couldn't it work forever?

Congressman DOWNEY. As the supervisor said, he may run against me next year, and be a Congressman, and then there would be a new administration.

Senator JOHNSTON. It is the continuity of will; they have sufficient power.

Congressman DOWNEY. That is part of it, but the injunctive power is what we are looking for. A question was raised about the town's presence. The towns have done a good job in attempting to control growth, they can continue to do their good job, but not without the sort of presence this bill promulgates, and the injunctive relief in the

bill which would give the secretary some flexibility in controlling growth.

Let me cite some statistics. There has been a 31 percent increase in the number of structures within the Island's exempted communities in the 10 years from 1964 to 1974. Further, in the same period, 330 variances were granted while only 31 were rejected.

Perhaps even more frightening is the fact that over half of the new development is in violation of zoning standards, and 315 vacant building lots still remain. It is conceivable that the existing residential zoning criteria, which I believe is residential, could be changed to multiple resident, or intense multiple resident. While we are used to seeing single family dwellings it would not be impossible to see multi-family dwellings in the same areas we are seeking to preserve. This would counter the intent of the 1964 act. Furthermore, I think the Park Service, in its testimony today, which is inaccurate and in its actions over the last 11 years has shown that to give them credence and allow them to wait for another master plan would be a mistake.

I would urge the subcommittee to carefully consider the bills in lieu of the master plan. We have no guarantees that the master plan will be finished when the Park Service says it will be finished.

Senator JOHNSTON. If we gave to a reluctant interior the right to use injunctive relief, and gave them an authorization, do you think they would ripen that authorization into an appropriation and if they do have an appropriation do you think they would use an injunctive power?

Congressman DOWNEY. The secretary has stated, and we can produce the news articles if you like, that he feels we need to acquire all the undeveloped land in Fire Island National Seashore, I find that statement rather strange, in light of his testimony today, but as long as he is willing to go ahead and condemn it, I would like to give him the money and the power to do it. On record he has already said he would like to. If he would like to, I would be happy to give him money to do that. I don't know how reluctant he would be in light of his previous statements.

Senator JOHNSTON. Thank you very much, Congressman Downey.
[The prepared statement of Congressman Downey follows:]

Statement of the Honorable Thomas J. Downey
before the Senate Interior Subcommittee on Parks

November 13, 1975

Mr. Chairman and distinguished Senators, I thank you for affording me this opportunity to appear before you today to discuss the future of the Fire Island National Seashore. This is the first time since the creation of the Seashore that Congress has had the opportunity to review and assess the progress of Fire Island as a National Park. I urge this Committee to use these hearings to reaffirm the commitment made by Congress in 1964 to conserve and protect one of the last vestiges of unspoiled and undeveloped beach on the East Coast of the United States.

For concerned citizens in New York and around the country this hearing is long overdue. Over the eleven years since the Seashore's inception the Park Service has, in my opinion, evaded and at times violated its statutory obligation to protect and conserve this fragile barrier beach. The Service has either failed or been unable to provide the kind of administrative commitment so desperately needed if we are to support and maintain this national urban park, and I believe that this has been caused, in part, by the inability of the Park Service to deal with the kinds of urban pressures so prevalent on Long Island.

The experience of the past years has shown that the act which

established this Park did not provide the Park Service the tools it needs to deal with these salient urban problems -- the problems of zoning, land use, and commercial development. Today we are faced with the reality that unless we act, we may never be able to establish on Fire Island the kind of "urban wilderness" needed by the people of the Northeast.

S. 867 and my companion measure, H.R. 3994, would provide the powers which the experience of the past eleven years has proved are necessary for the continued protection of this dynamic barrier beach. Moreover, these bills would increase the present authorization for the Seashore, a vital step if we are to create a truly outstanding national urban park.

Increasing the Park's funding authorization is absolutely essential. Nearly all of the \$16 million originally authorized for acquisition of property and condemnation of non-conforming land uses has been spent. There has been no new money authorized for Fire Island. The Seashore remains the only national park of the period which has not been provided with additional funds. Moreover, a recent Park Service action has taken the few remaining funds -- about \$250,000 -- to the Golden Gate and Delaware Water Gap recreation area accounts. This action has left the Seashore completely penniless and utterly incapable of stopping the kind of urban encroachment which presently threatens the natural character of the area. Until this bill is enacted and additional Land and Water Conservation funds are provided the Seashore will have no means of protecting its fragile resources.

Gentlemen, it would be naive of us to believe that these pressures are going to wait for the Seashore to develop a new master plan proposal, or for the Congress to enact this most necessary measure. The despoiling has already begun and it will continue unless we act. There has already been a 31% increase in the number of structures within the island's exempted communities in the 10 years from 1964 to 1974. Further, in the same period, 330 variances were granted while only 31 were rejected. But perhaps even more frightening is the fact that half of all new development is in violation of one or more of the Seashore's zoning criteria, and 1,500 vacant building lots still remain. The Seashore has no master plan, and it has no money with which to condemn these inconsistent developments.

Similarly, the foot-dragging and impotence of the Park Service have served to point out the underlying weakness of the original 1964 statute. The existing law, by forcing the Service to rely only upon the power of condemnation to halt non-conforming land uses, creates a number of serious administrative difficulties. These problems have ultimately led to the recent Master Plan proposal which would have excluded the western 6 miles of the Seashore from Federal control. It is interesting to note that this proposed tract would have contained nearly all of the exempted communities. Clearly, this was not an acceptable solution to these problems and was dropped from the plan.

The amendments we are considering today would significantly ease these difficulties. First, increasing the Seashore's authorization is a vital and necessary step. Second, providing the Secretary of Interior the authority

to seek injunctive relief from inconsistent land uses is a creative solution to a problem that has plagued the Seashore since its creation. Furthermore this new provision would provide a balance between the present inaction of the Park Service and condemnation, a power the Service has been hesitant to use.

But we still have no guarantee that Fire Island will be administered properly. I am concerned that the Park Service has at no time come forward and supported either S. 867 or H.R. 3994. And now, even as this Committee considers this action, the Park Service has expressed its desire to see the Congress hold back until a final Master Plan is approved.

If the experiences of the past are any lesson, it may be a very long time before this plan is forthcoming. I can only believe that the most recent actions of the Park Service -- the transfer of the remaining development funds, and the consistent unwillingness to actively support this legislation -- are a further attempt at stilling the concerned voices of those who so ardently opposed the disastrous proposal embodied in the most recent Master Plan.

We must not allow the Park Service to dangle a sword over the public's head. The power to control land use must be granted and used -- or there will be no Fire Island barrier beach left to protect.

Senator JOHNSTON. Next we have our good friend, the distinguished Senator from New York, whose testimony we look forward to hearing.

STATEMENT OF HON. JACOB K. JAVITS, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator JAVITS. Thank you. I ask unanimous consent that my statement in full be included in the record.

I will not duplicate what Congressman Downey has said. He is the man representing that area. I simply adopt his statements as my own, but I do want to deal with a few selected items.

First, it is a fact the Park Service estimates it will take seven men, \$150,000 to complete the acquisitions and condemnations with respect to the seashore. So we do have a sum which is an order of magnitude with which to repair.

Senator JOHNSTON. Would those be the white areas they wish to acquire?

Senator JAVITS. That is correct, it is within those areas, not all of it obviously.

The second point, which I think is critical—and by the way I have lived there on Fire Island. We had summer homes for 5 years, when our children were small. It is a marvellous preserve. There are no automobiles, and even little children can wander around, and except for falling into the water—

Senator JOHNSTON. How does one traverse the 30 miles?

Senator JAVITS. There are two ways. One is by foot; the other is by boat. It is very narrow. You can run a powerboat right up and down the bay, which is very calm.

At night, after 6 p.m. or at least it used to be in my day, you run very broad rubber-tired beach buggies up and down the beach. As a matter of fact, it is one of the problems with respect to the use of the beach, but that was another way of transporting. Do they still allow that?

Congressman DOWNEY. No, the supervisor of the town of Islip, in his wisdom, has prohibited the use of beach buggies during the summer season. This has caused some concern for the permanent residents on the island.

Senator JOHNSTON. The beach buggies hurt the root system of the things that grow on the dunes?

Senator JAVITS. That is true, but the whole thing is a quarter of a mile from end to end, but it is really a reef that protects enormously valuable parts of Long Island and densely populated parts of Long Island. It is beautiful. It is the kind of thing you dream about when you say a seashore. That is my point.

If we focus our attention on Fire Island per se, and who can live there, you are dealing with some thousands of people, even if over developed, but that is not its purpose. I have tried very hard for it just as I have tried for a Hartford gateway because the purpose was spelled out in the law. It is very brief. It is worth reading. It is my main point.

For the purposes of conserving and preserving for the use of future generation certain relatively unspoiled and undeveloped beaches, dunes, and other natural features within Suffolk County, N.Y., which posses high values to the

Nation as examples of unspoiled areas of great natural beauty in close proximity to large concentrations of urban population. (16 U.S.C. 459e(a).)

That tells everything about my interest, and why this area needs the kind of help we are proposing in our bill. As I said, you are dealing with a few thousand people, 10,000, 15,000, whatever it might be, who are immediately directed as residents, but it is a great national resource for 12 or 13 million. That is its real point.

If you have ever flown over it, Senator, you will see there is a line of connection. The minute the shuttle plane from Washington hits the tip of Long Island, it hits it at a place called Seagate, which is an end of Coney Island, and this remarkable structure is continuous, interrupted by patches of sea for about 145 miles. It is one of the most unusual complexes in the world.

You first have Coney Island, and then you have Manhattan Beach, which is another beach setup. It is public, pretty crowded, big apartment houses, and things like that. Then you have Rockaway Beach much the same. Then you have Long Beach, quite a congested community. Then you have Jones Beach, which is Bob Moses' big achievement, which is really a public seashore kept in a beach condition because he had the foresight to do it.

From there on out, the condition improves in a way which time has destroyed in the preceding beach area, Coney Island, Manhattan Beach, Rockaway Beach, congested pretty well mucked up from a point of view of natural beauty, and a real asset to the great congested millions who live right there.

Now, the hope of saving Gateway, which would be much like Fire Island, it is an enormous idea. I hope we can do it and implement it. The law is passed, but at the Fire Island point, you have the stretch of 50 or 60 miles where you begin to pick up the wildlife, the birds, the feeling we wish to preserve for posterity. You have a reef, and behind it the congested areas of Brooklyn, Queens, Long Island.

Long Island today, Mr. Chairman, as 1½ million people. Nassau County alone about 1.3 million. Long Island, it's a wonder the thing doesn't sink, but on Long Island you have about 9 million people because you have 3 million in Brooklyn, that is Long Island. You have almost 3 million in Queens, and that is Long Island. And then you go on out. I am only painting that picture for you in terms of the Nation and why we should do anything. We will not be made or broken by whatever happens here, but it is a very unusual resource for such a very populous area of the country, and that is why I read to you this excerpt from the law. That is what it is all about.

Your judgment would be as good as ours, what is necessary to keep it whole.

Congressman DOWNEY. If I might add one other point to what the Senator has so eloquently described as a very unique and valuable resource. My district, which is the second district on Long Island, is a suburban community. To give you some idea of how dense the population is, I can get to any portion of my district within 20 minutes from my house. You can imagine how compacted and small it is.

Robert Moses, the master builder of New York State for some 50 years, was not only responsible for Jones Beach, one of the more beautiful barrier beaches, but partly responsible for the national seashore. He wanted to build a road from Long Beach, which the Senator

has aptly described as being tremendously developed, right through the spine of Fire Island.

As a result, there were forces in the Congress which the Senator led in this body, which prevented this from happening, so we could have a natural barrier beach. I worked two summers as a garbageman on Watch Hill. I dug some of the nature paths. It is not only a beach, but a nature preserve as well. There are forests and wildlife found there.

Senator JOHNSTON. Let me say my hesitation, any I might have, is not because I think it should not be preserved. I think it would be an outrage if we should lose Fire Island.

The question in my mind, and a question we are faced with again and again on this committee, where does Federal responsibility leave, and where does State and local responsibility begin? Perhaps we have answered that question with the creation of this park as a national park back years ago, but we are called on time and time again beyond our resources to create parks in local areas, particularly in areas of high density population. Santa Monica National Park, outside of L.A., is a good example. They want maybe \$1 billion. Obviously, we can't give it to them.

I believe that basic question has been answered by this legislation, but the real question here is how best can we use the least Federal dollars to preserve what we have got.

Frankly, it runs a little against the grain of the committee to have the ability of these two townships to preserve the status quo, and not exercise that responsibility.

Congressman DOWNEY. Let me answer that briefly. The 1964 law required the Secretary to set up model zoning standards for the towns so they might be guided; so there could be some meshing of the ability of the towns, the county, and the Federal Government to preserve the park. Rather than do that, the Secretary took a look at the zoning ordinances of Islip and Brookhaven, and said, "Those are the zoning ordinances, go right ahead." So even in the terms of initial impact involvement, I would think that if anybody is attempting to preserve the area, it is the townships. The problems have resulted, as a result of the foot dragging of the Park Service. The towns have withstood some tremendous pressures to build hotels and motels, and in terms of the initial impact and the initial desire it has been up to the local government to preserve the area.

We have just not seen that same willingness from the Federal Government despite the fact we have already decided it should be a national seashore.

Senator JOHNSTON. How quickly do you think they would perfect the master plan?

Congressman DOWNEY. I think they could probably do it in a year or a year and a half, but we have been burned too often by them.

Senator JOHNSTON. How much money would you need in the interim period?

Senator JAVITS. Why don't we give you an estimate that is accurate. Give us 2 years, and we will all get on that.

Senator JOHNSTON. For the interim period to implement the full master plan you may request some additional funds.

Senator JAVITS. Let us give you an exact estimate, based on a factual inquiry as to what we would need for a 2-year job with the committee and ourselves keeping on the back of the park to see it produces it.

Senator JOHNSTON. You say you have 22 Congressmen?

Congressman DOWNEY. We have Otis Pike, and myself. There are 3 Congressmen from Suffolk County, 4 from Nassau, and 15 from the rest of the area.

Senator JAVITS. One last thing, Mr. Chairman, the injunctive relief is very important. We have not asked anything since the \$16 million 11 years ago. We have not been rushing around for money all the time. We will give you a precise dollar back estimate over a 2-year period, but the injunctive relief is very important. Once done, once installed in place, we can bulldoze anything down. We don't work that way. I wouldn't do it myself, but that is an important point. At least give us the legal authority to try to effect the situation on the negative so things are not put up, which destroy the purpose and freshness on what you said and what the law says.

Senator JOHNSTON. I would feel a lot better on this committee for giving you that interim amount if you could secure a commitment from these townships that during the interim period they would offer full cooperation.

Congressman DOWNEY. I think that commitment can almost be guaranteed. You heard it from the supervisor of the town of Islip, and I suspect the supervisor of the town of Brookhaven would also be amenable. He is a Democrat.

Senator JOHNSTON. Thank you, Senator Javits and Congressman Downey.

[The prepared statement of Senator Javits follows:]

FROM THE OFFICE OF

Senator Jacob K. Javits

New York

FOR IMMEDIATE RELEASE:
Thursday, November 13, 1975

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STATEMENT BY SENATOR JACOB K. JAVITS ON S.867, FIRE ISLAND NATIONAL SEASHORE, BEFORE THE SUBCOMMITTEE ON PARKS AND RECREATION OF THE SENATE INTERIOR COMMITTEE, Thursday, November 13, 1975

Mr. Chairman: I am pleased that the Committee is holding this hearing on my bill, S.867 with an opportunity to review the situation on Fire Island after eleven years of operation of the Seashore.

The bill would increase the authorization figure in respect to the Fire Island Seashore by \$10 million, and it would give the Secretary of the Interior the authority to go to the appropriate U.S. district court for injunctive relief against any action covered by the Fire Island Seashore Act which is inconsistent with the purposes of the act or which is considered adverse to the protection and development of the National Seashore.

The \$10 million figure is attributable to the estimate of the National Park Service that it will take \$7.15 million to complete acquisitions and condemnations in respect to the Seashore.

In 1964, the Fire Island National Seashore was established:

"For the purposes of conserving and preserving for the use of future generations certain relatively unspoiled and undeveloped beaches, dunes, and other natural features within Suffolk County, New York, which possess high values to the Nation as examples of unspoiled areas of great natural beauty in close proximity to large concentrations of urban population" . . . 16 U.S.C. 1459c(a).

The Seashore, a long narrow stretch of unstable sand reef varying from several hundred yards to a half mile in width, forms a barrier separating the ocean from the bays and protects the bays and the mainland of southern Long Island from the Atlantic Ocean. It contains an impressive array of Seashore resources of an extremely fragile nature. The ocean beaches were and where not eroded are wide, clean and gently sloping. The dunes were and where not eroded are stabilized by beach grass, bayberry, other vegetation and some low lying pitch pine. On the bay side, wetlands and marshy areas contribute to the ecological resources of the bays which run almost the length of the southern shore of Long Island. Except for facilities at Smith Point Country Park and Robert Moses State Park, there are no roads, highways or parking lots within the Seashore, a factor which imparts a special character to the Seashore. Access to the Seashore is primarily by means of scheduled ferry service and private boats. Motor vehicles gain access to the Seashore by bridges at Smith Point Country Park to the east and Robert Moses State Park to the west.

The eastern portion of the Seashore is for the most part, undeveloped and in its natural state. The western portion, however, contains several predominantly summer communities. While inholdings of private property within a public park are not desirable, especially on a resource as fragile

as the Seashore, a compromise was worked out to reconcile the local interests with the national interest of preserving Fire Island.

Consequently, the act directs the Secretary to issue regulations specifying zoning standards with which local zoning ordinances must conform and gives the Secretary the right to approve local zoning ordinances -- 16 U.S.C. §459e-2. The development of any property not in accordance with approved zoning is subject to condemnation by the Secretary. Thus, any development taken pursuant to a variance or exception from approved zoning laws, which variance or exception is not approved by the Secretary, subjects the property to the power of condemnation of the Secretary -- 16 U.S.C. §459e-1.

Pursuant to the act the Secretary promulgated regulations -- 36 C.F.R. Part 28. The regulations establish minimal standards which must benefit if private property is to be exempt from condemnation. Four local governments have zoning jurisdiction on the Seashore. Since the passage of the Fire Island National Seashore Act in 1964, the Secretary has approved only one of those zoning ordinances, that of the town of Islip. Consequently, the Secretary can condemn any development, not only nonconforming development, in any of the three other jurisdictions. During the period 1965-73 the local jurisdictions granted at least 320 variances. Of these, the superintendent of the Seashore received notice of 86 and objected to 65 as not consistent with the purposes of the Seashore Act. Nevertheless, not one piece of property has been condemned for violation of the Seashore Act's zoning requirements.

This is a sad record on the part of the Park Service and is a clear violation of the Congressional intent as expressed in the National Seashore Act. The explanations generally have been that no money was available and that we should wait for the Master Plan.

Despite the fact that the Seashore Act was passed in 1964, no master plan to govern development nor any environmental impact statement as required by NEPA yet exists in final form. A draft master plan was prepared in 1965 but found inadequate. A second draft master plan and draft environmental impact statement was prepared in 1973 in response to a lawsuit but was also recalled as inadequate. A third draft master plan and second draft environmental impact statement has finally been prepared and released and is the subject of public hearings after which it may or may not become final depending on whether or not it is modified. Considerable unfavorable comment has been elicited about the Park Service effort to drop the western end of the Island out of the Seashore and I understand the Park Service has abandoned that idea. I certainly hope that is the case. Thus, a final master plan and final environmental impact statement are still some time away despite the fact that the Seashore Act was passed in 1964 and NEPA in 1970. I understand that the Interior Department will ask the Subcommittee to wait for the master plan but I do not believe we can afford to wait again after the record of the past

eleven years.

If the Fire Island National Seashore is to be preserved as Congress intended in 1964, additional money and new powers for the Park Service should be provided as soon as possible.

It is therefore necessary for Congress to act to provide the Fire Island National Seashore with improved environmental protection. Such additional protection is of great importance now, since no final master plan or environmental impact statement is in existence to govern future development, and building could be rushed to completion before implementation of the master plan. Wholesale building and development continue on the Seashore without regard to the requirements of the Seashore Act. For example, a large piece of land known as tract 2203 was sought to be condemned many years ago by the Secretary. Over vigorous local opposition this property was revested, and the present owner has filed plans to subdivide and develop the tract. The Superintendent of the Seashore has opposed this development and recommended that the Secretary condemn it. However, the Secretary needs additional funds for this purpose and also needs the power to halt the development without the use of the condemnation power.

My bill, S.867, would accomplish the dual objective of providing additional money and giving the Park Service the power to adequately protect the Seashore.

Giving the Secretary the injunctive power to further the purposes of the Seashore Act is clearly constitutional. There exists a paramount Federal interest in the preservation of Fire Island. This paramount national interest is expressed not only specifically in the Fire Island National Seashore Act but also generally in the National Environmental Policy Act - NEPA. These statutes establish the overriding Federal concern with the protection of such an ecologically unique and valuable resource.

To carry out this paramount national interest, courts may enjoin the action of private parties or even local governments which are inconsistent with the national interest or prevent its fulfillment. Perez v. Campbell, 402 U.S. 637 (1971); Radio Station WOW v. Johnson, 326 U.S. 120 (1945); Savage v. Jones, 225 U.S. 501 (1912).

Courts have enjoined the actions of private persons which interfere with the paramount national interest as expressed in NEPA. Silva v. Romney, 473 F.2d 287 (1st Cir.1973); Citizens for Clean Air, Inc. v. Corps of Engineers, 349 F. Supp. 696 (S.D.N.Y. 1972).

Furthermore, it has been specifically held that zoning restrictions can be imposed on private property for esthetic or environmental considerations. Berman v. Parker, 348 U.S. 26, 33 (1954); City of St. Paul v. Chicago, St. Paul, Minn, and Omaha RR Company, 413 F.2d 762, 767 (8th Cir. 1969).

- MORE -

The restrictions imposed by the National Seashore Act, which I propose now be backed up by injunctive powers, are eminently reasonable. Only development which is inconsistent with the Seashore Act would be subject to injunction. Development which conforms to the zoning standards spelled out in the Act and regulations would be allowed.

I urge the Subcommittee to take favorable action on S.867 so that the Fire Island National Seashore can be preserved as Congress intended in 1964.

Senator JOHNSTON. Now, Congressman Solarz has come in. We are pleased to have you, Congressman.

Either the waters have qualities of youth or they elect for a young Congressman from these areas.

**STATEMENT OF HON. STEPHEN J. SOLARZ, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEW YORK**

Congressman SOLARZ. Thank you, Senator. I thought I might be the youngest Member of the House, and when I got here I found there were over 20 younger than I am. So I became an elder statesman in a relatively short period of time.

Let me say at the outset, Fire Island may be a small island, but there are those who love it. I might say my own daughter several weeks ago invited your daughter with whom she has become friendly in school here to join us for a weekend there, but unfortunately I don't think she could make it. If she had we might have produced her as another witness this morning on this legislation, but we will get her there. I hope a time will come when you can visit the island, as well. I think there is no substitute for seeing with ones own eyes.

Senator JOHNSTON. I have just determined up here to make that trip.

Congressman SOLARZ. We would be delighted to have you.

I appreciate very much the opportunity to testify today.

As you know, together with Congressman Pike, Downey, and Ambro, I have introduced legislation to deal with this problem.

This bill we have introduced would amend Public Law 88-587, the Fire Island National Seashore Act, and would increase the authorization figure for Fire Island National Seashore by \$10 million. It would also give the Secretary of the Interior the authority to go to the appropriate U.S. district court for an injunction against any action covered by the Fire Island Seashore Act which is inconsistent with the purposes of the act or which is considered adverse to the protection of the national seashore.

The \$10 million figure is attributable to the estimates of the National Park Service in regard to the cost of acquisitions and condemnation necessary at the seashore.

Despite the fact that the Seashore Act was passed in 1964, no master plan nor an environmental impact statement of any merit exists. A draft master plan was prepared in 1965 but was found to be inadequate. A second master plan was prepared in 1973 only in response to a lawsuit. This plan was also recalled as a result of inadequacies. A third draft master plan and a second environmental impact statement were drawn up last spring, and I must say in all candor, Mr. Chairman, both as a resident of Fire Island and as a Member of Congress, I was shocked and dismayed when I read this latest document prepared by the Department of the Interior.

I clearly see it as a direct violation of the intent of the Congress in enacting the Fire Island National Seashore Act in 1964. The act clearly states its intention, "to conserve and preserve, for the use of future generations, certain unspoiled beaches, dunes, and other natural features . . . which possess high values to the Nation, as examples of unspoiled areas of great natural beauty in close proximity to large concentrations of urban population." The boundary was to extend 25

miles from the east boundary of Robert Moses State Park to the Moriches Inlet.

Both the letter and spirit of the act clearly were designed to prohibit all private development, except in previously established communities. Any development was to be carefully regulated through zoning standards, judged by the Secretary of the Interior as consistent with the act.

The Secretary was given the power to condemn all properties where local authorities had granted variances or exceptions that violated the seashore standard.

Since its inception over 11 years ago, the Fire Island National Seashore has been plagued by intergovernmental disputes arising from the split jurisdictional nature of the seashore, itself. Four different towns have zoning authority over the seashore; only one has come up with ordinances that meet the provisions of the legislation and accepted by the Secretary of the Interior—yet literally hundreds of variances have been granted—many over the strong objections of the superintendent of the seashore and the property owners themselves. In no case has the National Park Service used its authority to condemn such ill-founded and in fact, illegal development. Crowded cottages with inadequate cesspools and a potential lack of drinking water have become typical on the island.

Senator JOHNSTON. Let me interrupt you there. I have read your statement. The \$10 million, do you regard that as an interim sum until a master plan can be perfected or is that what you need, in your view, to complete the park?

Congressman SOLARZ. I think that would be a significant step forward, in the final analysis whether after completion of the master plan, additional sums might be required. I could not say at this point. But there is no question we need that additional sum at this point to deal with many of the problems that have developed since the passage of the National Seashore Act.

You are probably aware from previous testimony this was the only national seashore, which has not had its authorization level increased. I think that has not reflected the fact. Just as other seashore areas have had problems, we have had them, too.

Senator JOHNSTON. You say you were shocked in 1973, the environmental impact statement and the draft master plan. In what respects? Was that inadequate, it did allow for private development?

Congressman SOLARZ. I thought that was an abomination. It called for elimination of the western part of the island, the last 6 miles of the island, severing it in two, when the National Seashore Act called for the preservation of the entire island.

Senator JOHNSTON. That is presently owned by whom, the 6 miles is owned by whom?

Congressman SOLARZ. It is a combination of private and public ownership. You have many private communities within the last 6 miles, but substantial amounts of undeveloped land as well. I think to have lopped off the western tip of the island would have had pernicious consequences for the remaining 20 miles of the island.

It is an ecological and environmental hole, and has to be viewed as such. At the time the National Seashore Act was adopted, there were already existing developed communities on the island, but it was felt

their presence was not necessarily incompatible with using vast tracts of undeveloped land for the kind of purposes the national seashore was created for. But I don't think anybody would have suggested at the time the National Seashore Act was created, to somehow take this barrier beach, which is really an environmental and ecological hole, to slice off sections and say, "National Seashore is up to this point. Everything else is out of control." That would deny protections in the absence of which developments could take place, which would have deleterious effects for the remaining part of the island.

The National Park Service has not effectively utilized the authority it already has to prevent adverse development. Hopefully, by giving injunctive powers enabling them to prevent adverse developments before they take place, they might be encouraged to provide the protection the Congress intended them to provide.

Senator JOHNSTON. Do you have water and sewerage on the island?

Congressman SOLARZ. Yes, there are cesspools, septic tanks on the island.

Senator JOHNSTON. Each individual home, they have to put in a septic tank?

Congressman SOLARZ. Yes, they have septic tanks, and in the towns they have sanitary facilities for the disposition of garbage.

Senator JOHNSTON. The entire island, does it have water mains?

Congressman SOLARZ. I think it varies from community to community. Some homes have their own wells. They supply themselves with water. Others rely on a community water supply, but there is no water as far as I know, there is no island-wide water supply to which every community has hooked up. I think each community has its own.

Senator JOHNSTON. Congressman Solarz, thank you for excellent testimony, and I do hope that I and little Sally will be able to get up to Fire Island soon.

[The prepared statement of Congressman Solarz follows:]

FIRE ISLAND NATIONAL SEASHORE
TESTIMONY OF CONGRESSMAN STEPHEN J. SOLARZ - NEW YORK
NOVEMBER 13, 1975
SUBCOMMITTEE ON PARKS AND RECREATION OF THE
SENATE INTERIOR COMMITTEE
S867 - H.R. 3994

Mr. Chairman, I appreciate being afforded this opportunity to testify today before the Senate Parks and Recreation Subcommittee in regard to S.867. As you know, I have introduced a similar bill in the House of Representatives, H.R. 3994, along with my colleagues Congressmen Pike, Downey and Ambro.

This bill would amend Public Law 88-587, the Fire Island National Seashore Act, and would increase the authorization figure for Fire Island National Seashore by \$10 million. It would also give the Secretary of the Interior the authority to go to the appropriate U.S. district court for an injunction against any action covered by the Fire Island Seashore Act which is inconsistent with the purposes of the Act or which is considered adverse to the protection of the national seashore.

The \$10 million figure is attributable to the estimates of the National Park Service in regard to the cost of acquisitions and condemnation necessary at the seashore.

Despite the fact that the Seashore Act was passed in 1964, no masterplan nor an environmental impact statement of any merit exists. A draft masterplan was prepared in 1965 but was found to be inadequate. A second masterplan was prepared in 1973 only in response to a lawsuit. This plan was also recalled as a result of inadequacies. A third draft masterplan and a second environmental impact statement were drawn up last spring, and I must say in all candor, Mr. Chairman, both as a resident of

Fire Island and as a member of Congress, I was shocked and dismayed when I read this latest document prepared by the Department of the Interior.

I clearly see it as a direct violation of the intent of the Congress in enacting the Fire Island National Seashore Act in 1964. This Act clearly stated its intention, "to conserve and preserve, for the use of future generations, certain unspoiled beaches, dunes, and other natural features . . . which possess high values to the Nation, as examples of unspoiled areas of great natural beauty in close proximity to large concentrations of urban population." The boundary was to extend 26 miles from the east boundary of Robert Moses State Park to the Moriches Inlet.

Both the letter and spirit of the Act clearly were designed to prohibit all private development, except in previously established communities. Any development was to be carefully regulated through zoning standards, judged by the Secretary of the Interior as consistent with the Act. The Secretary was given the power to condemn all properties where local authorities had granted variances or exceptions that violated the Seashore standards.

Since its inception over 11 years ago, the Fire Island National Seashore has been plagued by intergovernmental disputes arising from the split jurisdictional nature of the Seashore itself. Four different towns have zoning authority over the Seashore; only one has come up with ordinances that meet the provisions of the legislation and accepted by the Secretary of the Interior -- yet literally hundreds of variances have been granted -- many over the strong objections of the superintendent of the Seashore and the property owners themselves.

In no case has the National Park Service used its authority to condemn such ill-founded and in fact, illegal development. Crowded cottages with inadequate cesspools and a potential lack of drinking water have become typical on the island. Commercial establishments such as bars and restaurants, have also begun to spring up on this fragile marshland. According to statistics developed by the Fire Island Association, in the 10 years between 1964 and 1974, private development increased by 31 per cent, and about half of that development violated park zoning standards. The Park Service through the Secretary of the Interior has refused to condemn any properties and has pleaded insufficient funds and a lack of authority to prevent such zoning outrages. The only actions ever taken to regulate private and commercial development were written objections by the superintendent to scores of building permits -- all of which were ignored.

To remove all such excuses by the Park Service, I have introduced legislation, together with Congressmen Pike, Downey, and Ambro in the House and Senator Javits in the Senate, which if passed into law will provide an additional \$10 million for Fire Island and the power to seek injunctive relief in the Federal Courts. This amending legislation will correct the inadequacies of the existing law and empower the courts to force the authorities to follow the mandate set down by the Congress. In the words of a New York Times editorial on this matter, the legislation would "Prod the authorities to halt their procrastination and get on with the urgent business of saving this fragile and charming outpost of nature before the encroachments of haphazard development

irrevocably despoil it." I might also add that Fire Island is the only national park established in the 1960s which has not had its authorization level substantially increased. The proposed amending legislation, which is before you now, to increase the appropriation from \$16 million to \$26 million will bring Fire Island in line with the other national parks.

In recent weeks, I have discussed these matters with environmentalists, Fire Islanders, representatives from the National Park Service and other Congressmen. I come away from these discussions puzzled. There should be no problem with Fire Island. There is unanimous agreement that it is a great natural resource and must be preserved. It contains excellent beaches with imposing sand dunes and fascinating vegetation. The sunken forest is clearly one of the most important of our resources -- and it remains wholly natural.

Unfortunately, since the passage of the Fire Island legislation, the intent of the Congress has been subverted, resulting in numerous complaints and legal battles over improper development and insufficient regulation of vehicular traffic on this fragile island.

The statute provided the Secretary of the Interior the power to condemn such improper development, but because of the lack of funds and the ensuing court battles, the Interior Department never used this power. On the other hand, the Interior Department never came to Congress to request additional funds. Clearly Fire Island is the stepchild of the National Park Service. In this regard, through administrative artifices and bureaucratic bombast, attempts have been made by the National Park Service to circumvent the Congress.

The Fire Island Association has aptly called the actions by the National Park Service "an attempt to repeal administratively an act of Congress."

It is for this very reason that I so strongly believe that the Congress should pass this important legislation. If the Fire Island National Seashore is to be preserved as Congress intended in 1964, the additional money and powers provided in this bill are the minimum required to achieve this end.

Fire Island is terribly vulnerable to the impact of man on the environment. There can be little question, therefore, that we must take swift and strong action in preserving and protecting it.

I hope that the Congress will take up the challenge presented by the Court of Appeals decision and will move ahead to increase the authorization for acquisition on Fire Island and to further provide the Secretary of the Interior with the authority to enjoin development which is inconsistent with the purposes of the Act.

The Department of the Interior should likewise accept the challenge of giving "parks to the people" and accept the fact that they are not entitled to administratively thwart the will of the Congress.

Mr. Chairman,-Fire Island is a national resource. We must not let our neglect serve the special interests, destroy beaches, wetlands and marshes; pollute the water, cause sanitary problems for future residents, and force an urban dreamland to become a coastal nightmare.

Senator JOHNSTON. We are rapidly running out of time. We have had such excellent witnesses from Congress, and as you can probably appreciate, they have listened, and they have been listened to very attentively, and they are very persuasive. I hope we can complete the rest of the testimony in 10 or 15 minutes, which means that we will have to cut the statement short. I hate to do so. Many of you have traveled here from New York. But let us begin with Mr. Joseph Zysman.

STATEMENTS OF JOSEPH ZYSMAN, FRIENDS OF THE EARTH/FIRE ISLAND NATURAL AREA COMMITTEE; DONALD F. SQUIRES, DIRECTOR, NEW YORK STATE SEA GRANT PROGRAM; GEORGE BIDERMAN, PRESIDENT, FIRE ISLAND ASSOCIATION, INC.; AND FRANCES BEINECKE, NATURAL RESOURCE DEFENCE COUNCIL

Senator JOHNSTON. Can we have more or less a panel here with Dr. Squires. Is Dr. Squires here? If you would come up to the table at the same time. Mr. Biderman and Ms. Beinecke. All of your statements will be entered into the record verbatim.

You have heard the testimony up to this point, and I would like to get your comments, to expand on the items we have touched on. Would you like to begin, Mr. Zysman?

Mr. ZYSMAN. Up until now, Mr. Chairman, I think the testimony has focused on the part of the island, western part most affected by this legislation, and the need to preserve that part of the island. We would like to focus attention on another part of the island, that is the eastern section.

On the map, the area in solid green, that part of the national seashore is, in fact, a true wilderness with the exception of a few structures. There is very little change from the way it looked 200 years ago.

The importance of this part of the island to the national seashore I think was underlined by the fact there was a separate clause relating to it. It says, "Every effort shall be exerted to maintain and preserve this section of the seashore, as well as that set forth in the preceding paragraph."

That was a smaller part of the seashore in as nearly present state and condition as possible.

I think it is fair to say that if it was not for the existence of this near wilderness part of the seashore, that Fire Island might not have even been incorporated in the national park system.

On the other side of the coin, I think it was felt at the time if the national seashore was not created, this piece of wilderness would eventually be developed. It is therefore ironic to find over the years in its master plan, the agency was supposed to protect and prevent commercial development on this part of the island, and is, in fact, the agency that is promoting development.

I would like to read you—I won't read the whole thing—but some of the developments proposed for this area, that were supposed to be maintained in its present state and condition. Three bathhouses, three campgrounds, one group campground, one bicycle rental establishment, two food stores, one marina shop, five elevator pedestrian crossings, two environmental education centers. That is about half of the list.

Senator JOHNSTON. How much money would it take in this interim period before the master plan is perfected?

Mr. ZYSMAN. Not addressing that directly, we wish the amount requested to enforce the regulations for the developing communities. Our concern is the Federal development in this part of the island. We feel it is a direct violation of the intent of the Congress. We feel the proposals in this plan indicate an intensity of development.

There is to be a development site every $1\frac{1}{4}$ miles on this untouched piece of beach. It is unmatched anyplace in the Park Service.

Mr. BIDERMAN. If I may interrupt, I was the first chairman of the advisory committee set up under the statute.

I have been following it very closely ever since. My estimate would be that about \$1 $\frac{1}{2}$ million would tide the Park Service over in enforcing present statute for the next 2 years.

Senator JOHNSTON. I appreciate that statement very much. I hope you will get with Senator Javits, Congressman Solarz, and Congressman Downey, and submit to us a detailed statement with as sharp a pencil as you can.

Do you have detailed objections to the master plan in your statement?

Mr. ZYSMAN. Yes, I do.

Senator JOHNSTON. I intend to send copies of that to the Interior Department. You make a strong case in your statement in those objections. Really, if you wanted to have a seashore, if this is a national resource, it is one that should be preserved, and not developed.

The Federal Government does not come in and create a national park for the benefit of some developers, to come in and build a series of developments whether they are private homes or whatever. We want to keep this as far as practicable an area of wilderness.

Mr. ZYSMAN. I would like to show you some pictures of this wilderness, a part of Fire Island Seashore, and the principal Federal development that has been put up within the area that was in the legislation, that was supposed to remain in its natural State.

I would also like to submit for the record some additional material.

Senator JOHNSTON. If you would pass those out, I would like very much to see them.

Dr. Squires.

Dr. SQUIRES. Mr. Chairman, I would like to respond to the question you asked a few minutes ago as to where does the Federal responsibility and the State and local responsibility begin. I would like to couch this with the preliminary statement. There is not only a natural resource as a recreation area to be considered, but also the impact of the loss of a barrier beach on a whole system. That is Long Island. The south shore of Long Island, the part that is back of the bay, is a very highly developed, low-lying area.

The beach system provides the only buffering that area has against storm waves and high waters, and protection from hurricane.

Senator JOHNSTON. I am very familiar with barrier beaches. I was waiting for someone to say the consequences of overdevelopment might be the loss of the barrier.

Dr. SQUIRES. I would like also to call your attention—I am pleased you are familiar with barrier beaches, but you may not be familiar with the area behind this beach, which has an important industry,

the clam industry, which has a documented value of \$20 to \$60 million a year. Over half the clams produced in the United States come from the great south bay. This industry would be in danger if there were to be breakthroughs in the barrier beach. There would be changes in the ecosystem that would have detrimental effects. So there is more at stake here than just the Fire Island National Seashore.

Now your other question, the Federal presence on the barrier system, that segment of the barrier system, which is the Fire Island National Seashore, means there is a Federal responsibility to carry out that portion at least its responsibilities, and it is that concern which I think speaks to the question of where does the Federal responsibility lie.

The National Park Service, as the manager of this segment, has the responsibility for Federal, State, and local complements. Now, what are the implications of uncontrolled development? It will cost the Federal Government more money if the provisions of the original act are not carried out.

It will cost the Federal Government more money if the National Park Service does not move ahead—I think you used the phrase “a reluctant Department of the Interior”—but unless the National Park Service moves ahead with a management program for the national seashore it is going to cost some money, a lot more money, and inevitably it will come back to the Federal Government.

The impact of overdevelopment will mean possible contamination of the ground water supply, the loss of ground water supply in which case water will have to be imported to the island, and probably this will happen to segments of the national seashore, and the Federal Government will have to bear that cost.

Senator JOHNSTON. The big problem of the next decade will be how far zoning laws can go to control development without compensation. This is a very good example of it where too much development would threaten water supplies and contamination, and to what extent can the Federal Government or local communities go without providing compensation.

Dr. SQUIRES. We have been engaged in discussions of the ability of local and county government, as well as the State, to use zoning as a mechanism for control when the principal criterion involved are environmental.

The present regime of law in New York State is not overly conducive to this, but it becomes particularly difficult in a metropolitan region in which there is a multiplicity of Federal, interstate, State and local government control, particularly difficult on the eastern end of Long Island where some of the legal rights go back to kings grants, and things become a lot murkier when one goes back as far into colonial law. It is one that must be addressed at the Federal level eventually.

Senator JOHNSTON. And by the Supreme Court.

Mr. BEINECKE. I am representing the Natural Resource Defense Council. I would like to address the management abilities of the National Park Service. On Fire Island I think their management techniques or lack of techniques are similar to actions they have taken in other parts of the country, which is why we are particularly interested in Fire Island. They have not exhibited an interest in

following the intent of the act as both Mr. Zysman and Mr. Biderman pointed out.

In addition, they have interposed actions not compatible with the parks and seashores throughout the country. I think it is essential, in addition to giving the National Park Service more power, which they definitely need in this case in terms of injunctive relief.

It is also essential to them to be pushed on the right road in terms of managing public lands. These lands have been promoted as being in the national interest. Why the National Park Service in many cases has not felt that same responsibility in managing them is a question which many environmentalists throughout the country are asking.

In addition to support Senator Javits bill, to increase the authorization and the powers of the Department of the Interior, I wish this committee, in general, to look at the National Park Service and management, and at their master planning process, which up to now has not proved an effective management vehicle, and I believe will have to be altered somewhat. It is inexcusable for a park to be in existence 11 years, to have a number of master plans drawn and none used.

Senator JOHNSTON. I think you made a very good point. Secretary Reed, who has not been in office for 13 years, but who is in office now, acknowledged the fault in the delay of the Park Service and the Interior Department in putting together this national plan.

Hopefully, in this hearing it will spur them on to better action they must do in this case.

Mr. BIDERMAN. My statement addresses itself to three points. I would like to touch briefly on each of them. I would like to recommend the power of this subcommittee consider adding the power of injunctive relief to other parts of private holdings, as well as Fire Island. I am also a member of the Gateway Citizens Committee. They are now facing expansion of an inholding there at Breezy Point, which involves several hundred structures. It is an extension of the community, add-on to an accredited ocean beach. Right now the Gateway statute follows the Fire Island statute. The only power the secretary now has is condemnation. If New York City grants the application before Gateway, we'll be here—

Senator JOHNSTON. I can't believe New York City could be so insensitive to these problems.

Mr. BIDERMAN. I understand they are holding up under their own laws, not under the Federal law, in the case of Breezy Point, which is why the restrictive legislation was put into the statute.

Senator JOHNSTON. You would like to have the same kind of restrictive language in the Gateway statute?

Mr. BIDERMAN. Yes, and in other private situations, and where these areas are near large populations.

The second point I wanted to make, from the very beginning the advisory commission during my tenure—I served two terms from 1965 to 1969—and ever since it was allowed to expire in 1973. It has always been contended it was not necessary to have a large fund to enforce zoning. With the power the secretary has under the Land and Water Conservation Fund Act, to condemn a property for which a nonconforming use is proposed, and sell it for a conforming use, we have always contended what is needed is a small revolving fund for the period

of time this was turned over, that this by strong recommendations be tried before it is declared unworkable.

It has never been tried in 11 years. Secretary Reed, in a colloquy with me just now said he would love to try it, which is a refreshing change in policy.

The third point Senator Javits mentioned, beach buggies. I attached a xerox of section of Federal land on the beach, photographs of Federal land at Sailors Haven. The beach at this time of year is solidly rutted from the base of the dune and sometimes on the dune to the water line. These pictures understate—

Senator JOHNSTON. Should we prohibit?

Mr. BIDERMAN. We have asked many times all beach travel be prohibited by four-wheel drive vehicles.

Senator JOHNSTON. If that is the view of everyone concerned you might get together after the meeting, and communicate that to the committee through Senator Javits or Congressman Downey, and we will see about getting Interior to perfect that regulation, to put it in place, or we can conceivably make it a part of this legislation.

[The prepared statements of Messrs. Zysman, Squires, Biderman and Ms. Beinecke follow:]

STATEMENT TO THE HONORABLE BENNETT JOHNSTON,
CHAIRMAN, U.S. SENATE SUBCOMMITTEE ON PARKS
AND RECREATION, ON THE FIRE ISLAND NATIONAL
SEASHORE DRAFT MASTER PLAN, AT HEARINGS ON
S. 867, NOVEMBER 13, 1975.

Presented by Joseph Zysman for:

FRIENDS OF THE EARTH
FRIENDS OF THE EARTH, MID-ATLANTIC REGION
FIRE ISLAND NATURAL AREA COMMITTEE

Mr. Chairman, I appreciate the opportunity to appear before you and your committee today to testify on the Fire Island National Seashore Draft Master Plan. My name is Joseph Zysman, and I am representing the national organization of Friends of the Earth, its Mid-Atlantic regional chapter, and the Fire Island Natural Area Committee.

Over the years, something has gone awry at Fire Island. When this National Seashore was created in 1964, a small section of it was still in an undeveloped natural state. It was widely believed at the time that only by the establishment of Fire Island as a National Park would this rare stretch of barrier beach, generally known as the 'eight-mile zone,' be spared total development.

How sad and ironic it is that the very agency undertaking the responsibility of preserving this resource and preventing development should now be promoting it. The present draft Master Plan for Fire Island is proposing an intensity of development in this area unmatched, to our knowledge, anywhere else in the National Park System. It calls for the erection of four new federal areas in addition to the expansion of an existing one-- so that there will be a development site every mile and three-quarters. The areas contain a marina, 3 bathhouses, 4 campgrounds, 2 foodstores, 3 docking areas, 5 elevated pedestrian dune crossings, 3 ranger stations-- the list goes on and on (Appendix A). As a result; this last piece of unspoiled barrier beach for a distance of 500 miles will be drastically and permanently altered.

Perhaps one might find justification for some of this development if there were no other similar recreational facilities nearby-- but this is not at all the case. The principal Federal recreation site on Fire Island has already been built here, while Suffolk county

maintains its largest beach-oriented facility immediately adjoining the area.

Not only are these proposals environmentally unsound, but they are illegal as well. The Fire Island National Seashore Act clearly set aside this area to be administered quite differently from the rest of the Seashore-- it was to be preserved "in as nearly (its) present state and condition as possible." The intent of the Congress towards the eight-mile zone is on the record and equally clear-- it would be kept "without development of facilities so that the area which has a particular merit can be preserved for all time exactly as it is." Judging from this Plan, the Park Service is proposing to act contrary to the will of the American people as expressed through their elected representatives.

Unfortunately, some of the damage has already been done. Watch Hill, the largest Federal development on the island, has been put up within the area at a cost of \$1,000,000-- and at the greater cost of reducing its initially insignificant size by at least 15%. In place of a natural area, we now have a complex of structures, and even the Park Service no longer pretends that Watch Hill is compatible with the legislation. Nor was there any effort to pay heed to the legislative restriction that access to the eight-mile zone "shall be provided by ferries and footpaths only"-- the principal means of access to the Watch Hill complex is by private boat to its 158 slip marina.

As one of the principal justifications for its program of development, the Plan states that a population increase of 900,000 in the bi-county Long Island region will take place by 1985. This figure is grossly inaccurate, for it is based on a 1968 population

projection long since obsolete. Using current projections, the increase will only be 185,00-- an error of almost 80%. On this basis alone, most of the development program in the Plan-- outside the eight-mile zone as well as within it-- is unnecessary, and represents a considerable waste of taxpayers' money.

Similarly inaccurate figures are presented for the capacities of some of the existing sites, giving the erroneous impression that the development required to sustain them will not be substantial. At Old Inlet, for example, the Plan claims a capacity of 600; no observation could support this figure.

Something has also gone awry with the concept of public participation in the planning process. The draft Master Plan and Environmental Statement are, according to Federal regulations, supposed "to serve as the means of assessing the environmental impact ... rather than as a justification of decisions already made." (40 FR 1500.7) The same regulations require that no action be taken on proposals in the Plan "sooner than 30 days after the final text of an environmental statement has been made available.." (40 FR 1500.11) Yet during late May and early June of this year, precisely while hearings were taking place, the Park Service was in the process of renovating the Old Inlet site-- a clear sign that the decisions regarding these proposals, if not the others, had already been made.

It's not at all difficult to see why the public perceives a credibility gap vis a vis the Park Service. After one of the workshop programs held on the Island, a Newsday article quotes

what they want to do anyway" and " I don't think it's going to make any difference what we write down in this book." As if to underline this comment, one of the Fire Island workbooks contained a reference to an environmental education facility near the old Fireplace Beach Club-- a proposal which is mentioned nowhere in the Plan or Environmental Statement. I would like to include this article in the record.

We have touched on only a few aspects of the Plan as it affects the eight-mile zone here, but we did address them more fully in a detailed reply to the Park Service, and we would also like to include that document in the record at this point.

In its zeal for development of an unspoiled area, we think that the Park Service may have been guided by the belief that the inhabitants of the region desired such development. If that belief was held in the past, it cannot be sustained today. We are aware of numerous civic and conservation organizations, representing thousands of persons, that have expressed forthrightly their opposition to these developments and their desire to preserve the eight-mile zone in its natural state, without additional federal facilities. We know of none that support the Plan. Many of these groups would be here today but for the distance, and we would like to request that oversight hearings be held on Long Island at some time in the future so that they may present their views directly.

At this point, I would like to submit for the record the statement of Sophie Morris of the Great South Bay Audubon Society, who was unable to attend, as well as the replies to the draft Master Plan of a number of regional organizations: Action, Amagansett Wildlife Association, Association of Environmental Designers, The League of Women Voters of Suffolk County, Marine Environmental

Council of Long Island, and the Moriches Bay Audubon Society.

Regarding the ammendments to the enabling legislation under consideration in S. 867, we support them and urge a favorable recommendation for this bill.

That completes my statement, Mr. Chairman, and thank you again for the opportunity to present my views.

APPENDIX A: THE FIRE ISLAND NATIONAL SEASHORE ACT (EXCERPT):

".... and every effort shall be exerted to maintain and preserve this section of the seashore as well as that set forth in the preceeding paragraph [the Sunken Forest] in as nearly their present state and condition as possible."

FEDERAL FACILITIES PROPOSED OR ALREADY BUILT IN THIS AREA:

- 3 Bathhouses
- 4 Beaching/mooring areas
- 3 Individual campgrounds
- 1 Group campground
- 1 Bicycle rental establishment
- 2 Food stores
- 1 Marina shop
- 3 Docking areas
- 5 Elevated pedestrian dune crossings
- 2 Vehicle dune crossings
- 2 Environmental education lodging centers
- 2 Ferry slips
- 1 Horse stable
- 3 Life guard stations
- 1 Marina
- 1 Marina waste pumping station
- 1 Parking area
- 4 Picnic site areas
- 3 Ranger stations
- 3 Ranger residence areas
- 4 Storage facility sites
- 1 Vehicle checkpoint
- 3 Visitor centers
- 1 Rowboat rental facility

PLUS UNQUANTIFIED

Boardwalks and Interpretive trails

Research facilities

Utility developments

AND A BICYCLE PATH THROUGHOUT THE ENTIRE AREA

APPENDIX B: POPULATION PROJECTION ERROR OF THE DRAFT MASTER PLAN

Base, Nassau & Suffolk Counties, 1975 ¹	2,890,368
Draft Master Plan projected increase, 1985 ²	+ 900,000
	<u>3,790,368</u>
Most recent projection for 1985 ³	3,075,000
Base, above	-2,890,368
Current projected increase	<u>184,632</u>
Draft Master Plan projected increase	900,000
-Current projected increase	-184,632
= Error	<u>715,368</u>

Error factor = $715,368/900,000 = 79\%$

¹ New York State Office of Planning Co-ordination, Demographic Projection for New York State Counties (Albany, 1968, pp. 76, 120)

² Fire Island National Seashore Draft Master Plan, p. 8.

³ New York State Office of Planning Services, Demographic Projection, Revised June 1974 (Albany, 1974, unpagged).



GREAT SOUTH BAY AUDUBON SOCIETY

P. O. BOX 122 • ISLIP, LONG ISLAND, NEW YORK 11751

November 13, 1975.

The Hon. Bennett Johnston
 Chairman, Subcommittee on Parks & Rec.
 U.S. Senate Committee on Interior & Insular Affairs

Statement presented by Joseph Zysman of the Fire Island Natural Area Committee, representing Great South Bay Audubon Society at the Washington, D.C. hearings on Sen. J. Javits Bill S867.

The Great South Bay Audubon Society of Islip, New York, representing upwards of 1,000 members, would like to thank the Committee for requesting our testimony on Sen. Jacob Javits Bill S867.

Fire Island is a natural resource of uncomparable value. Unfortunately, it has, in some areas, been over-developed with residential and commercial structures. But there are still some areas in which the integrity of the delicate ecology of this barrier beach has not been completely destroyed. It is these areas that we hope can be purchased by the additional funds that would be provided for in S867. We, therefore, put our full support behind this fine Bill.

Two sections of Fire Island are of particular interest to our organization: the " Natural Area ", known as the " Eight Mile Zone " in the Master Plan, and the " Lighthouse Tract ".

The Eight Mile Zone, 1,000 acres of unspoiled barrier beach, is a rarity in such a high-density population area. The Fire Island National Seashore Act of 1964 states " The Secretary shall administer and protect the Fire Island National Seashore with the primary aim of conserving the natural resources located there. " The Eight Mile Zone, with its Bayberry, Beach Plum, and Beach Heather Dwarf Scrub Habitat is an ideal example of the natural resources referred to in this Act; therefore, we urge that this tract be included in any acquisitions that might be made. We also urge the National Park Service

not to over-develop it with recreation areas. The Master Plan provides for the erection of five recreational areas in this short stretch of 6.9 miles. Surely, this is not in keeping with the original intent of the Fire Island National Seashore Act. There is a valid alternative to replacing existing structures with Park Service structures- that is to leave the land alone. There are times when that is the kindest thing you can do to a parcel of land, and it is our recommendation that the Eight Mile Zone be allowed to return to its natural state. It is a great temptation to succumb to local pressures to " use " the land, but it is our judgement that the best interests of the people will be served by allowing them to enjoy the rare pleasure of a truly natural area close to home. There are blessed few of them left in the Bos-wash Corridor. There is ample precedent for undeveloped Parks in the National system. Cape Cod is a well-known example. We strongly urge you to preserve this small part of our natural heritage for generations to come.

The Lighthouse Tract, consisting of the westernmost area of the Fire Island National Seashore jurisdiction, was originally doomed to amputation. Local indignation forced the National Park Service to abandon this plan. The Environmental Impact Statement filed with the Master Plan stresses the importance of the lighthouse property both as a nature study area and an historic site. The Great South Bay Audubon Society has made a proposal for such a plan to the National Park Service, which they have included in the Alternative Plan (See Alternative B, pg. 285 et seq)They list this property as one of those that should be protected because of possible adverse effects of incompatible adjacent lands. It is listed as one of the best examples of Cattail-Cranberry- Rush Marsh and Heather-Dwarf Scrub Habitat. It also includes a Bearberry Dwarf Scrub Habitat. Over the past six years, over 60,000 birds of 168 species have been banded on this property. Because of its location and unique habitat, it is a favorite stopping-off place for migratory birds.

The area is accesible by car and could be used by a large segment of the population. The land has been declared surplus by the U.S.Coast Guard, and it could be obtained at minimal cost. Existing structures could be utilized. We urge this Committee to support this acquisition and plan, which allows for developing this property as an environmental education center.

Be assured that the Great South Bay Audubon Society is dedicated to defending the basic intentions of the Fire Island National Seashore Act and the ecological integrity of this beautiful Island.

Sophie Morris

Mrs. Sophie Morris,

President

142 St. Mark's Pl.

Massapequa, New York 11758

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October, 1975

STATEMENT IN REPLY TO THE U.S. DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE DRAFT MASTER PLAN FOR THE
FIRE ISLAND NATIONAL SEASHORE.

Fire Island is a natural resource:

as a barrier beach

as a wildlife preserve (specifically, a
nesting area for water birds)

and, in its natural beauty, as an inspiration
and a balm to the human spirit.

These attributes are all the more precious insofar as they
pertain to an area in close proximity to the congested eastern
seaboard in the vicinity of New York City.

We, as members of ACTION for Preservation and Conservation of
the North Shore of Long Island, as residents of Long Island,
New York, as taxpayers of the United States, are appalled by and
strongly object to the undertakings proposed by the National
Park Service, finding them in blatant contradiction of Public Law
88-587, September 11, 1964. That law authorized establishment
of the Fire Island National Seashore, recognizing this fragile
area to be a national treasure to be preserved.

It is not a man-made wonderland that we, the people of the
United States decided to preserve. Rather, it is a small tract
of wilderness. Man's incursion into an area such as this
provides a potent, and probably irreversible, threat to the
precariously balanced ecology.

The Fire Island seashore belongs to the people of the
United States. Access is possible by way of toll causeway to
a sizeable parking area from which a short walk brings one
directly to the eastern end of Fire Island National Seashore,
and ferry service to Watch Hill provides entry to this area
from the west.

Man, on foot, and in limited numbers, will -- we trust --
allow this area to survive.

Those of us who crave the wonder and challenge of nature,
clearly should not be required to transfer ever more territory
to be altered by man. And surely it was to guard this territory
against exploitation and concomitant destruction of its innate
qualities that the Federal Government initiated acquisition
in 1964. To this end, the Parks Service is charged to guard
the area against destructive intrusion.

The facilities at Watch Hill are a perversion of the intent
of the Fire Island National Seashore Act. To expand them or in
any manner duplicate any part of these facilities anywhere
within this eight mile zone would make a mockery of the intent
of Public Law 88-587.

(continued)

STATEMENT IN REPLY TO THE U.S. DEPARTMENT OF THE INTERIOR NATIONAL PARK
SERVICE DRAFT MASTER PLAN FOR THE FIRE ISLAND NATIONAL SEASHORE

Page 2

October, 1975

Even were one to grant the Park Service's apparent contention that the existence of this area with its access from the west (by ferry to Watch Hill) and from the east (by road to Smith Point parking area) is not enough to allow the citizens of this country to discover the present natural wonders for themselves; that museums and other interpretive facilities would bring appreciation and understanding to many -- even if one were to grant that premise, it should be located outside this area, to wit, at one or both of the proposed ferry staging areas on the south shore and the access point from the east. So guided, visitors might enter upon this tract with understanding of the nature of their trespass.

We most strongly urge that there be no further expansion of existing facilities; that no further facilities be built; that access to this piece of land not be increased by providing further docking facilities.

National Park Service plans for "restoring" this area to pre-interference conditions are not persuasive as they are not supported by precedent or other demonstration of effectiveness. We oppose the land management proposals contained in the Park Service Statement.

Respectfully submitted,

ACTION FOR PRESERVATION AND CONSERVATION
OF THE NORTH SHORE OF LONG ISLAND, INC.
P.O. Box 492
Huntington, New York 11743

64-508 171

Amagansett Residents Association

P. O. Box 682 • AMAGANSETT, NEW YORK 11930

Oct. 8, 1975

Mr. Richard Marks, Supt.
 Fire Island National Seashore
 P. O. Box 229
 Patchogue, N. Y. 11772

Dear Mr. Marks;

We are shocked and dismayed at the National Park Service Draft Master Plan for Fire Island. It represents a pervasive attitude of so many State and National agencies these days, namely; that "development" must go on regardless of the dwindling amount of unspoiled areas left on earth.

If, in the face of the devastation of unlimited growth, the National Park Service still labors under the seduction of the development mentality, than surely escide cannot be far behind.

If you, of all people, continue to subscribe to the outworn belief that increased population pressures demand developmental planning at the expense of our vanishing natural environment, than who in government remains to protect our only real asset, nature?

We urge you sir, to reconsider your position and in the name of 20th century ecological humanism and in the name of generations yet unborn, leave the eight-mile zone of Fire Island alone.

Sincerely,

Charles Raebeck
 Charles Raebeck, Pres.

cc. Mr. Jerry Wagers, Dir.
 North Atlantic Region, NPS

Mr. Gary Everhardt, Dir.
 NPS, U. S. Dept. Interior

Hon. Nathaniel Reed, Assist. Sec.
 for Fish & Wildlife & Nat'l Parks,
 U. S. Dept. Interior

HAROLD JAFFE

5 DEVON ROAD • GREAT NECK, NEW YORK 11023
516-482-8391



SENIOR MEMBER
AMERICAN SOCIETY OF APPRAISERS

Chairman, Assoc. of Environmental
Designers
Director, Inst. of Environmental
Studies

Oct. 6, 1975

Mr. Richard Marks, Superintendent
Fire Island National Seashore
P.O. Box 229
Patchogue, NY 11772

Dear Sir:

We have studied the National Park Service Draft Master Plan for Fire Island, and are of the opinion that the proposed plans for improvement of this area are a consummate waste of not only taxpayer money, but even more priceless, a relatively unspoiled natural resource.

The Watch Hill area, as an example of what we can expect to happen throughout Fire Island, is badly designed from an aesthetic point of view. The buildings are completely out of character with the natural contour of the terrain, and are repetitive to the point of monotony. What we see is also unfunctional, badly designed and difficult to maintain.

We also observed that the attendance on a relatively mild weekend afternoon, which would be ideal for a family outing, very scanty for the facilities which are provided. This is obviously going to be the case throughout the various "improved" areas. We also believe that the dimensions of the individual beaches are also inappropriate for further incursion of buildings, boardwalks, and refreshment stands.

Our organizations strongly urge that the money which is available be spent on conservation of the beaches as they already are, instead of further destruction of a beautiful natural resource. There are sufficient parks with beaches more readily available for the public, not to great a distance away, which are more adaptable for the type of project you have unfortunately planned for this area.

Respectfully yours,

Harold Jaffe



THE LEAGUE OF WOMEN VOTERS OF SUFFOLK COUNTY

Ann Sielman, President 18 Woodhollow Lane, Huntington, New York 11743 (516) HA 1-3217

October 16, 1975

Mr. Richard Marks, Superintendent
Fire Island National Seashore
63 Oak Street
Patchogue, New York, 11772

Dear Mr. Marks,

Since making a statement at your first hearings on the Master Plan for Fire Island we have studied the plan in greater depth and followed publicized developments of the plan. Individually we also submitted our comments in the workshop books.

We are aware that the deadline for submitting comments was October 9, and apologize for not having sent these in earlier, but it was essential for our organization to obtain more input from our membership, which reside throughout Suffolk County. We hope that our point of view will be taken into consideration in formulating Park Service policy for Fire Island and in elaborating the new draft. We understand that there will be additional public hearings, and we shall then make these statements.

Our organization will continue to work on this issue and we are looking forward to receiving the new draft and expect to comment on it too.

At this time we want to confirm our appointment with you for November 18 at 10 a.m., when we expect to discuss certain aspects of Fire Island with you.

sincerely yours,

Adelaide
Adelaide Flatau
Environmental Quality Chairperson

cc: Ben. J. Javits
Mr. Otis Pike
Mr. T. Downey
L.I.B.C.
Fire Island Natural Area Com ✓
LWV-Us
LWV-NY

THE LEAGUE OF WOMEN VOTERS OF SUFFOLK COUNTY

ADDITIONAL COMMENTS ON THE FIRE ISLAND NATIONAL SEASHORE
MASTER PLAN AND THE ENVIRONMENTAL IMPACT STATEMENT

October, 1975

The Act which established the National Seashore specifically stated that the eight mile stretch between Watch Hill and Smith Point should be kept in its natural state without development. At this time there is no reason to change this basic policy and therewith the intent of the Act. On the contrary, it is in the interest of the preservation of Fire Island that this stretch be kept as a nature preserve, forever wild. This philosophy is expressed in the Workbook A, p. 25, and we fully support it.

Such a policy would not make this area of Fire Island under-utilized, as there are many people, and their numbers are growing, throughout Long Island, as well as from other areas, who appreciate a wilderness area. Included are hiking groups, for whom there are almost no facilities on Long Island; nature lovers and birdwatchers, as well as those who like primitive camping without any man-made facilities. Establishment of campsites at Whalehouse Point and Robinson Cove would be contrary to their interests and to the ecology (Book E, p. 20). The same is true for picnic grounds, which would also constitute a gross intrusion and only cause pollution at Whalehouse Point, Robinson Cove and Old Inlet (Book E, p. 25). It is quite likely that people who visit this area will also want to take advantage of the proximity of the ocean and go swimming, but if they feel the need, they can take advantage of supervised beaches nearby, and no new supervised facilities should be established in this area (Book E, p.7). There are also the fishermen who now already enjoy this area. They will undoubtedly continue to do so.

We believe that recreational vehicle use is basically incompatible with the National Seashore concept and particularly with the preservation of a national preserve area within the Seashore. Driving represents a great stress on the fragile barrier beach. We can only reiterate that if vehicular traffic cannot be excluded, it must be kept to a minimum, closely regulated and strictly enforced..

Docking facilities (Book D, p. 7), beaching and offshore anchorage area (Book E, p. 18) along the entire eight-mile stretch should also be kept to a minimum and no new construction contemplated. As long as there are amrinas elsewhere on Fire Island, this would not be considered an exclusionary practice, but just increase the available variety on the Seashore.

Maintaining the eight-mile stretch in its natural state does not exclude research. On the contrary, it would make an excellent outdoor field station for data collection and certain experiments. Since the Park service owns several homes in this stretch, whose lease expires in 1976, these could be used as base for such studies, eliminating the need for construction for research purposes. Laboratories and other facilities should be established on the mainland, possibly at the new headquarters. This would make it much less expensive to establish and maintain a research facility and preclude the possibility of severe storm damage to expensive research facilities (Book A, p. 26).

As far as a bicycle trail is concerned its construction is incompatible with a nature area, especially considering that the natural surface characteristic of Fire Island does not invite cycling. We believe that the management of cycling and the commercialization resulting from it would create enormous problems. Facilities to park bicycles safely at Smith Point should be available to permit people to get there by this means and then enjoy the Park as it is (Book E, p. 12).

In view of the fact that there are bedroom facilities for educational purposes at Watch Hill, there is no need to consider additional ones for Whalehouse Point or Robinson Cove. Schools can use the existing facilities which could be expanded at that site should the need arise. They can then hike to the natural area and appreciate it in this state and better study the ecology. In short, we oppose the proliferation of facilities throughout the eight-mile preserved area.

We support the idea of establishing a staging area on the mainland to make Fire Island more accessible and to further the education of the public. We are opposed to using the Republican Club, if only because of its inaccessibility. Any other location

selected not only should be close to the water, but also accessible by mass transportation. We also urge that the construction of parking lots on such a facility be kept to a minimum. We suggest that advantage be taken of existing parking facilities, such as at the Patchogue Railroad Station which should be available on weekend and holidays when the demand for park use is greatest. Whatever is established should give the appearance of a nature park rather than a bleak shopping center, that is, the area should be landscaped, including trees and open space and in itself be environmentally desirable.

It is our hope that whatever ferry service the Park Service proposes will be discussed in the new draft: what type of ferries will be used and what fares are proposed should be spelled out. To permit the public to take advantage of the National Seashore it has to be economically accessible, which it is not now. The first draft did not address this problem.

In summary, we strongly urge:

1. That the eight-mile stretch be kept as a natural area as intended by the establishment of the National Seashore;
2. That vehicular traffic, including recreational and non-recreational vehicles and bicycles, be restricted to emergency use and that no road, path or beach permits be provided;
3. That access to the developed areas, such as Sunken Forest and Watch Hill be improved both physically and economically;
4. That mechanisms be established for continuous citizen participation in the planning and management of the Park.

Marine Environmental Council of Long Island

P.O. Box 55, Seaford, N.Y. 11783

Office: 2348 Maple Street, Seaford, N.Y. 11783

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October 4, 1975

Mr. Richard Marks
Superintendent
Fire Island National Seashore
P.O. Box 229
Patchogue, N.Y. 11772

Dear Mr. Marks:

After reading the Fire Island Natural Area Committee's reply to the Draft Master Plan for the Fire Island National Seashore, the Marine Environmental Council became concerned about the Interior Department's Development proposals for:

- A. Robinson Cove
- B. Whalehouse Point
- C. Old Inlet
- D. Smith Point West
- E. Watch Hill
- F. The Fire Island Hiking/Biking Trail

The Master Plan must treat this natural area as a geographic whole. The continuous five-mile stretch of totally unspoiled area between Watch Hill and Old Inlet should be considered as a wilderness to insure its protection for future generations of Long Islanders and Americans.

Sincerely,

Thomas S. Zawyrucha
Thomas S. Zawyrucha
2nd Vice President

cc: Mr. Jerry Wagers
Mr. Gary Everhardt
Hon. Nathaniel P. Reed
Cong. Thomas J. Downey
George Wilde

Sierra Club
Atlantic Chapter
Nassau County Group
Post Office Box 734
Port Washington, New York 11050
October 7, 1975

Mr. Richard Marks, Superintendent
Fire Island National Seashore
P.O. Box 229
Patchogue, New York 11772

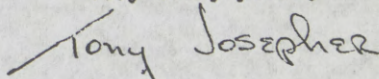
Dear Mr. Marks:

The Proposed master plan for the Fire Island National Seashore would seem to be more oriented toward development than preservation. It would be ironic if the Park Service, through the implementation of this plan, were the agent overseeing the destruction of this unique natural resource.

From the descriptions of the prepared development, modifications and improvements delineated in the Draft Plan, it would seem that the only areas that would have a chance to remain natural are those areas not included in the National Seashore. It is difficult to be more specific, since the draft plan itself is very unspecific.

We strongly urge the Park Service to undertake a major revision of the Draft Plan with the aim of creating a foundation for the preservation of the area in a close approximation to its natural state.

Very truly yours,



Tony Josepher
Chairman

September 30th, 1976

Superintendent
Fire Island National Seashore
75 Oak Street
Patchogue, New York, 11772

Dear Sir:

The Moriches Bay Audubon Society has about 500 conservation-minded members, nearly all living in Suffolk County, New York. A number of them have examined the Master Plan and Environmental Impact Statement for the Seashore. Several attended the recent Workshop meetings in Patchogue. Many others requested and filled out the Workshop booklets. Although these activities were undertaken by members acting as individuals, our officers and directors have considered the Master Plan and ask that our official position be entered into the record and considered in further revisions of the Plan.

According to the Act of Congress establishing the Seashore, the purpose was to "conserve and preserve for the use of future generations certain relatively unspoiled and undeveloped beaches, dunes and other natural features....." We believe that most of the development proposed in the Master Plan is incompatible with this purpose; that the construction and future use of proposed facilities will degrade the Seashore environment and that visitation to and use of the Seashore must be limited and carefully controlled to prevent adverse impacts on the fragile ecosystem.

Without going into specific details at this time, we believe that protection of the environment should be given higher priority than the convenience of users. Development plans should be scaled down substantially. Construction, if delayed, can always be accomplished in the future if a real need for it is demonstrated. On the other hand, a damaged environment can not easily be restored.

We believe that the section from Smith's Point County Park to Moriches Inlet, if acquired from the County, should remain in its natural state with no building except possibly for a ranger station near the Inlet for added protection of the area. We completely oppose the plans for a major development in the Forge Point area. We can not approve proposals for camp sites behind the dunes which would lead inevitably to serious ecological damage. We also oppose the plans for numerous anchorage and docking locations outside of supervised areas. These will lead to invasion of the salt marsh and dunes by increasing numbers of unsupervised visitors. In addition, we think that construction of additional docking areas for larger boats is unnecessary since this would duplicate facilities available

elsewhere and would be largely used by people with no interest in the ecological values of the Seashore. We also consider the number of recreational vehicles to be allowed on the beach at any one time excessive and oppose vehicle use anywhere but on the oceanfront.

On the other hand, we strongly support leaving the high dune area in its natural state, the research proposed on salt marshes and the prohibition of further spraying and ditching. We also support the addition of islands near Moriches Inlet. These are now left completely unprotected by the Town of Brookhaven and are being grossly abused by campers and visitors to the detriment of both nesting and migrant birds.

Many of our members regularly study the birdlife of these islands and two members have banded birds there since their formation. Because of our long experience with these areas, their fauna and flora and the changes which have taken place through the years, we offer our services as advisor in managing these and other actual or potential nesting and concentration sites under your jurisdiction.

Sincerely yours,

Gilbert S. Raynor, President
Moriches Bay Audubon Society

GSR/bgm

TESTIMONY TO THE SENATE SUBCOMMITTEE ON NATIONAL PARKS AND RECREATION,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS - Senate 867, amending
the Fire Island National Seashore Act

My name is Donald F. Squires. I am presently director of the New York Sea Grant Institute, a consortium of the State University of New York and Cornell University, the eighth designated Sea Grant college. Although now a resident of Albany, New York, I lived most of my childhood on Long Island and from 1970 to 1972 I served as the Suffolk County delegate to the Fire Island National Seashore Advisory Council and as its Vice Chairman in 1971 and 1972. My professional interests may best be summarized thus: I seek optimal utilization of the coastal resources of the nation and in particular, of New York State. My remarks are offered as my own; they do not represent a statement of an official position of the Institute, the State University of New York, or Cornell University.

I am speaking in support of Senate 867 to provide additional funding for the Fire Island National Seashore, and additional powers for the Secretary of the Interior with respect to the National Seashore.

We have learned to do much to control and manage our environment. Man's technological capacity seems, at times, unlimited. However, we have come to a new crossroads, a new set of decision points: availability of energy and of funds to carry out the tasks technologically within our reach. Specifically at the Fire Island National Seashore, man is dealing with a highly dynamic system created by natural forces. The changing structure of barrier islands in response to the forces of waves, currents, winds, and other natural impacts is well known. Man can partially stem the effects of these forces, but only at great expense in dollars and in energy. In view of the

growing shortages of the latter, we need to re-evaluate priorities and rethink our long-term plans for fragile ecosystems such as those preserved by the Fire Island National Seashore. It was concern for the preservation and maintenance of the barrier island system that resulted in the far-seeing legislation creating the National Seashore. Implementation of that legislation has been less satisfactory.

The Fire Island complex is a resource of great value to the people of the metropolitan complex of greater New York City and Long Island. It is also a critical factor in the maintenance of the complex of bays along the south shore of Long Island--a recreational and commercial resource of equal, perhaps greater value: for example, over half the hard clams marketed in the United States are harvested from Great South Bay, an industry whose value probably exceeds \$20 million annually. The barrier island complex is a vital element in the protection of the densely built up southern shore of Long Island, saving countless homes from flooding and storm damage during periods of high winds and hurricanes.

Unless we are willing to devote extensive dollars and energy to maintaining the barrier island system artificially through coastal engineering feats, we must scale our utilization to a compromise with nature. It is for that reason that I have been engaged in discussions with my colleagues George Biderman and Charles Lowry for many years on the deficiencies in the management of the Fire Island National Seashore. Further development of that resource should not occur until the Master Plan and the Environmental Impact Statements clearly and specifically address the issues of economics and natural processes. It is my personal judgment that a central

question such as the ultimate carrying capacity of the barrier island complex has not been determined. Specifically, what are the water resources available? How will further development affect pollution of existing groundwater supplies? What are the impacts on the natural dune system of structures developed for visitor use? What are the impacts upon the foreshore, dune system, and back dunes of vehicular traffic? The answers to some of these questions are now known sufficiently so that an appraisal of the social and economic costs can be made. It has not been adequately done.

It is my own judgment that the arguments presented by those who are far more familiar than I with details of planned development, calling for stricter application of zoning regulations and for a lesser rate of development, are prudent and sensible. I say this not as an "environmentalist," but rather as one who sees great potential for enjoyment and for economic return from rational development.

Management of the beach system by deployment of groin fields has been largely discredited; all this technology does is to require still more groins. Beach nourishment programs are expensive in dollars and fuel and have only ephemeral results. By-passing of sand across the inlets seems to be the best alternative available to us, for this maintains the natural flow of sand. We sometimes lose sight of the fact that it is the natural expenditure of the energy of waves in the movement of sand grains along a beach which is "nature's way" of dissipating wave energy. Although the most conservative position would argue that nature should take its course, the facts of the matter are that there is extensive mainland development which must be protected from flooding and storm damage. There are industries--

such as the hard clam fishery--which are dependent upon the maintenance of the present bay ecosystem. Our expenditure of money and energy in maintaining the barrier island is justified in terms of these industries. The National Parks Service seems to be coming to this conclusion and the latest version of the Environmental Impact Statement is clearly advanced over first drafts in dealing with beach maintenance policy.

Dune reconstruction and maintenance policy seems also to have advanced in later versions of the EIS. By these natural structures, storms are kept from reaching the low-lying south shore of Long Island; dunes are the basis for much of the aesthetic appeal of Fire Island. However, construction on the dune system continues in many places despite all reason; vehicular traffic, demonstrated to have a negative impact upon dune vegetation, has not been significantly abated, nor does the Seashore seem to be taking a positive stance towards its reduction.

Evidence of improved conceptual planning for developing and restoring bayside wetlands is contained in the new Environmental Impact Statement. Construction of dredge spoil islands is indicated as a future direction; abatement of ditching of wetlands for mosquito control and elimination of mosquitocides are all recommended. Several years have passed since these advances were suggested, and they are still recommended.

I note that the Environmental Impact Statement calls for the very

legislation proposed in S. 867--provision for the Secretary to seek injunctive relief. This change in the legislation would permit better enforcement of the existing zoning authority. I regret that it is my perspective that the powers of the Fire Island National Seashore, as identified in the original legislation, have been ineffectually used. It is not at all clear from the EIS that the National Seashore has done the necessary and required assessment of the impacts of further development upon the system, particularly as it relates to protection of groundwater, vegetation, and wildlife.

The Master Plan for the Fire Island National Seashore calls for further development of ferry crossings and of marina facilities on the Island. Yet each of these brings about a sequence of events with which society has grappled for decades: dredging, filling, bulkheading. Each new development calls for new facilities to handle the traffic generated by the facility: demands for water, problems associated with the disposal of wastes, oil and gas spillage and leakage. Little in either the Master Plan or the Environmental Impact Statement brings comfort to the reader.

I began by raising the issues of funding and energy as they apply to the future planning for the Fire Island complex. It is important to put Fire Island in context for those who may not be familiar with it. The Fire Island National Seashore is a fragment of a total system of offshore islands and lagoons along the south shore of Long Island. It is the only significant stretch of the system that retains some of its original characteristics: that is, it has been less developed and modified by man than the rest of the system. The legislation's intent was to preserve this section as

a fragment of what once was. When I speak of managing the shore, it is in that context: we are managing a small portion of a larger system extensively engineered. To the east and west stretch groin fields, heavy development of the dune systems, roads, and other structures. These will be protected because there is a public interest and a vested economic value--the justification of coastal engineering. The National Seashore--the only relatively undeveloped part of the barrier system--must be managed within the scheme of such coastal engineering in ways that will not detract from its remaining natural values, yet will save it from destruction.

What are the compelling reasons for saving Fire Island National Seashore? Aside from its aesthetic and recreational values, loss of the Seashore portion of the barrier island system would have enormous impacts on lands to the west and to the north on the mainland. Opening new inlets would capture sand which should continue down the beach. Dunes would be lost through washouts or blowouts, weakening protection of the south shore communities from flooding. The fishery of Great South Bay would be damaged.

It is often said that it is easier to manage man's activities than natural forces. I believe we have an important instance of the application of that rule. Continued development of the Fire Island National Seashore without reasonable assurance that the impacts will not be negative will only lead to a vicious cycle of maintaining an unstable, artificial environment. What are the requirements to maintain the barrier island system in the boundaries of the Fire

Island National Seashore?

1) Maintain the normal flow of sand from east to west along the barrier beach. This can best be done by sand by-passing at the inlets and beach nourishment programs to restore severely eroded segments.

2) Maintain the dune system as a barrier to storm waves. This can best be done by providing a broad beach front--the source of sand for dune creation. Prohibition of human activities that cause erosion of dunes either through disruption of the sand surface or through destruction of vegetation anchoring the dunes would add protection. If this is best accomplished by restricting vehicular traffic, surely this is cheaper and less costly of energy than extensive engineering to replace the sand dunes blown away through careless use.

3) Maintain and enhance the quality of bayside wetlands. This can best be done by severely limiting their destruction through dredging, bulkheading, ditching for mosquito control, and other modifications. Creation of new wetlands from dredge spoil will increase the carrying capacity of the island for wildfowl and aquatic life.

4) Restrict development, or at a minimum, slow its pace, until the carrying capacity of the island will clearly not be damaged. How strange it would be to find, a few years hence, that water had to be imported to the island because of shortages of supply or contamination of the existing sources.

In summary, many of us have gone through a period of frustration, awaiting the Master Plan only to have to reject it because of its inadequacies, and then again awaiting a revised version. Yet through

this same time, development has gone on and natural forces have taken their toll. We are now assured by the National Park Service that many of the initial steps we suggested long ago will be taken. But we are not dealing with a natural system that needs only to be "restored" so that it can care for itself. We are dealing with a man-modified spot sitting in the center of a highly altered system. The National Park Service must come forward with a program of management of this resource that accounts for both the restoration and the maintenance of the Seashore. The plan must get on with the urgent tasks; those that might be done should move at a more deliberate pace.

STATEMENT OF GEORGE BIDERMAN, PRESIDENT, FIRE ISLAND ASSOCIATION,
PREPARED FOR DELIVERY TO SUBCOMMITTEE ON PARKS AND RECREATION,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U. S. SENATE, NOV. 13, 1975,
HEARING ON S. 867 (TO AMEND THE FIRE ISLAND NATIONAL SEASHORE ACT)

My name is George Biderman. I am a resident of the Incorporated Village of Saltaire on Fire Island. From 1965 to 1969, I served by appointment of the Secretary of the Interior as chairman of the Fire Island National Seashore Advisory Commission. Currently, I am president of the Fire Island Association, which is a coalition of most of the civic and property owners associations in the developed areas of the island.

This hearing is the first time in the eleven years since the Fire Island National Seashore was established that Congress has sought to exercise its oversight function with regard to the Fire Island National Seashore. So we are especially grateful for this opportunity to testify, because they have been years of Kafka-esque frustration for those of us who supported and worked hard for the establishment of the Seashore.

During those years, the National Park Service has treated the Fire Island National Seashore as a step-child, and an ugly one at that. It has evaded, and sometimes violated, its mandate to protect the Seashore from abuse. On occasion, it has pleaded lack of funds as the reason for its failures. But when our Senators and Congressmen offered to introduce just such legislation as is before you now, Interior's response was negative. A few years ago, an editorial in the New York Times called the whole process one of "malign neglect."

But I do not want to take this sub-committee's valuable time reciting a litany

of recriminations. Assistant Secretary Reed has assured us that the "step-child" era has ended. Fire Island has a new superintendent who seems more interested in finding ways to carry out the Congressional mandate than in finding ways to avoid it. At public hearings this summer, the public overwhelmingly rejected a disgraceful draft master plan whose only objective seemed to be to repeal almost every policy Congress had developed in writing the enabling act, and the planners are now back at their drawing boards.

So it looks as though Fire Island may finally become, if not the Cinderella, at least the outstanding member of the National Park family all of us, conservationists and Fire Island buffs alike, had envisioned sixteen years ago when the first bill was introduced. If that is ever to happen, neither the words (which is all we've had so far) nor the deeds of the Secretary and the Park Service can bring it about without additional Congressional action. The first, and most urgent such action, is enactment of Senator Javits' amendment, S. 867.

We regard this bill as an interim measure. Let me give you the background on why we feel its early passage is essential, rather than waiting for the completion of a master plan and environmental statement so that everything can be wrapped up in one neat, tidy legislative package.

First, the question of money:

An increase in the authorization obviously is essential. Fire Island is the only national park of the period which has not had its authorization dramatically increased,

despite the dramatic inflation in Fire Island land values since the Seashore was established. There is only about a quarter of a million dollars unexpended under the present \$16 million ceiling, which means that the Service virtually is impotent until this bill is passed and additional Land and Water Conservation funds are made available.

There is no assurance that, having failed four times to produce an adequate master plan and environmental statement, the Service will succeed this time. On the most optimistic timetable, even if it does succeed, by the time the public involvement process and the legislative drafting process have been completed, new Congressional hearings held, and the necessary amendments and appropriations passed by Congress, two more years will have passed.

Senator Javits' introductory statement when this bill was introduced in the last session quoted the court of appeals opinion, which urged "those with the power and authority to preserve this gem of an island to halt their procrastination and get on with the urgent business of saving this charming and fragile outpost of nature before the encroachment of haphazard development irrevocably despoil it."

Some of that despoliation has already taken place. There were about 2,000 private structures on the island when the Seashore was established; there are about 3,500 now. Of the 1,500 new structures, almost half involved a violation of one or more of the Seashore's zoning criteria. In addition, there have been scores of conversions to commercial uses and to multiple-dwelling uses. We can expect this trend to continue until the Park Service has both the will and the wherewithal to bring it to a halt.

Some of the local governing authorities, but not all, have tried. But as they testified at the public hearings, the local governments lack the resources and some of the legal powers. Furthermore, there is an attitude among their constituents as well as some officials that the problems within the National Seashore should be the Federal government's, not theirs. And there is no certainty that future local administrations will adopt a conservationist policy toward the regulation of private development.

Fire Island is a narrow, fragile sandbar. Increased density of use brings with it increased septic tank effluent, increased draw on the ground water table, and the greater impact of population on the beaches, dunes and vegetation. No one knows how much density of use the island can take before the ground water table becomes polluted or suffers salt water incursion, or how much effluent the soil strata can take before the Great South Bay, one of the most productive estuaries in the world, is affected.

The Advisory Commission considered these questions during my tenure, and we all assumed that the only prudent course was to permit only low-density uses of land within the developed communities. There was another consideration: maintaining the character of the communities, which Congress took into account in placing strictures on commercialization into the act.

The pressures on Fire Island real estate are enormous, even with the recession and tight money. About 1,500 building lots still remain open in the exempted communities, the only sizable amount of oceanfront available for private development between Long Beach and Westhampton Beach. And this is within an hour of New York City

and a day's travel of an area containing 20 million people. Even with the enforcement of the modest zoning criteria now in effect, it would be naive to expect that these pressures will abate.

Very few of these adverse pressures take the dramatic form of, say, the Gettysburg tower. Most are cases of owners trying to squeeze more out of their property than they are entitled to: building a 2,000 square-foot house on a lot legally zoned for 800; converting a single-family house into a rooming house; turning a snack shop into a bar-and-grill; adding rental bedrooms or apartments to existing structures. Each individual instance may seem minor, but their cumulative effect has been a major increase in population density and a significant effect on the character of a number of the Fire Island communities.

The Advisory Commission had always contended that major condemnation funds would not be needed to enforce zoning standards on Fire Island: all it would take would be a few examples and would-be violators would not go to the trouble or expense. With the Secretary's authority to acquire land for which a non-conforming use had been proposed and sell it for a conforming use, a revolving fund should suffice. Unfortunately, the Park Service never tried this approach, although it came close a few times, so the despoliation of which the court of appeals spoke continues to this day.

Senator Javits' amendment would not eliminate the need for a revolving fund, but would certainly reduce its necessary size. Both the Federal district court and the court of appeals criticized the present statute for relying only on the power of condemnation to prevent non-conforming land use. The addition of the power to seek injunctive relief is a creative solution to this problem. We support it fully.

As a matter of fact, I recommend that this committee consider amending the legislation governing other parks with private inholdings to include the same provision for injunctive relief. For example: I am a member of the Gateway Citizens Committee. At a recent meeting, we were told that the New York City Planning Commission has before it applications for a major expansion, including new streets, on the Breezy Point oceanfront and conversion of about 100 structures. Should these be granted, the Park Service will face a sticky situation with only condemnation power available.

I have dwelt at some length on the subject of private development because, obviously, it is a major concern of the Fire Island Association's membership. But it is not our only concern. The great majority of those of us who were residents when the National Seashore first was proposed supported the preservation of this barrier beach even though we expected, at that time, that we would be given only limited, or, perhaps, lifetime occupancy of our homes. Most Fire Islanders still support the conservation objectives of the statute, and have concerns which extend well beyond the boundaries of their villages and hamlets. I would like to submit for the record at this time a set of position papers relating to the draft master plan which were developed over months of discussions among our Board of Directors and within the communities. These were transmitted to Superintendent Marks on October 9, 1975, on the subjects of boundary changes, hurricane protection and erosion control, zoning, vehicles, dune and wetland protection, visitor access and circulation, further development on Federal lands.

Future legislative action will be required to implement the new master plan, whenever it arrives, and I assume that the committee and the administration will collaborate in the drafting process. Some of these are touched on in the position papers, and I would like to call your attention to a few.

The use of four-wheel-drive vehicles on this roadless island has burgeoned from a nuisance to a major environmental hazard. The impetus for establishing the Fire Island National Seashore came from a proposal by Robert Moses to use most of the island's land mass for a four-lane, divided parkway. The thought of losing this last natural barrier beach in the Northeast, and one of the few sanctuaries from the automobile remaining on the coastline, mobilized enormous support from the general public and from environmentalists. That thought made Fire Islanders willing to give up their homes for a National Seashore rather than see a highway.

Unfortunately, some deals were made at the time. Some were unofficial. In exchange for their support of the legislation, the beach buggy associations were told that we would not oppose their use of a limited section of the beach at the eastern end of the Seashore for sport fishing. Contractors, service people and the handful of year-round residents had just discovered the convenience of driving to and from the mainland: until 1962 -- only two years before the Seashore -- the only access was by water, and everyone got along splendidly. Even though most of these people supported the road, in the peculiar symbiotic relationship that develops in resort communities, these people were told that their limited right to drive would not be opposed.

After the Seashore was created, the National Park Service made some other deals, most of which are illegal. The statute clearly says that "access shall be by ferries and footpath only" in the eight miles east of Davis Park and in the Sunken Forest area. (78 Stat. 931 §7 (b)) Despite this, the Service acquiesced in and did not contest agreements which gave the right of vehicular access to properties in these natural areas, most of which had been developed well before there were any bridges to Fire Island. Some of these agreements run until 1992. And the beach buggy associations were given use of six miles of the beach in the eight-mile zone.

I am ashamed to say that we did not oppose these deals. "In retrospect," as the President said of Lockheed, it was a mistake. That mistake cost Fire Island dearly in Federal district court, when Judge Dooling found that, since we did not oppose some use of four-wheel-drive vehicles on Federal lands, we had to prove that the "incremental" additional uses did all that much additional damage.

What damage do vehicles do? Inland, they destroy vegetation, create barren areas which are blown out by the winds and cause an irreparable loss of silt to the atmosphere. On the beach, when they traverse the base of the dune, which is the most common track in the winter months of high tides, they destroy the vegetation which is important in dune formation and stabilization, and often damage the dune itself. In the tidal zone, they destroy the fauna and bacteria which play an important role in the food chain. The rutting of the berm accelerates erosion by wave action and it also is a physical and aesthetic obstacle to visitor enjoyment of a "natural" beach, as any photograph will show.

The experience of the past eleven years shows that we, and the Park Service, were much too sanguine about the ability of the Seashore to absorb the impact of these vehicles, probably because they were just beginning to be widely used when the Seashore was being established. I believe that the statute should be amended so that the "access by ferries and footpath only" applies to all Federal lands except the proposed mainland terminals and the existing bridgeheads, where paved road and parking facilities now exist. I also believe that the Park Service can and should take the necessary legal steps to terminate all agreements and permits which are contrary to the present law.

We also believe that, when the act is amended to accommodate the new master plan proposals, the Secretary should be given less discretionary authority than Sec. 3 now gives him in the regulation of private development. Action against violation of the standards promulgated under this section should be mandatory, otherwise bureaucratic inertia may produce the same kind of progressive deterioration we have witnessed until now.

The original concept of the Fire Island National Seashore was an exciting one, and it is still valid today. It was to preserve for future generations a natural barrier beach, so that those who wanted this kind of outdoor experience would be able to have it. Beaches for mass recreation abound, from Staten Island to Montauk. But only Fire Island and a part of Sandy Hook remain to offer an alternative in our region. The Park Service lost sight of this legislative objective very early on, partly because its arcane system classifies National Seashores as "recreation areas" regardless of what the statute says. So we have lost a part of the natural areas and a substantial

part of the developed areas to development which runs contrary both to the letter and the spirit of the act. But it is possible to save what is left and it is vital that we do so.

The price tag for creating a truly remarkable national park on Fire Island is a modest one, especially considering its location immediately adjoining a major megalopolis. Less than \$200,000 in capital funds can enable the Seashore to convert its operations to the kind of water-oriented operations it should have been doing all along. About \$100,000 will remove surplus structures from the natural areas. And an annual operating budget of about \$1,100,000 instead of the present \$795,000 will enable the Park Service to conduct a lean, quality operation instead of the present anemic, second-rate park.

We urge that this committee not only report favorably on S. 867, but do so expeditiously so that it can be voted upon in this session.

PHOTOGRAPHS OF FIRE ISLAND BEACH, OCT. 24, 1975, AT SAILORS HAVEN (FEDERAL LAND)



Fire Island Association, Inc.

38 West Ninth Street
New York, N.Y. 10011
October 9, 1975

George Biderman
president

George. P. Gillespie
vice-president

Robert H. Spencer
secretary

Fred Charlton
treasurer

Mr. Richard W. Marks, Superintendent
Fire Island National Seashore
65 Oak St.
Patchogue, N. Y. 11772

Dear Dick:

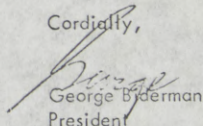
At a meeting of our Board of Directors last night, the Board made final revisions in our position papers reflecting their own thoughts and the results of many community discussions based on the preliminary position papers which I sent to Jim Godbolt on September 2.

Most of the basic positions remain unchanged, but you will find a number of revisions in all the subjects except "Boundary Changes" and "Zoning."

In most cases, the "Minority Positions" are held by small minorities, indeed. It was amazing to me to find how broad a consensus existed among such diverse individuals and communities. In a few instances, principally involving any changes in the status of exempted properties, the minorities understandably are considerably greater. For your guidance and the planners', we have tried to present the whole spectrum of discernible opinion, but I believe that each of the Fire Island Association's now-official positions reflects the views of substantial majorities.

I hope that you will be able to attend our next Board meeting, which will probably be held early in November, to meet those community representatives whom you will not have had an opportunity to know by that time and to give us your views on these positions and your plans for the future.

Cordially,



George Biderman
President

cc: Hon. Nathaniel P. Reed
Mr. Gary Everhardt
Mr. Jerry D. Wagers

BOUNDARY CHANGES

We support all the proposed boundary changes, but especially the lighthouse tract.

We urge that the National Park Service immediately begin negotiations with the state leading either to acquisition of the state park lands between the Greenberg tract and the Federal tract or a cooperative management agreement for this reach which will stress conservation of its natural resources and prevent any future administration from building roads and parking fields.

We support the transfer of Davis Park lands and Ocean Ridge to the Developed Areas District, as they were intended to be when the enabling legislation was drafted, but we do not support any definition of Ocean Ridge as a separate community.

Minority Positions:

A Tri-Communities group, which may or may not represent a majority of the residents of this area, supports construction of a paved road from the lighthouse tract to Lighthouse Shores and construction of a residents-only parking lot adjacent to Lighthouse Shores. (This position has virtually no support from other communities.)

HURRICANE PROTECTION & EROSION CONTROL

We support the proposals for sand by-pass systems, dune and berm reconstruction, and dune stabilization.

We oppose the removal of existing groins and bulkheads because of the cost and because the work involved will do more environmental damage than the presumed benefits warrant. Instead, we recommend that these be covered with fill, either dredged or through the hoped-for accretion resulting from beach nourishment.

We oppose the ban on sand-fencing to build up the dunes. Instead, we recommend that this be encouraged, at least until such time as beach nourishment and revegetation have provided reasonably adequate natural protection.

We oppose the "do nothing" policy in the natural areas which derives from the "overwash" theory. To permit significant areas of overwash or the formation of new inlets will have at least two adverse consequences which are inadequately considered in the EIS: (1) create areas which will naturally ingest large quantities of sand from the littoral flow, thereby depriving down-drift areas; and (2) increase the flow of ocean water into Great South Bay, thereby increasing the flood hazard to the mainland and significantly changing the ecology of the bay.

We oppose the concept of condemning an entire community when 75% of it is destroyed. Furthermore, private property owners in the exempted communities were given a commitment in the Fire Island National Seashore Act and should be permitted to rebuild following a catastrophic storm, whether or not Federal flood insurance will continue to be available.

Minority Positions:

In the event of a catastrophic storm which totally destroys 75% or more of the structures in a community, the government should acquire the land formerly occupied by those structures, but we oppose the automatic transfer of the remainder of the community to the Seashore District. We believe that equity requires that those developed properties which remain intact or which can be repaired should continue to be exempt from condemnation and their owners permitted continued use and enjoyment of their properties.

Groins, revetments and similar structures are essential to the stabilization of the barrier beach.

Remove existing groins at Ocean Beach. (Robbins Rest Property Owners Association)

ZONING

Virtually all proposals in the Master Plan related to zoning in the Developed Areas District are unacceptable and, we believe, in violation of the letter and spirit of the Fire Island National Seashore Act and the National Environmental Policy Act.

We support the original intent of the legislation, which had two objectives: (1) to preserve and protect the natural resources of the island; and (2) to enable the exempted communities to maintain their (then) character.

We believe the EIS is grossly deficient in weighing the effects of development and increased density of use on the ground water table, of increased effluent on the ground water table and the ecology of Great South Bay, and of the increased draw through swimming pools and other intensive water uses on the probability of salt water incursion. Since no hard data is available, and the Title 208 study of the Nassau-Suffolk Regional Planning Commission may not succeed in providing such data, common sense and NEPA dictate that minimum density of use be the goal until a realistic assessment can be made of the impact of various levels of use.

We oppose any changes in the legislation which will "emphasize the discretionary nature of [the Secretary's] authority to" enforce zoning standards, whether through existing powers of condemnation or the proposed injunctive relief. Instead, we recommend that criteria be made mandatory, subject only to Congressional approval of the needed funding. Eleven years of experience with the National Park Service's interpretation of discretionary authority indicate that "discretionary" has been interpreted as a license to ignore the problems.

We recommend that the zoning criteria include the following:

1. Prohibit all new commercial uses and limit expansion of existing ones to those needed for essential services (e. g., expansion of a grocery or hardware store, but not a bar and grill).
2. Limit new construction to single-family residences and prohibit conversion of single-family residences to multiple dwellings.
3. Prohibit any variances or special exceptions exceeding the maximum plot occupancy of 20% for structure and 5% for auxiliary structures (decks, ramps, etc.).
4. Restrict the maximum height of all new structures to two stories or 28 feet above ground level, whichever is less.
5. Permit no new subdivision of building plots into plots which do not meet the acreage requirements of existing municipal zoning codes.
6. Permit no new water-intensive uses such as swimming pools.

7. Define explicitly the rights of existing property owners to alter or to repair their property within the criteria but not to exceed such criteria.

Minority positions:

(a) No Federal involvement in zoning criteria, which violates home rule. (A small group, some as a matter of principle, most of self-interest.)

(b) More commercial uses are acceptable. (Primarily the Kismet group.)

Assistant Secretary Reed's Proposal:

An informal sounding of opinion indicates that most Fire Island residents support the acquisition of all remaining open space in the Developed Areas District. However, a significant number of people who have friends who are planning to build or who own building plots from which they hope to realize a future gain may be expected to oppose this proposal.

VEHICLES

We oppose all use of motor vehicles for access to Fire Island over Federal lands, except for emergencies which threaten life or property.

We recommend that there be an absolute prohibition of privately-owned vehicles on all Federal lands, whether for use in travel, commercial purposes, or recreation. In those cases where there presently exists a court-ordered or contractual agreement for vehicular access to private properties, we urge that attempts be made to terminate or to modify these permissions and, in any event, that those granted such privileges be held to the strict letter of the arrangement and prohibited from using their vehicles for any other purposes.

We recommend that all vehicles required for essential public services -- including National Park Service, police, public utilities and private service vehicles -- be restricted to zones within the Developed Areas Districts and that the personnel required to operate these vehicles and to perform services be transported by water. In the case of isolated hamlets such as Water Island, Robbins Rest and Atlantique, we recommend that exceptions to the foregoing restrictions be kept to the minimum necessary to maintain essential services.

We recommend that the National Seashore negotiate with the Board of Education of the Fire Island School with a view to returning to the system of relying primarily upon water transportation for high school students and Coast Guard dependents attending elementary school.

The adverse effects of motor vehicle traffic are just beginning to be quantified (Coates, Godfrey, et al.) but there is enough evidence at hand, including common sense visual observation, to render the EIS statement on this subject inadequate. Vehicles inland destroy vegetation, create blow-outs and cause an irreparable loss of silt to the atmosphere. Vehicles on the beach traversing the base of the dune (the most common track in winter months) destroy the vegetation which, among other important values, is essential for dune formation and stabilization. In the tidal zone, they destroy fauna and bacteria which are important parts of the ecosystem. The rutting of the berm accelerates erosion and is both a physical and aesthetic obstacle to resident and visitor use of a "natural" beach. The oft-repeated statement that storms do more damage than vehicles is irrelevant at best: vehicles can be controlled, storms can not.

Minority Positions:

Vehicles owned by or in the service of governmental agencies and the instrumentalities thereof should be exempt from the foregoing restrictions.

Year-round residents should be permitted vehicular access to the island in the off-season.

Year-round residents should be permitted vehicular access to the island at all times except the days and hours of peak summer usage of the beach.

Contractors and service vehicles should be permitted off-season vehicular access.

Present regulations are adequate if enforced.

Tri-Communities Association wants unrestricted vehicular access on the grounds that their vehicles do not travel on the beach.

Any property owner should be permitted vehicular access in the off-season.

(The latter five minority positions are held by small numbers of people.)

VISITOR ACCESS AND CIRCULATION

We oppose any bicycle trails on any Federal lands within the National Seashore as completely inappropriate to the legislative purpose and as a potential hazard to pedestrian visitors.

We ask that all footpaths on Federal lands consist of boardwalks of a maximum width of four feet.

We recommend that the legislative provision that access to the eight-mile zone shall be by ferry and footpath only be extended to apply to all Federal lands except the western end of the lighthouse tract and the eastern end of the Smith Point West facility. (We believe that the Watch Hill marina and the continued operation of the docking facilities at Old Inlet and the Fireplace Club are in direct violation of the law.)

We support the establishment of mainland ferry terminals and parking facilities, but urge that these be planned with linkages to mass transit (rail and bus).

Access via mass transit is essential to implement national energy conservation policies and to make the Seashore accessible to visitors -- both day trippers and campers -- from a wider geographical area than eastern Nassau and western Suffolk counties. The Federally-subsidized extension of high-speed LIRR service on the Montauk line virtually is ignored in the present plan.

We believe that the present concentration of visitors to those from Nassau and Suffolk is a direct result of past policies centered around the Sailors Haven and Watch Hill marinas, so that most expenditures went to create facilities for private boats. This is an inappropriate and discriminatory way to spend national park funds, especially since the end result is to provide subsidized beach clubs for yachtsmen (small boats occupy a minority of the berths at the present marinas and docks).

We oppose any expansion of marina facilities and the continuation of the operation of the illegal docking facilities in the eight-mile zone. Instead, we recommend the institution of ferry service to Old Inlet and, by cooperative agreement with the Village of Bellport, to Bellport Beach. This will obviate the need for dredging any new channels and call for only minor dredging to accommodate ferries and to maintain existing channels. It will put the natural area within easy hiking distance of three ferry terminals (Watch Hill, Old Inlet and Bellport). The scattered, primitive camp sites and boardwalk nature trails can be planned with these sites and Smith Point West as starting points for the visitor experience. We also recommend that the number of daily visitors in the eight-mile zone be limited so that the resource is not overwhelmed and its natural values impaired. Visitor limits may soon be needed at the Sunken Forest and later at all other units.

We recommend that the existing marina operations charge rates comparable to the private marinas and that the money earned from these operations, combined with the savings on capital expenditures derived from the elimination of private boat facilities

from the plan, be diverted to financing a subsidized ferry service. (Concessionaires probably can run the marinas more profitably than the National Park Service.)

The Fire Island National Seashore, as presently managed and planned, primarily is a recreation area for nearby residents of Long Island. This is in large part a direct result of the facilities which have been offered for public access. The present Draft Master Plan proposes to perpetuate this pattern. Yet the very people now being predominantly served by National Seashore facilities have available to them more recreation lands than most residents of the Northeast.

The primary purpose of the Fire Island National Seashore as a conservation area has been almost forgotten. It was intended to be for the use and enjoyment of the small segment of the 20 million people who live within a few hours' travel and who value the experience of one of the last relatively unspoiled barrier beaches in this region . . . plus those from all over the region and the world who want to include this experience as part of their visits to this region.

Without a drastic revision of planning goals to provide access for those people who want to experience what Congress intended them to experience, and at a price they can afford, the National Seashore will not become a national park.

The footpaths within the Federal lands have not been defined in the plan, other than the now-aborted "Fire Island Trail." We recommend that no east-west path following the contour of the old World War II "Burma Road" be constructed. Instead, we recommend that meandering trails be built so that visitors may hike from the access points and camp sites and return to the starting point. Along the way, the trails should offer a variety of environments with opportunities either for self-guided or conducted nature tours. (In the eight-mile zone, it may be desirable to link these modules, so that a hike from Smith Point West to Watch Hill will be possible, with detours to observe various components of the ecosystem, to bird-watch, to fish or to swim.)

We urge that rigid guidelines on these trail systems be written into the plan so that the excesses at Sailors Haven-Sunken Forest and Watch Hill not be repeated by over-zealous, over-ambitious or just plain insensitive planners and managers.

FURTHER DEVELOPMENT ON FEDERAL LANDS

We generally support the plan set forth in the Alternatives III B. section of the EIS for western Fire Island, with the following qualifications:

1. We oppose any moderate-density recreational use of the "Old State Park" lands, which would require construction by the State of extensive facilities which probably will not be needed for many decades, if at all. The eastern end of the present Robert Moses State Park presently is underutilized and the revised estimates of population growth (apparently issued since the writing of this part of the Master Plan draft) indicate that the area east of the lighthouse may never be needed for the accomodation of visitors whose principal objective is recreation of the kind offered by Robert Moses State Park.

2. We recommend that the entire use of the westernmost tracts be coordinated with the use of West Island as interpretive and environmental education centers, so that visitors to the barrier beach environment will also have an opportunity to contrast this with the bay islands, and vice versa. Management objectives for these tracts should not be primarily recreational, but should be formulated in conformity with the legislative intent to maintain these areas as "buffer strips" between the developed areas.

3. We oppose the construction of permanent, fixed camp sites in the western tracts. Instead, we suggest the construction of water and toilet facilities in a centrally-located sections of each tract for the use of campers, a location which will do minimal environmental damage. The camp sites should be scattered, preferably where gaps in the vegetation presently exist, and their use rotated year by year so that each site has an opportunity to recover from its use. (The camp sites at Watch Hill are an object lesson in how not to plan for camping on Fire Island.)

4. Because of its ecological importance and its role as a shore-bird habitat, we urge extreme caution in providing visitor access to East Island. Instead of "starting big" and then cutting back if adverse effects are observed, we recommend that very limited use be made of this resource -- and that only by experienced naturalists and ornithologists -- and its use for environmental education be expanded very slowly until its capacity for such use can be assessed.

As indicated in other position papers, we believe that many of the proposals for the eastern sections of the Seashore violate both the spirit and letter of the statute. We recommend:

1. That strict limitations on development be incorporated into the plan instead of the present vague generalizations. The sad experiences at Watch Hill and Sailors Haven-Sunken Forest indicate that, given any latitude, Park Service managers opt for more rather than for the minimum needed to provide service to visitors within the mandate to "administer the Fire Island National Seashore with the primary aim of conserving the natural resources located there."

2. We support the concept that most camp sites be located on sites formerly occupied by condemned dwellings, but we recommend that camp sites in these and other locations be rotated as in (3) above. This may also make it possible to expand the visitor capacity in the natural areas, but in any event it should serve to minimize the adverse impact of permanent camp sites where repeated use over the years results in irreversible deterioration.

3. We oppose the construction of recreational facilities in the eight-mile zone, such as bathhouses, picnic sites, lifeguard stations, etc. These are incompatible with the mandate to preserve the area in its natural state.

4. We support the construction of small ferry terminals and facilities for day visitors and campers at Old Inlet and Bellport Beach, using the existing channels.

5. We support the use of some of the existing condemned private dwellings as loci for nature education centers and accommodations for rangers and researchers, but oppose the construction of any new structures in the eight-mile zone. We also oppose the construction of any new storage, workshop, machine shop and similar facilities on Fire Island for National Seashore use unless these cannot be provided on the mainland. We believe that the cost-efficiency of existing facilities of this type, such as those at Watch Hill, compares very unfavorably with probable costs at a mainland National Seashore headquarters, even including the cost of water transportation. There are no sites on Federal lands where such facilities would not create an environmental and aesthetic intrusion.

6. We oppose the construction of any parking facility at Smith Point West other than at the western boundary of Smith Point County Park. The visitor should enter the Fire Island National Seashore on foot or by ferry. It is this sharp break with conventional access which marks the beginning of the special National Seashore experience, and it should not be blurred by building parking facilities even one-quarter mile within the seashore.

7. We ask that specific plans for each of the remaining structures within the Seashore District, including Bayberry Dunes, be made part of the Master Plan.

Other than the qualifications set forth above and in the other position papers, we have no objection to the conceptual plans for the Talisman unit in so far as they have been set forth, but ask that the same criteria be applied to plans for this unit and that specifics be presented for public comment before any development takes place.

Statement on the Fire Island
National Seashore Master Plan

Submitted to:

U. S. Senate Subcommittee on
Parks and Recreation

by:

Frances Beinecke
Natural Resources Defense Council, Inc.
15 West 44th Street
New York, New York 10036

The Natural Resources Defense Council, Inc., a national environmental organization with over 20,000 members, has had a long time interest and active public involvement in the management of public lands. It has been and will continue to be concerned with the Department of the Interior and the Department of Agriculture's proposed master plans and management programs of these resources. NRDC is especially concerned with those areas specifically set aside for their natural qualities, areas where commercial development has been established as not compatible and where the protection of the natural ecosystem is of the utmost priority. I refer specifically to the National Parks.

Since 1973, NRDC has worked with the Fire Island Association in an attempt to obtain sensible management for the Fire Island National Seashore. Although we feel that progress has been made, Fire Island National Seashore still has many of its original problems. The National Park Service has been anything but efficient in its planning for this resource seriously threatened by its proximity to New York City.

There are major problems with the Park Service's previous planning and management that NRDC feels must be addressed.

First, the National Park Service must accept the responsibility of monitoring the zoning ordinances and development activities of the communities. Biderman v. Morton, in which an NRDC attorney participated, attempted to deal with this problem by asking for an injunction against the development activities within the

communities. Because of jurisdictional problems, an injunction was not possible. This resulted in the legislation now before you, which specifically authorizes the Secretary of the Interior to enjoin incompatible development activities on Fire Island. It is clear that the original statute did not contain the necessary provisions to preserve Fire Island as a natural area. The amendment will fill this urgent need.

If the Fire Island National Seashore is to be of any lasting benefit to the public, the National Park Service, through the actions of the Secretary of the Interior, must have strong authority over incompatible activity in the western communities. Although it is clear that the original statute did not contain the language necessary for enforcement, it is also clear that the Master Plan submitted last Spring contained little of substance directed towards the implementation of the statute.

A second problem, again specifically related to a section of Fire Island, is the preservation of the Natural Area between Davis Park and Smith Point County Park, specified in Section 454e-6 of the statute. Many other people will refer to this problem today, but it is worthy of repetition.

This section is eight miles of the Island. It is undeveloped and natural, except for certain enclaves of homes which are soon scheduled for park acquisition. The statute selects this area for preservation in its natural state; yet the Park Service has not in any way conformed their actions to the intent of the Act.

The first totally incompatible action was the building of a marina, visitor center, concession facilities and an oversized boardwalk at Watch Hill within the eight mile area. Whether or not visitor facilities are necessary in this eight mile zone is a debatable point. However, the size of these facilities are in such contradiction to the intent of the statute, that one cannot imagine what kind of responsibility the Park Service feels towards its implementation.

Because the construction at Watch Hill is a past action, one might feel that the Park Service had substantially changed its approach. However, the sections of the proposed Master Plan dealing with the eight mile zone indicated that this was clearly not the case. Facilities were planned for three additional sites within the eight mile zone. After substantial criticism, we understand that these proposals have been retracted somewhat. What the next draft will contain is anyone's guess.

A third area of concern is that of access to Fire Island. The Seashore was created for its wilderness character in close proximity to the New York Metropolitan area and as a counterpoint to the many nearby developed state beach facilities. The National Park Service has not yet addressed the question of public access to this unique barrier island. Access over the past eleven years has been substantially the same as that before the island became a National Seashore. The Park Service must evaluate these trends and determine if there is a system which can make the park accessible to and benefit the urban population, while protecting the natural character of the Island.

Public access in this case is unique to that of most other National Parks. The issue does not relate to automobile access directly to the island, or to access over private lands, but to access to the Seashore via public transportation.

NRDC feels that the National Park Service must address the question of access head on. Fire Island is, in reality, an urban park. It should be made accessible to metropolitan New Yorkers without automobiles for a limited expense. To plan for access, the public transportation system from New York City must be evaluated, as must the link from the bus and railroad lines to the ferry terminals. The Park Service must analyze the existing fares of the three link system, determine whether reduced or excursion rates are possible to arrange, and include these determinations in the management policy and planning for the Park.

Another aspect of access is that from private modes of transport, i.e., vehicle permit and private boat docking facilities. Private interest groups should not dominate the planning or use of the Seashore. No additional marinas should be constructed. Paved roadways or bike paths are not compatible with the use of the Island. The vehicle permit problem must be evaluated, and eventually phased out except when required in permitting certain services. Access both to and on Fire Island must consider the impact of those uses on the longevity of the Island resource.

The study of access must concurrently address the question of carrying capacity. Presently the number of visitors depend on the number of ferry trips, private boats and vehicle permits.

Carrying capacity can only be determined and adopted when the Park Service has some idea of how many people can visit each area each day and still protect the ecosystem and the visitor experience. The figures in the Master Plan seemed totally arbitrary.

These three issues point out the essential policy problem - the Master Planning Process itself. Fire Island has been under federal jurisdiction for more than eleven years, and still there is no operative Master Plan. This is a failure of irresponsible government action of the first magnitude. The pressures perceived as requiring speedy attention in 1964 are still the same today. Development is still going on in the communities, erosion of the beach is increasing because of extensive vehicle use, the Park Service is, in actual fact, promoting rather than discouraging development.

The Master Planning problem must be carefully examined by this Committee because it is not a problem unique to the Fire Island National Seashore. The National Park Service's Master Plans are slow in coming, they either do not address the real problems, or actively promote the continuation of these problems. Take, for example the originally proposed exemption of the Fire Island communities, or the proposed concession development at Yosemite National Park over a year ago. NRDC recommends to this Committee that the Master Planning program of the Park Service be directed towards the real needs of the Parks, as unique natural resources. Plans must be completed more quickly than the present 2-3 year period. Inventories and basic data collecting may require longer

periods, but then short term interim plans may become a necessary procedure.

Theoretical recreation planning should be partially abandoned and the specific needs of the area be addressed. These needs can be best pointed out by individuals familiar with the resource over a period of time, not park planners or park managers who understand park problems generally, but who have little familiarity with the specific park, in this case Fire Island.

In conclusion, NRDC recommends to this Committee that the specific problems of the developed communities, the natural area's protection, and greater public access be addressed by the National Park Service as quickly as possible. We also recommend that the Master Planning process, in general, be reexamined and redesigned to come out with plans which address the actual problems of the resource rather than include new uses and programs which have little relevance to the problems at hand.

Senator JOHNSTON. We have run out of time. I am sorry. I want the other witnesses to come up and just say a word. Mr. Pollack, Miss Raye-Page, Ms. Blumer, and Mr. Porter.

STATEMENTS OF MS. KAREN BLUMER, NASSAU COUNTY, ATLANTIC CHAPTER, SIERRA CLUB; WILLIAM H. PORTER, WHALEHOUSE POINT ASSOCIATION; MISS RAYE-PAGE, WILDERNESS SOCIETY; SHELDON POLLOCK, REGIONAL PLAN ASSOCIATION; AND LARRY BRAUN, NASSAU HIKING & OUTDOOR CLUB, INC.

Ms. BLUMER. I am speaking on behalf of the Sierra Club today. Very briefly, we are concerned specifically with the 8-mile zone. It is a natural area, essentially wilderness. It is the green area. I think to make our concerns the most brief, I can draw you a picture or show you a picture. The topography of the island on base line like this, the western end is developed very low, starting with the natural area right in the middle of the 32-mile barrier strip. It raises like this. The dunes are magnificent. They are totally untraveled, untouched, very beautifully preserved by some miracle.

Senator JOHNSTON. And the Government owns that?

Ms. BLUMER. Yes, this is the section the Government owns.

Senator JOHNSTON. It would not cost anything at all to prohibit—

Ms. BLUMER. No, it would probably cost the least to preserve this area.

Senator JOHNSTON. They are in the process of perfecting this plan now. Secretary Reed wants to wait for this bill, he says, or waiting for the plan. There is not anything in the plan to do anything until that plan is put in place.

Ms. BLUMER. It is ecologically whole, but with disparate situations. It would seem to provide some appropriations to support or enable condemnation on the western end would be advisable, but certainly not the total sum at this point. It would seem advisable to wait until an acceptable master plan is issued. We are concerned after 11-years' experience of the National Park Service that they have come up with such an inadequate policy of management.

Senator JOHNSTON. We will put the language in our report to seek to keep the status quo until we get the final master plan in place.

Ms. BLUMER. In the 8-mile zone the most fragile and highest area is slated in this master plan to be the most highly developed, which is again against the legislation, and we must question the kind of planning that is going into this, and we would suggest any type of development of facilities for visitors.

We understand dual roles and contradictory roles of the Park Service in preservation.

STATEMENT OF WILLIAM H. PORTER, WHALEHOUSE POINT ASSOCIATION

Mr. PORTER. My name is Bill Porter. I am president of the Whalehouse Point Association. I represent 16 houses in the 8-mile zone, which was designated. We feel that the 8-mile section for all of Long Island's south shore is, indeed, a small piece of land to be left in its natural

state so that bird watchers, nature lovers, et cetera, can find solitude without bumping into hotdog stands, bathhouses and hotels.

The seashore has magnanimously offered to keep a 1-mile section as a natural area.

Senator JOHNSTON. That is part of the master plan?

Mr. PORTER. Part of the master plan, yes, they want to develop this. The seashore has magnanimously offered to keep a 1-mile section as a natural area. We do not feel this is sufficient, given its geographic proximity to populous areas.

We ask you to authorize the funds for the condemnation proceedings, but we would like to say none of it should go toward development of the 8-mile area. It is paradoxical the seashore is requesting—I was delighted to hear the Senators and the Representatives say they do not want this area developed, and they should stop all development of the 8-mile zone such as the national seashore wants to do now.

I would like to say one thing about four-wheel drives. The only way we can get to our property is by four-wheel drives. We have to have a vehicle. We have no access from the bay. There is no bridge, no ferry service. The bay is so shoaled at times you can't get in and out of it. So there are a few people like ourselves—all land is being taken. We are being phased out. By 1993 we will all be gone with a few exceptions. I would not like to see anyone stipulate about four-wheel drive vehicles.

Senator JOHNSTON. Is anyone else using four-wheel drive vehicles?

Mr. PORTER. The police, the firemen, the dogcatcher uses them, and it is a sportsman's area at the present time.

STATEMENT OF MISS RAYE-PAGE, WILDERNESS SOCIETY

Miss RAYE-PAGE. I am Raye-Page representing the Wilderness Society. I want to emphasize the society is very much opposed to development of Fire Island.

We are here particularly to oppose development. In 1973 there was a very good article specifically on Fire Island in the Washington Post, which I have attached to my statement.

I think it is very true, if a barrier island is not protected, there will be consequences for the areas behind it.

I would like to read one little passage on barrier islands, which is from "The Winter Beach," by Charlton Ogburn.

Balance is the essential idea. Americans, ever lowering our trusty booms against moderation, have trouble with balance: it implies delicacy and refinement. We revere the rough and tough, whether cheering on brute-force football teams or ravaging mountains for coal. But none of the world's wisdom is ever learned from destruction. Lessons of balance and philosophies of time are learned from faithful teachers like the wind, sand and water. They may not have the loudest word but they are certain to have the last one.

Senator JOHNSTON. Thank you very much.

STATEMENT OF SHELDON POLLACK, REGIONAL PLAN ASSOCIATION

Mr. POLLACK. I am Sheldon Pollack from the Regional Plan Association. You have my statement. We have a long interest in Fire Island and the Gateway section. I would like to emphasize the importance of—we should proceed to acquire the additional lands necessary for Fire Island.

STATEMENT OF LARRY BRAUN, NASSAU HIKING & OUTDOOR
CLUB, INC.

Mr. BRAUN. I am Larry Braun. I represent a hiking and outdoor club, one of several on Long Island, probably the most active. We run about 150 outings a year.

Basically I support the idea of the 8-mile zone being left as a natural area. As you can see, there is a developed beach on either end of the island; the State on the western end, the county on the eastern end, and so that mass recreation is certainly given an opportunity to use the island.

Also, a very large section of developed areas in here, which really cannot be dealt with too effectively in turning it back to a natural zone.

But that green area, the 8-mile area, as Mr. Porter pointed out, will be reverting to its natural state as the buildings or the inholdings are acquired by the National Park Service.

I am suggesting there be no construction once these buildings are removed in this area so this area can remain in its natural state. It is a priceless area, and one we cannot replace.

Senator JOHNSTON. One final question. How is your air quality there?

Mr. BRAUN. Fantastic, magnificent. You have the ocean breezes.

Senator JOHNSTON. You don't get problems from Long Island?

Mr. PORTER. Not to date.

Senator JOHNSTON. It truly is an oasis then.

Ms. BLUMER. It truly is. You should come and go and visit. While everyone is at the restaurant, you should take a walk by yourself. It is the solitude of that area that is incredible.

Senator JOHNSTON. Thank you all very much. Excellent testimony, and we will look at the matter very sympathetically.

[The prepared statements of Mr. Pollack, Mr. Braun, Miss Raye-Page, Mr. Porter, and Ms. Blumer follow:]



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Statement of

Sheldon Pollack, Information Director, Regional Plan Association
in support of S 867

To Amend the Fire Island National Seashore Act
before the

Subcommittee on Parks and Recreation, U. S. Senate Interior Committee
Washington, D. C. -- November 13, 1975

My name is Sheldon Pollack. I am Information Director for Regional Plan Association, a non-profit civic Association which for more than 50 years has been concerned with the overall social and physical development of the New York-New Jersey-Connecticut metropolitan Region. I am pleased to be here today, at the invitation of Senator Javits, to add our support to S 867 which would make some overdue changes in the Fire Island National Seashore Act by providing additional funding for acquisition and injunctive relief to prohibit incompatible development.

Regional Plan's concern for adequate open space and recreation facilities for the Tri-State New York area is of long standing. Many of the major parks in our Region were added as a result of our 1929 Plan for New York and Its Environs, the world's first metropolitan plan. Our 1960 study, The Race for Open Space, led to the addition of nine new, large scale regional parks, including Fire Island, and most recently we developed the concept for the Gateway National Recreation Area, the nation's first federal urban park, which this Committee established in record time in 1972.

The Regional Plan Association endorses S 867, a necessary step in amending the legislation so as to realize the original goals of the Fire Island National Seashore. Those goals were (1) to preserve the natural values of the barrier beach, as nearly in their present state as possible, free of the automobile and other incompatible man-made intrusions, and (2) to allow the existing hamlets in private ownership to maintain their character while preventing high-density development and commercialization.

The Long Island Atlantic shoreline has major mass recreational facilities, including the Gateway National Recreation Area, the Rockaways, Jones Beach, several town beaches, Robert Moses State Park and Smith Point County Park.

Fire Island and the Jamaica Bay Wildlife Refuge are the only remaining segments of this shoreline which offer visitors an opportunity to observe and experience a different kind of environment -- more solitary and natural. There is a growing part of our population which hungers for that kind of opportunity, which will make these resources even more valuable in the future.

The National Park Service has not yet been able to realize either of the two major goals of the legislation. As a planning organization, we certainly understand the time involved in the planning process, but we must deplore the fact that after 11 years there still is no master plan for Fire Island. Given the number of false starts, including the most recent one, we do not think it realistic to expect that a master plan will be completed for at least two years. So it is essential that Congress adopt this stop-gap amendment to provide the financial and legal means for the National Park Service to hold the line until a real plan is forthcoming.

During the interim period, there are many steps the National Park Service can take under its present legislative authority which will preserve the Fire Island National Seashore without compromising the ultimate plan. Other witnesses probably will discuss these, but we would stress the following:

1. Enforcement of strong zoning standards to minimize the impact of private development on the natural resources until such development can be assessed adequately in the plan and environmental statement. If it were possible to do so legally, we would recommend a moratorium on all development until the statement and plan are completed.

2. Development of low-cost access to the Seashore by encouraging and cooperating with local authorities to provide public transportation links to the Seashore ferry terminals, and by using the Seashore's services to provide reasonably-priced ferry service to the Island. The Regional Plan Association has emphasized the self-defeating nature of relying on automotive access to the exclusion of public transit. Fire Island is a case in point, a case which is complicated by the fact that most of the facilities on the Seashore itself are presently designed to accommodate mostly yachtsmen. Both New York State and the federal government

are investing heavily in the Long Island Railroad, which has excess capacity on peak beach use days and can serve as an important link in a public transportation access system.

3. Acquire the ocean strand, dunes and all remaining wetlands to prevent further abuse of these precious resources.

4. Eliminate the use of off-road vehicles on the beach and on Seashore lands, except for emergency vehicles. When we supported the establishment of the Fire Island National Seashore, that support was predicated upon the establishment of an automobile-free sanctuary in the metropolitan region. This goal should again be given high priority.

In conclusion, allow me to emphasize that there are few places like Fire Island in this country. For that reason and to preserve it for future generations, its stewardship was placed in the hands of the National Park Service. As a result of failure on the part of the Park Service to develop a master plan, to secure the necessary additional funding, to halt incompatible uses and development, its unique character is being eroded. We trust the Congress will use S 867 as a means of reversing these threatening trends.



NASSAU HIKING & OUTDOOR CLUB, INC.
AFFILIATED WITH N. Y. - N. J. TRAIL CONFERENCE

STATEMENT TO

Honorable Bennett Johnston, Chairman
Subcommittee on Parks and Recreation
U. S. Senate Committee on Interior and Insular Affairs

CONCERNING

Fire Island National Seashore
1975 Draft Master Plan

IN CONNECTION WITH

Hearings on Bill S867

Larry Braun, Director
Nassau Hiking & Outdoor Club, Inc.
79 Locust Street
Floral Park, N.Y. 11001
November 13, 1975

Mr. Chairman, the Nassau Hiking & Outdoor Club, Inc. of Long Island, New York is honored and pleased to present this statement with respect to the 1975 draft master plan for the Fire Island National Seashore before your Subcommittee on Parks and Recreation.

Nassau Hiking & Outdoor Club members engage in a wide variety of outdoor activities on its 150 outings each year. Many of the Club's needs are satisfied right on Long Island at the many fine State, County, Town and Municipal parks, beaches, preserves and nature museums. However, to find the peace and solitude of a natural area, an area without a continuous awareness of the proximity of the works of man, we must travel several hours by auto. Living as we do in a high-density, high-powered, high-pressure metropolitan area, we desperately need areas that have peace and solitude.

We applauded and supported the 1964 master plan for the Fire Island National Seashore. That development would cease, inholdings be abolished and revoked, structures be removed and revegetation commence in the "eight mile zone" between Davis Park and Smith Point County Park was fully endorsed. For this is a priceless area endowed with varied, unique and rare natural features. It is home for and periodic residence of scores of wildlife species. It is all this and within a one hour drive of some 3 million people, many of whom seek the same peace and solitude we crave.

This stretch of barrier beach, already reduced from 8 miles to 6.9 miles by the National Park Service development of Watch Hill on its western end, is the last natural ocean beach on Long Island. Must the remainder of this natural area also be developed? The development that the National Park Service is planning at Robinson Cove in Whalehouse Point, Old Inlet, Smith Point West and the expansion of Watch Hill will destroy this natural area. The Department of the Interior has spent a good deal of the \$16 million originally authorized for land acquisition and purchases of interest in land in an attempt to return Fire Island to its natural state. The National Park Service development plan will undo much of that effort. This last natural ocean beach represents but 6 percent of the original 120 miles of ocean beach on the south shore of Long Island. Can't a small portion of our natural heritage be saved for us, our children and their children to experience and be able to say, "This is how it all was once"?

There already exists adequate mass recreation on Fire Island at the State and County beaches at either end of Fire Island National Seashore. However, should the future demands on one or both these beaches indicate, expansion to at least double their combined capacity can be achieved without recourse to lands in the natural area. Supervised primitive camping, walking, environmental education and nature observation, along with other self-propelled traditional use of a barrier beach, are appropriate activities for this our last natural ocean beach on Long Island. This use of the area precludes the need to build permanent structures, create new access facilities and requires little supervision.

Permanent structures within a natural area are, at best, inappropriate. Besides, ranger and interpretation services can be provided at Watch Hill, Smith Point West and the mainland ferry staging areas. For sanitary and health purposes, portable chemical toilets and shallow hand-pumped water wells can be installed for the season at suitable sites and removed at season's end to be relocated elsewhere the next season, ensuring minimum impact and maximum re-vegetation for any one location.

Dredging for ferry sites within the natural area is unnecessary and damaging to the bayside environment. Access has never been and never will be a barrier to those persons who desire to experience the wonders of a natural barrier beach. They simply take the trouble to get there. One drives to Smith Point County Park on the eastern end, parks the car, and walks into it. On the western end, a ferry ride to Watch Hill from Patchogue and a walk eastward rewards one with the natural wonders of the area and being with nature.

The only way an area can remain natural is with the absence of the works of man and with man's constant surveillance. This function the National Park Service can and should perform. In the natural area between Watch Hill and Smith Point West, it is imperative the National Park Service assume the role of caretaker of the natural environment, not developer of recreation. The entire Nation needs protection for what remains of our natural heritage. We on Long Island desperately need areas that have peace and solitude.

The
Wilderness
Society

1901 Pennsylvania Ave., N.W., Washington, D. C. 20006 (202) 293-2732

STATEMENT
OF
(MISS) RAYE-PAGE
FOR
THE WILDERNESS SOCIETY
BEFORE THE
PARKS AND RECREATIONS SUBCOMMITTEE
OF THE
SENATE INTERIOR AND INSULAR AFFAIRS COMMITTEE
ON
S. 867
CONCERNING
FIRE ISLAND NATIONAL SEASHORE

November 13, 1975

"IN WILDERNESS IS THE PRESERVATION OF THE WORLD." — Thoreau

I am Raye-Page representing The Wilderness Society.

Mr. Chairman, the Society is very much opposed to development of the natural area between Watch Hill and Smith Point on Fire Island National Seashore.

The National Park Service is clearly ignoring the directive given it in the 1964 Act establishing the Seashore. The law itself, the Committee Report, and even floor debate on the bill gave special consideration and specific indications that the still unspoiled natural area should be preserved as a natural environment without development of recreational facilities.

Listed below are quotations to support the intent of Congress.

1) The Fire Island National Seashore Act

"Every effort shall be exerted to maintain and preserve this section of the seashore as well as that set forth in the preceeding paragraphs. . . in as nearly their present state and condidtion as possible." (PL 88-587)

2) U.S. House of Representatives' Committee Report No 1638 to accompany H.R. 7107, 88th Congress, July 30, 1964, p. 8.

"Special provision for the protection of the Sunken Forest Preserve. . . and the 8 mile stretch of land east of the Brookhaven Town Park are included in the bill. The preservation of these areas in a natural condition is urgent."

3) U.S. Congressional Record, Vol. 110, pp. 20636-37, August 20, 1964.

"This particular spot will be kept in as near its present state as possible. . .there are portions of the area which will be preserved in present condition without mass entry for recreation and without development of facilities so that the area which has a particular merit can be preserved for all time exactly as it is."

Not only has the Park Service already violated the intent of Congress, but also its proposed plan will limit the range of recreational opportunities obtainable on the Island by eliminating the experiences to be enjoyed on a natural unspoiled seashore.

Very few such areas are left on the Atlantic coast. The stresses produced by crowds, noise, traffic, buildings, congested time and so forth, are forcing more and more people to try to escape into quiet wild areas such as this one on Fire Island. Fire Island's location makes it readily accessible to northeastern population concentrations. The approximately 7 acres of natural barrier beach still remaining is inadequate to fulfill the need, but it is an oasis too precious to lose. The real tragedy is that the entire Fire Island barrier beach was not retained in its wild condition in order to preserve its irreplaceable eco-systems for their own intrinsic worth and for enjoyment of these values for present and future generations.

When permitted to work unhampered within their own natural systems including interaction with forces of sea and weather, barrier beaches are durable and timeless. Constrictions of man-made developments destroy the flexibility necessary to drift, change and survive.

In his book, The Winter Beach, Charlton Ogburn reveals understanding of the way barrier beaches function.

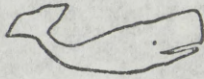
"Balance is the essential idea. Americans, ever lowering our trusty booms against moderation, have trouble with balance: it implies delicacy and refinement. We revere the rough and tough, whether cheering on brute-force football teams or ravaging mountains for coal. But none of the world's wisdom is ever learned from destruction. Lessons of balance and philosophies of time are learned from faithful teachers like the wind, sand and water. They may not have the loudest word but they are certain to have the last one."

The integrity of Fire Island has already been compromised by people's lack of knowledge and disregard for important values. The long-range best interests of the American people have also been ignored.

The lone segment of native characteristics and beauty remaining on Fire Island must be protected from the spoilers.

The Wilderness Society urges the Congress to reassert its earlier intent and directives for the natural area of Fire Island by prohibiting any future development on it.

Thank you for this opportunity to comment on the future of Fire Island's one natural area.



Whalehouse Point Association

Pres. Wm. H. Porter
V.P. Herbert Hulse

47 Dimmig Road
Upper Saddle River, N.J. 07458

Secy. T. Hollmann
Treas. W. Alben

STATEMENT PRESENTED BEFORE THE SENATE SUBCOMMITTEE
ON PARKS AND RECREATION 13 NOVEMBER, 1975 ON S.867.
A BILL TO AUTHORIZE FUNDS FOR THE FIRE ISLAND NATIONAL SEASHORE.

Statement by William H. Porter
President, Whalehouse Point Association, to:

Hon. H. Bennett Johnston, Chairman
U.S. Senate Subcommittee on Parks & Recreation
November 13, 1975

Mr. Chairman, I appreciate the opportunity to appear before you relative to S. 867 and the Fire Island National Seashore draft Master Plan.

My name is William H. Porter; I am President of the Whalehouse Point Association, representing 16 inholdings in the eight-mile zone of the Fire Island National Seashore.

We actively supported the formation of the National Seashore in 1963, knowing full well that our homes would be condemned and what the alternative was. To the best of my knowledge, no one contested the acquisition of their property or even challenged the Park Service's appraisal, believing that, as the law implied, the land was to be kept in its natural state. Loving the area as we do, we felt this to be a worthwhile sacrifice.

The eight-mile zone from Davis Park to Smith Point was picked out to be free of development to the extent that they have and are driving out the owners and inhabitants, while for 17 miles to the West of Davis Park they allowed the people to stay.

The present draft Master Plan makes it obvious that the Park Service has no concern for preserving this area "... in as nearly their present state and condition as possible." (Public Law 88-587, Section 7 (b), September 11, 1964). In other words, the Park Service feels it is beyond the law.

Therefore our sacrifice as land owners in the eight mile area would be completely unjustified if this plan is carried thru. If this is to be done, we home owners should be allowed to stay, as others have been in the Western section of the island.

Building proposals in the Whalehouse Point area call for 20 campsites, 10 picnic areas, dredging, docking for 15 boats, beaching or mooring for 40 boats, and a 40-bed environmental education hotel with support facilities. The other sites in the area will suffer similar increases in development. These developments should be kept to the West where the seashore has plenty of land and where this kind of development would fit in with existing high density communities, presenting no additional problems.

On page 335 of the Environmental Statement there is a list of people and organizations who were consulted regarding the draft Master Plan. The concessionaire at Wunken Forest was extended this courtesy and justly so, but we were ignored and, I might say, pointedly so, because the National Park Service was well aware of our existence. Our interests will be as much affected by this Plan as those of the concessionaire. The use of our homes will be severely restricted if the Park Service is allowed to pursue their illegal and immoral course of action.

The present rules for ingress and egress to our homes are bearable, but we wish to have them made part of the official regulations.

We feel that one eight mile section for all of Long Island's South Shore is, indeed, a small piece of land to be left in its natural state so that hikers, naturalists, students, bird watchers and nature lovers can find a little enjoyment and solitude without the intrusions inherent in the Seashore plan such as hot dog stands, bath houses and hotels.

The Park Service has magnanimously offered to keep a one mile section as a natural area (the High Dune Natural Research Area, west of Whalehouse Point). We do not feel that this is sufficient, given the geographic proximity to such a populous region.

As regards S.867, we ask that you authorize funds as requested, but with the stipulation that none of the funds be authorized to develop the eight-mile zone and that nothing be done to the detriment of the inholders there.

Thank you again, Mr. Chairman, for the opportunity to appear here today.

STATEMENT OF MRS. KAREN BLUMER, NASSAU COUNTY, ATLANTIC CHAPTER,
SIERRA CLUB

We thank you for this opportunity to comment on the National Park Service's Draft Master Plan for the Development of the Fire Island National Seashore. We would like to address ourselves particularly to the proposals put forth by the Park Service for the eight-mile zone a pristine undeveloped natural area; we feel they are in direct conflict with the wording and intent of PL 88-587, Sec. 7(b): "No development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the flora and fauna or the physiographic conditions now prevailing . . ." The Draft Master Plan proposes that marinas, campsites, boardwalks and kiosks be erected within the zone specifically cited for preservation in this section. If this plan were implemented, in effect it would mean that visitors to Park Service structures could readily view displays showing what the area was once like, before the Park Service came on the scene.

The National Park System was established to provide recreational facilities, to preserve outstanding environmental areas and to educate the American people about their heritage. In many ways these precepts become mutually exclusive, as has been demonstrated in parks as dissimilar as Yosemite and Cape Cod. Unfortunately recreational pressures lead to development; development intrudes upon preservation. The less the preserved natural area, the less opportunity to educate. With this cycle, pure recreation takes over and you have another Yosemite Valley: asphalt, beauty parlors and souvenir stands directly beneath Bridal Veil Falls. Hopefully, some middle ground can be found to allow intelligent multiple land use of a fragile national resource. To this end, we would like to suggest for fins that the Draft Master Plan be modified in the following manner:

1. No structures should be erected within the 8-mile natural area. As existing land use agreements expire, the buildings and appurtenances should be removed and the land allowed to return to its natural state.

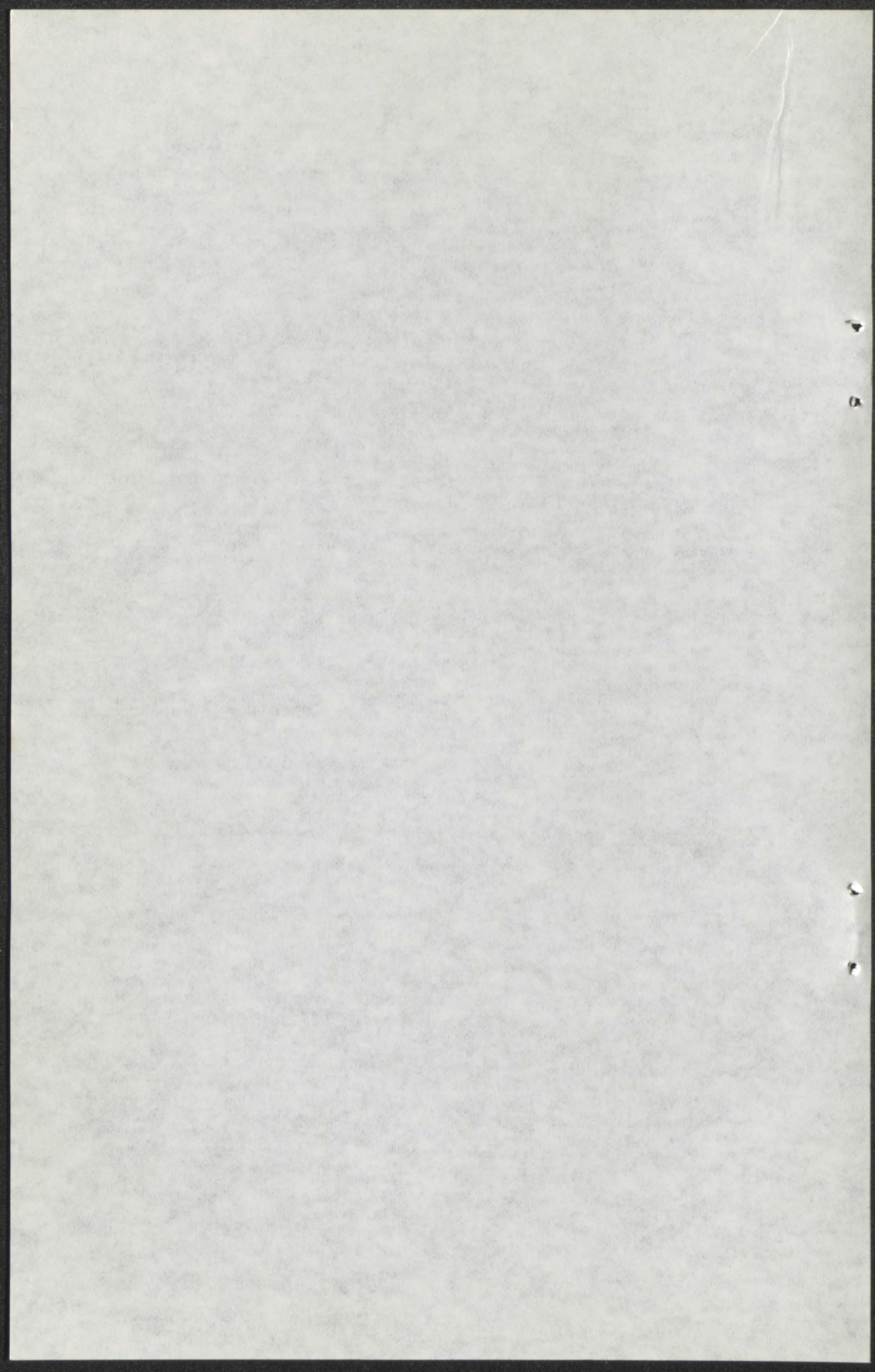
2. Facilities for visitor control, museums and housing for Park Service personnel should be located toward Watch Hill, on the western end, or Smith Point, the eastern end of the natural area. These locations are already extensively developed and additional structures will not create any undue impact. From these locations self-guiding trails, *not* boardwalks could be established throughout the area. (The visitor comes to a beach; he should be able to get sand in his shoes. And a boardwalk is an obtrusive structure in a otherwise natural area.)

3. The environmental education centers/lodgings proposed for the natural area already exists at Watch Hill. The area is sufficiently compact that a scientist at either end could reach any point within the area in an hour and a half by foot. For those rare occasions where continual experiment monitoring is required, the experimenter would be allowed to erect a tent or temporary shelter at or near his experiment site.

4. Marina and beaching facilities should be located with other structures at Smith Point or Watch Hill. A glance at a U.S. Coast and Geodetic chart of the area shows that the locations currently proposed for these facilities have insufficient water depth for even a small outboard launch. It would therefore be necessary to dredge channels and construct docks and boardwalks through the adjacent wetlands, an activity, which if this were not federal property, would not be permitted under current wetlands legislation in the State of New York.

Most of the visitor facilities that the Park Service is proposing are a duplication on New York State or Suffolk County facilities already existent along the south shore of Long Island and other parts of Fire Island. Ironically, the single unduplicated resource—an unspoiled barrier beach, the only one between Cape Cod and Assateague Island—would be destroyed by the very agency charged with protecting the area. It would seem to be more in keeping with the idea of a national park to concentrate any new development at the extremities of the natural area and then in 1992, when the last land use agreements within the boundaries of the seashore expire. At that time, if there were no new construction by the Park Service, the 8-mile zone between Watch Hill and Smith Point would have no man-made structures, and the clear intent of the Congress in establishing Fire Island National Seashore will have been well served.

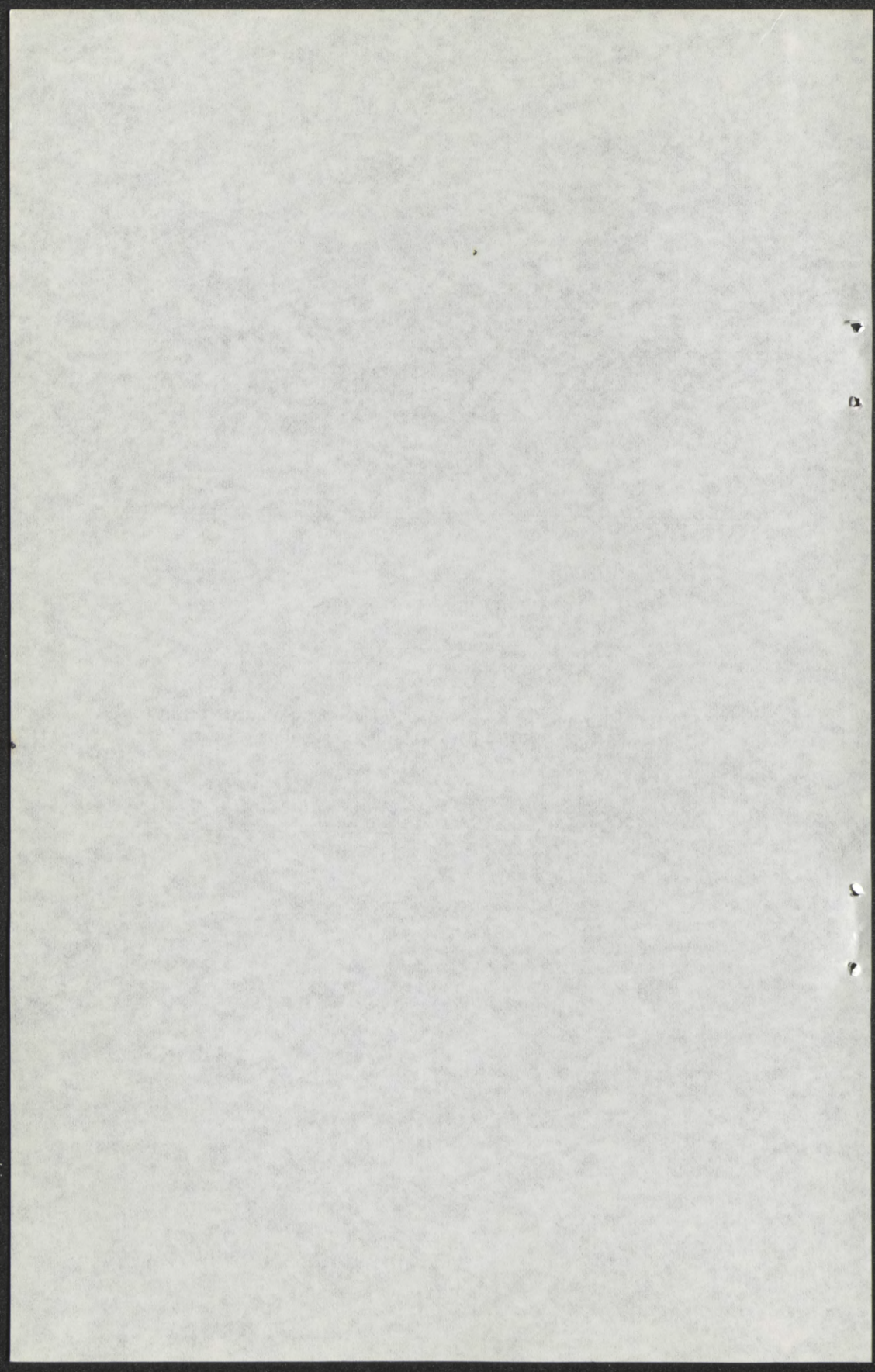
Senator JOHNSTON. Thank you very much, the hearing is adjourned.
[Whereupon, at 1 p.m., the hearing was adjourned.]



APPENDICES

APPENDIX I

Additional Statements and Communications Submitted for the
Record on S. 867—Fire Island National Seashore



STATE OF NEW YORK,
EXECUTIVE CHAMBER,
Albany, N.Y., November 20, 1975.

HON. J. BENNETT JOHNSTON,
Chairman, Subcommittee on Parks and Recreation, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR JOHNSTON: I am advised that public hearings were scheduled for November 13th by the U.S. Senate Sub-Committee on Parks and Recreation for S. 867.

The establishment of the Fire Island National Seashore in 1964 was almost commendable and farsighted action by Congress in the public interest. Considerable progress has already been made in the realization of the recreation and conservation objectives of the Act, yet more still remains to be done to fully protect this area. Clearly, adequate funding support and statutory authority to complete the job already begun is needed. Accordingly, I am happy to lend my support to S. 867, introduced by Senator Javits. In so doing, I also support H.R. 3994.

Sincerely,

HUGH L. CAREY.

STATEMENT OF HON. JEROME A. AMBRO, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NEW YORK

As a cosponsor of an identical House Bill and a Member of the New York Delegation from Long Island, I make this statement for the record in support of Senator Javits' bill S. 867, which would amend the Act which established the Fire Island National Seashore to facilitate improved management of the Seashore.

Fire Island National Seashore, a protective barrier beach, off the southern shore of Long Island, was established for the purpose of preserving "unspoiled areas of great natural beauty" close to a large urban center. The concept was excellent and the Seashore has been an enormous asset.

In the eleven years since the enabling legislation was enacted for the Fire Island National Seashore, several problem areas have emerged, primarily in the management of the Seashore by the National Park Service.

This legislation, S. 867, would reconcile local and national interests.

The Interior Department's draft Master Plan for the Seashore contained, among other things, proposals to change the Western boundary by lopping off a six mile portion, and to build a 12 foot wide, 22 mile blacktop bikeway. Due to strong opposition from public meetings and area Congressmen, these proposals have been deleted from the Master Plan for Fire Island National Seashore. Now other important aspects of the Seashore can be attended to, and S. 867 is the vehicle to implement other, needed changes.

As stated in the concluding paragraph of a letter to the Honorable Sidney R. Yates, Chairman, Interior Subcommittee of the House Appropriations Committee, signed by nine Members of the New York Delegation: "We have in Fire Island, a unique natural resource. The preservation and protection of the Seashore has been, and we firmly believe must continue to be, a top priority for all concerned and responsible citizens and public officials. We must not waiver in our support of the mandate of the Act of Congress which created the National Seashore."

The Master Plan's argument for certain of its proposals, such as those two just cited, was that there was not enough money, and the National Park Service lacked legal authority, to preserve the barrier beach. And this lack of money and authority was used as an excuse for shortcomings in managing the Seashore.

The bill, S. 867, would provide the Secretary of the Interior with additional authority to back up the Seashore Act.

Such considerations as beach and dune care, house siting, and water usage must be cared for under a strong overall policy. The legislative remedy proposed

would correct inadequacies and provide the means whereby the Secretary can implement a strong unified management policy, which is sorely needed.

Senator Javits' bill S. 867, provides injunctive relief against any action inconsistent with legislative purpose of the Seashore or adverse to its protection and public use. It gives the Service and additional \$10 million for Fire Island and the power to seek injunctive relief in the Federal Courts. In the absence of this legislation, the judiciary will continue to be frustrated by inadequacy of the law, and can only prod authorities to save this charming and fragile outpost of nature before haphazard development irrevocably spoils it.

For all of these reasons, I urge the Subcommittee on Parks and Recreation to give this legislation careful consideration and report it promptly and favorably.

STATEMENT OF CHARLES H. CALLISON, EXECUTIVE VICE PRESIDENT, NATIONAL AUDUBON SOCIETY

The National Audubon Society welcomes the opportunity to comment on S. 867, a bill to amend the Fire Island National Seashore Act. This bill is most timely and one which we wholeheartedly support.

The National Audubon Society and its chapters on Long Island actively participated in the campaign to establish the National Seashore and to preserve for public use and the public good the ecological integrity and the exceptional esthetic and recreational resources of this largely unspoiled barrier beach. We were naturally pleased when Congress established the Fire Island National Seashore in 1967, and the Congress did so with the particular intent of "setting aside an unspoiled area of great natural beauty" close to a large metropolitan area for the enjoyment of the public. Furthermore, it was clearly the intent of the Act to allow homes and cottages to be constructed only if such structures were compatible with the mandate of the Act and in accordance with good land use policies and procedures.

Since the passage of the Act some eleven years ago, the quality of the National Seashore has been degraded by the granting of hundreds of variances issued to individual home owners and concessionaires. Houses have been constructed on lots too small for the dwellings that occupy them; commercial establishments have sprung up helter-skelter; and a steady increase in the population density has had a significantly deleterious effect on the ecological character of the island itself.

Although the Park Service has had the power of condemnation, it has never used this authority, stating that there were insufficient funds available for the taking of such actions and suggesting that there was no legal basis for the prevention of future zoning outrages.

S. 867 will remedy these abuses by giving the Park Service an additional \$10 million for Fire Island and providing the Park Service with the important power to seek injunctive relief in the federal courts. Without such legislation, the present statute merely relies on the power of condemnation and leaves the courts powerless to enjoin communities from implementing their zoning ordinances.

S. 867 will give the Secretary of the Interior and the Park Service immediate tools necessary to protect this irreplaceable natural resource. We urge this Committee to report favorably on S. 867 and then to press for quick and affirmative action on the floor.

NATIONAL PARKS & CONSERVATION ASSOCIATIONS
Washington, D.C., November 17, 1975.

HON. BENNETT JOHNSTON, JR.,
Chairman, Subcommittee on Parks and Recreation, Committee on Interior and Insular Affairs, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR JOHNSTON: Please include this letter in the record of the hearing of your Subcommittee of November 13, 1975 on S. 867 concerning Fire Island National Seashore. NPCA appreciates the opportunity to provide our views, upon invitation, to the Subcommittee concerning not only the increase in authorization for the Fire Island National Seashore, as contemplated in S. 867, but also to express our concerns with regard to the proposed draft Master Plan for Fire Island.

NPCA is fully supportive of efforts to increase the authorization for Fire Island from \$16,000,000 to \$26,000,000. We urge the enactment of S. 867.

We would like to call to your attention the fact that the Draft Master Plan and supporting environmental Impact Statement for the Fire Island National Seashore are woefully inadequate. Portions of the master plan appear to be in direct violation of the statutory requirements for protection of the area as contained in Public Law 88-587. Specifically, NPS plans for the rather intensive development of the eight-mile natural area zone of the seashore are diametrically opposed to the mandate of the Fire Island Act which states in part that, "The Secretary shall administer and protect the Fire Island National Seashore with primary aim of conserving the natural resources located there." Continuing, with specific reference to the eight-mile zone, the act states that, "No development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the flora and fauna or the physiographic conditions now prevailing, and every effort shall be exerted to maintain and preserve this section of the seashore . . . in as nearly their present state and condition as possible." Contrary to this rather clear mandate from the Fire Island Act, current Park Service plans as contained in the draft FIS call for the erection of four new federal areas within the eight-mile zone in addition to the expansion of an existing one resulting in a development site every mile and three quarters.

The five heavily developed areas within the eight-mile natural zone would include bath houses, campgrounds for individuals and groups, bicycle rental facilities, food stores, marina shops, docking areas, elevated pedestrian dune crossings, vehicular dune crossings, ferry slips, horse stables, lifeguard stations, marinas, parking areas, picnic sites, ranger stations, ranger residence areas, storage facilities, visitor centers, and rowboat rental facilities, among others. It is particularly incomprehensible that the National Park Service, the Federal agency charged with preserving our natural lands, should propose such intensive development of an area designated to be preserved in its natural state.

NPCA has been hopeful that the Park Service, with extensive experience in other seashore areas such as Assateague Island, Cape Hatteras and Cumberland Island, would have recognized the extremely fragile nature of these barrier islands and the need to preserve them in as natural a state as possible. The Park Service is paying the cost of overdevelopment at Cape Hatteras each year as expenditures for dune stabilization and restoration increase. The Park Service has also apparently recognized the need to keep Assateague Island National Seashore in a natural state having endorsed the passage of legislation which would eliminate provisions from the Assateague Act for road and commercial development on the island.

In addition, the careful planning which has been conducted for Cumberland Island National Seashore has reflected recognition by the Park Service that these areas are especially fragile. But, in the case of Fire Island, unfortunately, the Park Service apparently has chosen to ignore all it has learned from past experience in the other barrier island components of the National Park System. At Fire Island the Park Service has already spent over \$1 million for development within the natural area.

NPCA is hopeful that this Subcommittee, in exercising its oversight responsibilities for proper administration of Fire Island National Seashore, will reiterate to the National Park Service the necessity for maintaining the 8-mile natural area of Fire Island in a primitive condition as required by statute.

Thank you for the opportunity to present our views to the Subcommittee on this important matter.

Sincerely,

T. DESTRY JARVIS,
Administrative Assistant.

PFIZER OVERSEAS, INC.,
New York, N.Y., October 24, 1975.

Re: Senator Javits Bill (S. 867)—National Seashore—Fire Island.

HON. J. BENNETT JOHNSTON,
Chairman, Subcommittee on Parks and Recreation, Senate Interior and Insular Affairs Committee, U.S. Senate, Washington, D.C.

DEAR MR. JOHNSTON: Since I am a resident of Fire Island Pines, I am very concerned about the preservation of our island from ruinous proposals such as the bike/hike trail (remember Central Park, New York City) liberalizing vehicular traffic on the beach and failure to restrain greedy builders in their commercialization.

As you know, Fire Island is a natural barrier beach and if the delicate balance between the beach and the ocean is destroyed so is Fire Island and eventually the bay front communities on Long Island opposite Fire Island.

Please do everything you can to help us.

This letter should be made part of the official record.

Very truly yours,

JAMES W. MEEKER,
Sales Manager.

New York, N.Y., October 23, 1975.

HON. J. BENNETT JOHNSTON,
Chairman, Subcommittee on Parks and Recreation, Senate Interior and Insular
Affairs Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR JOHNSON: Please be advised of my strong support of Bill S. 867,
and of the position of the Fire Island Association on this issue.

Please make this letter a part of the official record on this issue.

Very truly yours,

M. ALLEN WALLER, D.O.

NEW YORK, N.Y., October 24, 1975.

HON. J. BENNETT JOHNSTON,
Chairman, Subcommittee on Parks and Recreation, Senate Interior and Insular
Affairs Committee, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN JOHNSTON: I would like this letter to be made a part of the
official record, in that I support the Javits bill (S. 867) and the Fire Island Association's position on the National Seashore's Fire Island Master Plan.

As a long-time visitor and property owner for the last 8 years, I personally find it incredulous that the U.S. Government would wish a fragile strip of barrier beach to become a day-tripper's haven to the detriment of the very island itself, the communities themselves and all of the people who have taken great pains to protect the unusual, natural beauty of the habitat. Perhaps you have somehow avoided the vision of havoc that uncaring visitors lay down upon the land. And a concrete bike path of any length on that narrow strip is obviously just a foundation for a highway of the future. Reading the master plan with any thoroughness is a most frightening experience—for a government agency to literally wish the destruction of 75% or more of the property to gain a stronghold for their position—worse than 1984 by far.

The entire National Seashore operation in regard to Fire Island is a sham—and a shame!

Sincerely,

BARBARA BACCUS.

BROOKLYN, N.Y., October 24, 1975.

HON. J. BENNETT JOHNSTON,
Chairman, Subcommittee on Parks and Recreation, Senate Interior and Insular
Affairs Committee, U.S. Senate, Washington, D.C.

DEAR SIR: This letter is written in support of Javits bill S. 867, to be part of the official record.

Fire Island is not equipped to afford public facilities to large numbers of bicyclists and hikers nor can its natural beauty and rustiness withstand the trampling of thousands of people concerned only for the day's enjoyment and not the lasting beauty. Too often have I seen thoughtless visitors trampling of the dunes whose only protection is to remain undisturbed by humans.

Fire Island must be preserved in its present natural state. Any attempt to expand daytime facilities would only lead to its destruction.

Very truly yours,

EDWARD M. KARLIN.

NEW YORK, N.Y., October 24, 1975.

HON. J. BENNETT JOHNSTON,
*Chairman, Subcommittee on Parks and Recreation, Senate Interior and Insular
 Affairs Committee, U.S. Senate, Washington, D.C.*

DEAR SIR: As a property owner and resident of Fire Island Pines, I urge the passage of the Javits Bill S. 867. It will be to our benefit.

Please make this letter part of the official record.

Yours truly,

ROGER GROSS.

NEW YORK, N.Y., October 27, 1975.

HON. J. BENNETT JOHNSTON,
*Chairman, Subcommittee on Parks and Recreation, Senate Interior and Insular
 Affairs Committee, U.S. Senate, Washington, D.C.*

DEAR CHAIRMAN JOHNSTON: As a member of the Fire Island Association, FIPPOA for a 6 year summer resident of the Pines, I wish to make my views known regarding my summer residence.

I understand that on November 13 the Senate will have a hearing on the National Seashore issue. For the official record, I wish my name to be included to the list of supporters of the Javits bill (S. 867) regarding the master plan.

I hope that in supporting this bill, along with my fellow co-owners and friends in the Fire Island Pines that the hike/bike trail will not go forward. This will destroy the tranquility and peacefulness of a beautiful unspoiled area.

Sincerely,

MARVEEN CHRISTIE.

NEW YORK, N.Y., October 27, 1975.

HON. J. BENNETT JOHNSTON,
*Chairman, Subcommittee on Parks and Recreation, Senate Interior and Insular
 Affairs Committee, U.S. Senate, Washington, D.C.*

DEAR CHAIRMAN: As a cooperative apartment owner in Fire Island Pines, I want you to be aware of my support for the Javits bill (S. 867) and Fire Island Association's positions on the master plan.

I want to help those who are concerned with keeping Fire Island as a natural barrier beach.

Please make my letter a part of the official record.

Sincerely,

MARGARET BORGSTEDE.

NEW YORK, N.Y., October 23, 1975.

HON. J. BENNETT JOHNSTON,
*Chairman, Subcommittee on Parks and Recreation, Senate Interior and Insular
 Affairs Committee, U.S. Senate, Washington, D.C.*

DEAR SIR: I am a resident of Fire Island Pines during the summer months and a property owner. I fully support the Javits bill S. 867 and urge its passing.

I would like this letter to become part of the official record.

Thank you,

Yours truly,

NEW YORK, N.Y., *October 28, 1975.*

HON. J. BENNETT JOHNSTON.

DEAR SIR: I believe this is the first letter that I have ever written to a United States Senator. I feel very strongly about preserving Fire Island as it is and am against building the bicycle trail and other projects which will only lead to the commercialization of the Island.

For years I spent my vacation on Cape Cod and saw what happened to the south side of the Cape. Luckily a great part of the Cape was saved due to the National Seaside Act so wisely enacted by the government. Let me urge you to support the Javits bill (S. 867). Please make this letter part of the official record.

Very truly yours,

REDFIELD D. BECKWITH.

APPENDIX II

Statement of Hon. Thad Cochran, a Representative in Congress from
the State of Mississippi on S. 2158—Mission 66 Bypass
Road at Vicksburg, Miss.

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STATEMENT OF HON. THAD COCHRAN, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF MISSISSIPPI

Mr. Chairman, I appreciate the opportunity to provide this Subcommittee with my views in support of S. 2158, a bill introduced by my own U.S. Senators and fellow Mississippians, the Honorable John C. Stennis and the Honorable James O. Eastland.

S. 2158, as you know, will simply provide for a statutory increase in the authorization ceiling on the Mission 66 bypass road project at Vicksburg, Mississippi, in the Fourth Congressional District, which I have the honor of representing in the House.

This bill will provide for an increase in the authorization ceiling of \$2,000,000, bringing the total amount authorized to \$4,050,000. According to the current estimates, this sum will allow for completion of the road and resolve the problem of excess commuter traffic that currently burdens the roadways within the historic Vicksburg Military Park.

I am advised that the National Park Service and the Office of Management and Budget support this legislation, which is very similar to a bill I have introduced in the House that has received their endorsement and support.

In view of the support for this project from the city of Vicksburg as well as that expressed by the federal interests involved, I hope S. 2158 will receive your favorable consideration in order that this project, which has been authorized since 1963, can finally be completed.

