

**H.R. 154, H.R. 2501, H.R. 2619,  
H.R. 2623 AND H.R. 3056**

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**LEGISLATIVE HEARING**  
BEFORE THE  
SUBCOMMITTEE ON FISHERIES CONSERVATION,  
WILDLIFE AND OCEANS  
OF THE  
COMMITTEE ON RESOURCES  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED EIGHTH CONGRESS  
FIRST SESSION

Thursday, September 25, 2003

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**LEGISLATIVE HEARING ON H.R. 154, A BILL TO EXCLUDE CERTAIN PROPERTIES FROM THE JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM; H.R. 2501, A BILL TO CLARIFY THE BOUNDARIES OF COASTAL BARRIER RESOURCES SYSTEM CAPE FEAR UNIT NC-07P; H.R. 2619, A BILL TO PROVIDE FOR THE EXPANSION OF KILAUEA POINT NATIONAL WILDLIFE REFUGE; H.R. 2623, A BILL TO PROVIDE FOR THE EXPANSION OF THE CAHABA RIVER NATIONAL WILDLIFE REFUGE IN BIBB COUNTY, ALABAMA; AND H.R. 3056, A BILL TO CLARIFY THE BOUNDARIES OF THE JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM CEDAR KEYS UNIT P25 ON OTHERWISE PROTECTED AREA P25P.**

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**Thursday, September 25, 2003  
U.S. House of Representatives  
Subcommittee on Fisheries Conservation, Wildlife and Oceans  
Committee on Resources  
Washington, DC**

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The Subcommittee met, pursuant to notice, at 10:00 a.m. in Room 1324, Longworth House Office Building, Hon. Wayne Gilchrest [Chairman of the Subcommittee] presiding.

Present: Representatives Gilchrest, Pallone and Bordallo.

**STATEMENT OF HON. WAYNE T. GILCHREST, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND**

Mr. GILCHREST. Good morning, everybody. My colleagues, thank you for coming this morning to testify on various bills that there is apparently a great deal of interest in.

I am pleased to convene this hearing today on legislation to address the boundaries of certain units contained within the Coastal Barrier Resources System and the National Wildlife Refuge System.

The first three bills, H.R. 154, H.R. 2501 and H.R. 3056, propose to remove some 100 acres of fastland from the Coastal Barrier Resources System. This system was first created in 1982 and it has become one of the Nation's best coastal environmental laws. While this law does not prevent a single landowner from building on a coastal barrier, it clearly states that, if your property is located within the system, then you are not eligible for Federal flood insurance, Federal highway and sewage funds, or a host of other development incentives.

Instead of removing property, I would support enlarging the size of the system. Nevertheless, I am pleased to hear the testimony of our colleagues and their arguments on why these unit maps should be changed.

The final bills we will consider are H.R. 2619 and H.R. 2623. These measures expand the boundaries of the Kilauea Point and Cahaba River National Wildlife Refuges.

H.R. 2619, introduced by Congressman Case of Hawaii, would double the size of the Kilauea Point unit. This refuge, which was acquired by the Fish and Wildlife Service in 1984, contains an historic lighthouse and essential habitat for a number of listed species. I look forward to hearing a justification for this expansion, a description of the proposed refuge property, and an indication of the amount and source of Federal funds to acquire them.

H.R. 2623, introduced by Congressman Bachus, would greatly expand the size of the Cahaba River Unit. The Cahaba River is the longest free-flowing river in Alabama and it may have the greatest concentration of fish biodiversity per mile for any river in the United States. That's quite an extraordinary thing.

In recognition of the importance of this ecosystem, Congress legislatively created the Cahaba River National Wildlife Refuge in 2000. All of us are interested in hearing the justification for increasing the size of this refuge from its statutory level of 3,500 acres to approximately 30,000 acres—which sounds like a lot. But if you look at the refuges in Alaska, which are millions—one is 13 million acres—this is small in comparison. So we would like to take a close look at this, Mr. Bachus, and try to accommodate our colleague.

I look forward to hearing from our distinguished witnesses today. In the two part hearing that we have today, we really do want to take everybody's testimony, the way it is expressed and the details that they give us, into serious consideration. There is always controversy about more Federal land, and there are always controversies surrounding the coastal barriers of the U.S. and how they should be protected. So I want to welcome all the witnesses here this morning. We look forward to your testimony. We will take each of your individual testimonies into serious consideration.

At this point I would like to recognize the gentleman from New Jersey for his opening remarks. Mr. Pallone.

[The prepared statement of Mr. Gilchrest follows:]

**Statement of The Honorable Wayne T. Gilchrest, Chairman,  
Subcommittee on Fisheries Conservation, Wildlife and Oceans**

Good morning. I am pleased to convene this hearing today on legislation to address the boundaries of certain units contained within the Coastal Barrier Resources System and the National Wildlife Refuge System.

The first three bills, H.R. 154, H.R. 2501 and H.R. 3056, propose to remove some 100 acres of fastland from the Coastal Barrier Resources System. This system was first created in 1982 and it has become one of this nation's best coastal environmental laws. While this law does not prevent a single landowner from building on a coastal barrier, it clearly states that if your property is located within the System, then you are not eligible for federal flood insurance, federal highway and sewage funds or a host of other development incentives.

Instead of removing property, I would support enlarging the size of the System. Nevertheless, I am pleased to hear the testimony of our Colleagues and their arguments on why these unit maps should be changed. The final bills we will consider are H.R. 2619 and H.R. 2623. These measures expand the boundaries of the Kilauea Point and Cahaba River National Wildlife Refuges.

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H.R. 2623, introduced by Congressman Bachus, would greatly expand the size of the Cahaba River Unit. The Cahaba River is the longest free-flowing river in Alabama and it may have the greatest concentration of fish biodiversity per mile for any river in the United States. In recognition of the importance of this ecosystem, Congress legislatively created the Cahaba River National Wildlife Refuge in 2000. I am interested in hearing the justification for increasing the size of this Refuge from its statutory level of 3,500 acres to approximately 30,000 acres and the cost of such acquisition.

I look forward to hearing from our distinguished witnesses and I am now pleased to recognize our Ranking Democratic Member, Congressman Frank Pallone.

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**STATEMENT OF HON. FRANK PALLONE, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF NEW JERSEY**

Mr. PALLONE. Thank you, Mr. Chairman, for holding this hearing on legislation affecting two of the U.S. Fish and Wildlife Service's most important programs—the National Wildlife Refuge System and the Chafee Coastal Barrier Resources System.

I want to first welcome our friends who are assembled here to testify this morning. We are honored to have you join us and I look forward to hearing your presentations.

Mr. Chairman, as you know, any bill that comes before this Subcommittee that seeks to alter the boundaries of any unit or otherwise protected area in the coastal barrier resource system is potentially controversial and deserving of our patient and careful scrutiny. To date, our deference to caution in this Subcommittee has ensured that all approved boundary correction legislation represents legitimate technical corrections rather than undeserved windfalls for well-connected developers seeking Federal flood insurance or other Federal development subsidies.

In this respect, Mr. Chairman, I commend you for your tireless efforts to protect the coastal barrier resource system from the "death of a thousand cuts" effectively.

It would appear, from my own review of the three CBRA bills before this Subcommittee today, that both H.R. 154 and H.R. 2501 appear to be legitimate corrections. In fact, in regards to H.R. 2501, I cannot recall another comparable bill that has undergone such an extensive review, both in the field and here in Congress, and our colleague from North Carolina, Congressman McIntyre, should be recognized for his perseverance on behalf of his constituents.

I am sad to say that I must withhold my support for H.R. 3056. The information provided to date by the Fish and Wildlife Service is incomplete and their proposed boundary corrections push an entirely new strategy to revise CBRA maps. I urge the Subcommittee to closely review the circumstances underlying this bill before it is put to a vote.

The other two bills before the Subcommittee, H.R. 2619 and H.R. 2623, would expand existing National Wildlife Refuges in Alabama and Hawaii. I commend the bills' sponsors for their interest in enhancing the land and water resources at both refuges.

I support the legislation introduced by our friend and colleague from Hawaii, Congressman Ed Case. I would, however, like to better understand why we should support H.R. 2623, which would increase by ten times the Cahaba National Wildlife Refuge when we only created this refuge less than 3 years ago. In this respect, I await any information in this regard to be offered by the bill's sponsor, Congressman Bachus, and other witnesses.

Of course, considering the policy of this administration to cut funding and oppose additional land acquisition for refuges, parks, forests and other public lands, both bills still face an uncertain future outside of this Subcommittee. But I want to thank everyone for being here, and the sponsors.

Thank you, Mr. Chairman.

Mr. GILCREST. Thank you, Mr. Pallone.

We welcome Congressman Paul, Congressman Bachus, Congressman McIntyre, and Congressman Case. Thanks for coming this morning. We will start with Congressman Ron Paul.

**STATEMENT OF HON. RON PAUL, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF TEXAS**

Mr. PAUL. Thank you, Mr. Chairman.

I come with a modest request, not thousands of acres but 16 acres. It is a correction that we would like to see made.

I want to thank you for holding this hearing today to gain testimony relative to legislation to correct certain errors made in the mapping process relative to the Coastal Barriers Resource Act, or CBRA. I also want to thank the staff of the U.S. Fish and Wildlife Service for their efforts in helping to correct this error, and the local government officials and property owners who brought this problem to my attention.

Simply, as you will hear today from Fish and Wildlife, more than some 16 acres of property has been placed in a CBRA-designated area in Matagorda County, TX. My mistake. This has prohibited more than a dozen landowners from participating in State and Federal programs in which all other landowners similarly situated may participate. My bill would fix this error. I mentioned the local governments and property owners, and in your next panel you will hear from the top elected official from Matagorda County.

Before closing, I again want to thank the Chairman and Committee Members for holding this hearing, and ask that this legislation receive expeditious consideration so that these errors might be corrected prior to the next significant storm event occurring in Matagorda County. These past couple of years have seen particularly devastating storms hit this area. Fortunately, even more



destruction has not already occurred, but now we are pressed by time.

Unfortunately, I have to leave shortly after this presentation to prepare for an International Relations Committee and a Banking hearing, but I ask that you listen closely to the testimony of the Fish and Wildlife staff member, as well as my constituent, Judge Greg Westmoreland, who is County Judge in Matagorda County, which contains this area affected by this error. Judge Westmoreland and his staff have already been very helpful to us in resolving the issues surrounding the correction of this error.

Again, Mr. Chairman and Committee members, thank you.

[The prepared statement of Mr. Paul follows:]

**Statement of The Honorable Ron Paul, a Representative in Congress from the State of Texas**

Mr. Chairman:

I want to thank you for holding this hearing today to gain testimony relative to legislation to correct certain errors made in the mapping process relative to the Coastal Barriers Resources Act or CoBRA. I also want to thank the staff of the U.S. Fish and Wildlife Service, for their efforts in helping to correct this error, and the local government officials and property owners who brought this problem to my attention.

Simply, as you'll hear today from Fish and Wildlife, more than some 16 acres of property has been placed in a CoBRA-designated area in Matagorda County, Texas, by mistake. This has prohibited more than a dozen landowners from participating in state and federal programs in which all other landowners similarly situated may participate. My bill would fix this error. I mentioned the local governments and property owners and, in a moment, I will introduce the top elected official from Matagorda County. Before doing that I again want to thank the Chairman and Committee Members for holding this hearing and ask that this legislation receive expeditious consideration so that these errors might be corrected prior to the next significant storm event occurring in Matagorda County. These past couple years have seen particularly devastating storms hit this area. Fortunately, even more destruction has not already occurred in that area, but we are pressed by time.

Now I'm pleased to introduce your next witness, my constituent, Judge Greg Westmoreland, who is County Judge in Matagorda County, which contains the area affected by this error. Judge Westmoreland and his staff have been very helpful in resolving the issues surrounding the correction of this error, Judge Westmoreland.

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Mr. GILCHREST. Thank you, Mr. Paul.

Mr. Bachus.

**STATEMENT OF HON. SPENCER BACHUS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA**

Mr. BACHUS. I thank you, Chairman Gilchrest and Ranking Member Pallone.

Taking you back hundreds of thousands of years in the United States, as you all know, we had an Ice Age. That ice occupied a great percentage of the country. However, it stopped just north of the Cahaba River in Alabama. Because of that, what is called the Mobile Basin, which is a river system made up of seven different rivers in Alabama, contained more species than any other basin in the United States. Literally hundreds of species were found nowhere else because they were basically destroyed during the Ice Age.

Of the species which weren't destroyed thousands of years ago, many of them have been destroyed in the last 100 years. You will see testimony that we have submitted in this regard, and the

Nature Conservancy will also give testimony about this. There have been more extinctions—In fact, I will just read you this:

About 50 percent of all documented U.S. species' extinctions since European settlements have occurred in this century in the Mobile River Basin in Alabama. So half of the extinctions in the United States have occurred this century in this one river basin.

Now, of all the rivers in this basin—and that was testimony by the Nature Conservancy—of all the species in these rivers, all the rivers except the Cahaba River were dammed for hydroelectric dams. All the other rivers have been dredged for barge traffic. The only river that has never been dredged and has never been dammed is the Cahaba River. It is one of the smallest rivers in Alabama, and yet it contains over 100 endangered species.

The great percentage of these species occurs in about a 22 mile stretch of the river. This stretch of the river, because it is a very rural part of Alabama, a very remote part and hard to get to, those species have basically been protected in that part of the river.

It is also habitat for several bird species which actually have large populations in Central and South America but are seen in the United States. They only land in two locations—one down near the Mobile River Bay, and then in this refuge area within this proposed 30,000 acres as they travel north.

Mr. GILCHREST. Spence, what kind of birds are those?

Mr. BACHUS. Warblers, waterthrush—I have a list of them and I can give them to you. It has been identified that this is their flyaway.

We're also talking about a river—it has been established and we've given testimony on this—that has 131 fish species in this one river. That is more species than in the whole State of California, which is the most biodiverse State in the Union. Alabama ranks right up with Hawaii, California and Texas as the most biodiverse, for different reasons.

What is being done in a 50-mile stretch above this refuge is literally over \$100 million worth of projects are underway to protect that part of the river. Now, that part of the river doesn't contain the species. Most of them are contained within this 25-mile area. But they are actually doing this work above that—and you're talking about Jefferson County, you're talking about private groups, the city of Hoover spending \$7 million, one city to establish greenways along this river, because it has been recognized as a treasure trove of endangered and threatened species. So you're talking about over \$100 million in State and local efforts above that.

In this 22 mile stretch there are landowners all willing to sell. Most of these are corporations out of Alabama, and they have actually said that they will sell their land for a fair amount. We established the first 3,500 acres of the wildlife refuge, in actually an area that we felt was a good starting point. We have already acquired 90 percent of that land within 3 years.

There are national groups and environmentalists. We have the Cahaba River Society in Alabama and it has its own license plates in the State of Alabama. It's one of the most popular licenses in the State of Alabama, because this is the only place that these different fish, crayfish, mussels, abound.

Since the focus on this area, they have actually found seven plants that do not exist anywhere else. The reason for a lot of this biodiversity is what's called dolomite outcroppings, which are very rich in minerals. Where the river flows over them, a lot of different species congregate there because of the mineral content. It is also a flat river and it's wide and shallow.

It is a beautiful river, containing some of what's called the Cahaba lily, which is a beautiful plant. It is found nowhere else except on one isolated stretch of one other river. Below there, an 80 mile stretch below there, the property owners have all agreed to come together with the counties there. They're spending approximately \$20 million worth of local and State money to preserve that stretch. The one stretch that actually needs Federal protection and needs to be established is this stretch.

Now, if this was so biodiverse, why did we just start doing anything in the last four or 5 years? We literally have land and refuges in Alabama today that are three and four times this size that don't protect anywhere near this type diversity. It was simply a political thing. You had members that were active and concerned about these issues and they set aside refuges. You know, the interest has just not been there in Congress. No one has tried to do anything about this.

Bibb County, a very rural county that this river flows through, is the second poorest county in the State. They have all sorts of problems in keeping their schools open. They have all sorts of problems with their roads. It is really an impoverished area. Despite that, they recently pledged \$80,000 and put it in an escrow account to help manage this wildlife refuge and protect it. That is an incredible amount of money for a county that has leaky roofs in their schools. There is quite a bit of testimony that you all have seen.

But this will still be a small refuge, even when it's expanded. It will be right along the river and it will protect that stretch of the river, which is very sensitive to—We've had cases of people coming in and taking four-wheelers and driving along the river, just basically tearing up miles of the river.

We will either act on this in the next few years or we'll lose it. It is part of a comprehensive effort. I can tell you that when you have people spending \$100 million north of there to protect just the water that flows into this area, then the amount of money that we're spending in this area, which is about a fifth of that, to protect the actual species is of primary importance. That is the Federal role we're asking for. So the investment would be highly leveraged. I can give you all these documents—

Mr. GILCHREST. We'll take a very close look at that, Mr. Bachus.

Mr. BACHUS. Thank you.

Mr. GILCHREST. We really appreciate your testimony and your discussion about biodiversity is not often heard in such eloquent passion.

Mr. BACHUS. Thank you.

Mr. GILCHREST. I would quickly mention that there is an interesting book about 10 years old now titled "Water." It's about the history of water in the United States. It's the history of the hydrologic cycle of water basically over the last 500 years, something similar to what you mentioned about the last Ice Age and how we

have lost a lot of biodiversity in the last 100 years. The author is Alice Outwater. There are some fascinating insights in that book.

But thank you for your testimony.

Mr. BACHUS. Thank you.

Mr. GILCHREST. Mr. McIntyre.

**STATEMENT OF HON. MIKE McINTYRE, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF NORTH CAROLINA**

Mr. McINTYRE. Thank you, Mr. Chairman.

Mr. Chairman and Ranking Member Pallone and other members of the Subcommittee, thank you for allowing me to come before you on H.R. 2501, which is a bill to clarify the boundaries of Cape Fear Unit NC07P, an "otherwise protected area" designed by the Coastal Barrier Improvement Act of 1990.

As you recalled, and as you were kind enough to mention earlier, I testified before this Committee in April of last year, so I will keep my remarks fairly brief in order to allow other witnesses time to testify. In another panel this morning, Becky King, who is the Town Manager of the village of Bald Head Island, will also be speaking to you about some of the particulars.

In general, though, the Coastal Barrier Resources Act was an effort to address problems caused by coastal barrier development. CBRA, of course, restricts those Federal expenditures and financial assistance, including Federal flood insurance for development on these coastal barrier islands. In addition, with the adding of the otherwise protected areas to the system, OPAs are undeveloped coastal barriers within the boundaries of the lands reserved for conservation purposes, which I'm sure the Committee is familiar with.

Now, the Fish and Wildlife Service has advised me that the maps of the area known as NC07P are inaccurate. That is the essence of our concern today. These errors in the maps deny flood insurance to certain property owners on Bald Head Island, NC. The errors result from problems inherent in translating lines drawn on large scale maps used for designations into precise, on-the-ground property lines.

However, this problem is now fixable with improved technology available to the Fish and Wildlife Service. The mistakes, admitted by Fish and Wildlife, that led to the Bald Head Island properties being placed within the outer boundary of NC07P were clearly not intended by Congress when the maps were created. This bill would amend the boundaries of NC07P, the otherwise protected area established during the 1990 amendments, that was intended to include these multiple contiguous pieces of property owned by the Bald Head Island Land Conservancy, the State of North Carolina, the U.S. Army, and held for conservation purposes.

Analysis by the Fish and Wildlife Service indicates that the existing NC07P does not follow the actual protected area boundaries and erroneously includes private property that is not an inholding.

This bill would simply replace those two maps that are incorrectly drawn with new maps that do accurately depict the digitized OPA boundaries. The affected parties are all in agreement, that the new maps portray accurate boundaries. So when this is done, which can only be done by an act of Congress, this correction could

be made. As you know, the statute doesn't provide for administrative correction of such an error.

In the past, Congress has enacted legislation in several instances where the stated purpose was to remove private property from the mapped outer boundary of an otherwise protected area. Also, the technical changes called for in this legislation have another benefit—vastly increasing the overall acreage in the map.

Now, as the hurricane season, as we well know in North Carolina, and unfortunately as many of our neighbors in other States know, is now in full swing. There are landowners on Bald Head Island who, by no fault of their own, will continue to be left unprotected if a storm strikes the Cape Fear region, as did six hurricanes during my first 4 years in office. Therefore, this matter requires immediate attention. I would greatly appreciate your prompt consideration of this.

The good news is that, as we look at the additional land, in addition to correcting the maps that are available to be protected, we have an opportunity that the U.S. Fish and Wildlife Service and the State of North Carolina have identified as additional acreage that could be eligible to be added to NC07P, with a total net increase of 5,862 acres. Of this, 2,362 are fastland or land above mean high water and another 3,500 acres are wetlands and open water.

So there is a double benefit here. The main issue, of course, is to allow these property owners to be able to get Federal flood insurance and simply correct the maps, and second, there is the added benefit of additional acreage that could be made available.

We see this as a “win win” situation, a win for conservancy, a win for the environment and the government, and also, of course, a win for those who would just simply like to be able to protect their property.

Thank you, Mr. Chairman.

[The prepared statement of Mr. McIntyre follows:]

**Statement of The Honorable Mike McIntyre, a Representative in Congress from the State of North Carolina**

Chairman Gilchrest, Ranking Member Pallone and Members of the Subcommittee: Thank you for holding a hearing on H.R. 2501, a bill to clarify the boundaries of Cape Fear Unit NC07P an “otherwise protected area” (OPA) designated by the Coastal Barrier Improvement Act of 1990.

As you recall, I testified before this Committee on April 11, 2002, on this same matter, so I will keep my remarks brief in order to allow the other witnesses ample time to testify. However, as the sponsor of this legislation, I would like to speak to you in support of the bill.

Congress enacted the Coastal Barrier Resources Act (CBRA) in an effort to address problems caused by coastal barrier development. As you know, CBRA restricts Federal expenditures and financial assistance, including Federal flood insurance, for development on coastal barriers in the CBRAs. In addition, the Coastal Barrier Improvement Act of 1990 added “otherwise protected areas” to the System. OPAs are undeveloped coastal barriers within the boundaries of lands reserved for conservation purposes, such as wildlife refuges and parks. While they were not made part of the Coastal Barrier Resources System, the Congress forbade the issuance of new flood insurance or any Federal development-related assistance in OPAs.

The Fish and Wildlife Service has now advised me that the maps of the area, known as NC07P, are inaccurate. The errors in the maps deny flood insurance to certain property owners on Bald Head Island, North Carolina. The errors result from the problems inherent in translating lines drawn on the large-scale maps used for designations into precise, on-the-ground property lines. However, this problem is now fixable due to improved technology available to the Fish and Wildlife Service.

The mistakes that led to the Bald Head Island properties being placed within the outer boundary of NC07P was clearly not intended by Congress when maps were created.

While correcting the lines around Bald Head Island, the Fish and Wildlife Service, working with the State of North Carolina and the local communities contained within NC07P, identified 2,471 acres that are eligible for addition to NC07P. Therefore, when the 109 acres are removed from the 2,471 that would be added, the net gain to NC07P is 2,362 acres.

As you know, only an act of Congress may revise CBRA boundaries. The statute does not provide authority for an administrative correction of such an error. In the past, Congress has enacted legislation in several instances where the stated purpose was to remove private property from the mapped outer boundary of an otherwise protected area. Furthermore, the technical changes called for in my legislation have the added benefit of vastly increasing the overall acreage in the map. As hurricane season approaches, there are landowners on Bald Head Island who, by no fault of their own, will be left unprotected if a storm hits the lower Cape Fear region. Therefore, this matter requires immediate attention, and I appreciate your prompt consideration of this important bill.

Once again, thank you for allowing me to testify on my legislation, and I urge the Subcommittee to report this bill to the full Committee as soon as possible. Thank you.

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Mr. GILCHREST. Thank you, Mr. McIntyre.  
Mr. Case.

**STATEMENT OF HON. ED CASE, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF HAWAII**

Mr. CASE. Chair Gilchrest, Ranking Member Pallone, members of the Subcommittee, good morning and “aloha” to you. Thank you very much for considering H.R. 2619, my bill, which is cosponsored by a Subcommittee member and my colleague from Hawaii, Mr. Abercrombie, to authorize an expansion of the Kilauea Point National Wildlife Refuge on the Island of Kauai.

Let me put this bill in context, Mr. Chairman, because I think it’s important to understand the context for this bill, the big picture of this bill, and to describe to you why it is so vital in the big picture of what is happening in Hawaii today.

When we talk about biodiversity, Hawaii is the most biodiverse place in this country and possibly on this planet. It has an incredible array and diversity of resources that all arise from its history. Imagine its history, where you have an isolated island chain in the middle of the biggest ocean in our world, that is essentially cutoff from any contact with humanity for hundreds of thousands, millions of years, developing its own, unique resources, indigenous resources, primarily in the area of plant and animal species, bird species. It is the biodiversity capital of our world.

That biodiversity and the unique natural resources of Hawaii that go with it, whether they be wild and scenic places or marine resources, are under attack. They are under threat of their very survival across my entire State. I represent the 2nd District, which has virtually all of these resources. The 1st District is Honolulu and the 2nd District is everything else.

The wildlife, the wild and scenic places, the coastal and marine resources are under attack. Really, that attack is coming from two directions. The first is simply exposure to the rest of the world, biological exposure to the rest of the world, on exotic species and invasive species. Much of our time in Hawaii is spent in protecting

what is indigenous to Hawaii from what is coming from outside of Hawaii.

A far more insidious threat comes from development, from us, from us humans, and the development is particularly severe in any of the coastal places throughout our entire State. So this bill is one of several efforts that I have undertaken, and my predecessor, Mrs. Mink, have undertaken in the 2nd District, to try to bring the Federal Government's resources to bear on protecting these resources.

This is an effort in which my community is entirely supportive, so on all islands we have some initiatives that go to the heart of this matter, protecting what is under threat from extinction.

The Kilauea Point National Wildlife Refuge was created in 1985. It was created out of the old Kilauea Point Lighthouse, which was owned by the U.S. Coast Guard. It started off as 31 acres, it expanded up to a little over 203 acres. It is particularly renowned not only for the scenic value, but for its native seabird habitat. We have all kinds of species. Some of them are up here on the board. We have the Hawaiian coot up there on the upper right, the Alae 'ke'oke'o; we have the Hawaiian goose, which is the ne ne; we have the Hawaiian duck, which is the Koloa right there; and down at the bottom, the Hawaiian moorhen, Alae 'ula. These all have Hawaiian names because these were known to the Hawaiians as indigenous to the Hawaiian Islands. They are all under threat. They all live at this refuge.

In addition, what you can see here is really a unique vista. The pictures give you some context for where this is located in Hawaii and how it fits into our local lifestyle. This refuge is one of the most heavily traveled refuges among all of the refuges. It has 300,000 visitors coming through it every year for not only its scenic value, but also its value as a species habitat protection area.

It also has a really unique public/private partnership. It is adopted, protected, enhanced and supported by the community through the Kilauea Point Natural History Association and otherwise.

The bill was introduced because we have a unique opportunity here. We have three landowners that own the adjacent landholdings of a little over 200 acres, 219 acres. These landowners are shown here. In the upper left is the existing refuge, and then we can see the parcels that we're talking about here.

These parcels include a couple of extremely valuable areas from the perspective of the refuge. First of all, the beach itself, the control of the coastline. Second, the Kilauea River, which comes into the ocean right there, and the estuary of the Kilauea River which creates an incredibly diverse habitat, which I think is really the most valuable part of this parcel from the perspective of a National Wildlife Refuge. And third, the river itself going up to Kilauea Falls, which is in the upperlands there. So you're really talking about controlling an entire river system down to the ocean, plus the ocean itself, protecting the ocean.

One of the questions is, are these three owners willing sellers. The answer is absolutely yes. We have been in contact with all three of them. One of them is willing to donate the beach parcel to the U.S. Government, to donate it. I think that's an incredibly valuable opportunity for the U.S. Government. The others are

willing to exchange their lands for other Federal income-producing lands, to the degree that is available.

One question that has been asked is what is the value of these lands. I can tell you that the tax-assessed value for real property tax purposes is a little over \$5 million right now. We are talking about coastal lands that are under threat from development because they are valuable, because they are coveted. I am confident that we can find the resources or the land to exchange to add to this refuge.

The community is solidly behind this. I have appended to my testimony supportive testimony from the mayor of Kauai, from the State legislators on Kauai, and I anticipate a resolution when the city council wakes up and votes today, passed unanimously on the Island of Kauai, and in the last couple of days I have received over 100 letters of support from the Kilauea community.

A couple of questions just to answer, because I know there are questions from the Committee and perhaps others. The administration has testified that, although they understand the need for this, they are not necessarily supportive of acquisition of all of these lands.

I would point out two or three things along those lines. This is authorization. What we don't want to do is have an opportunity to acquire without the authorization. These things happen very fast in today's market on Kauai. If you have an opportunity, you want to go out and get it right then, whether it's donation of private contributions or exchange. You want it to be preauthorized.

Second, the administration says it might not need all of it. I would suggest that what we want to do is to over-authorize and then decide exactly what we want to acquire. I don't think it's over-authorization, by the way. I think all of this is going to be a valuable addition, and 50 years from now we're not going to regret the authorization and acquisition of all of these properties. But the bill does provide that what can actually be acquired is some or all, so we can take this in segments as we go.

One question was asked about some ancient Hawaiian taro fields that are located in this estuary system. These taro fields are not in use right now, so there is no current use of these lands for agriculture. We're not displacing anybody that is agriculture.

Finally, the question asked is what will happen if this property is not acquired by the Federal Government. This property will be developed and it will be lost. This property is in the path of development. The owners are willing to convey to the Federal Government, either by donation or exchange or market value, but they can't wait forever. They eventually will either develop or sell, and the next owner will go ahead and develop.

So, from my perspective, this is imminent. This is something we should proceed with right now, and I would ask for the Subcommittee's support on this.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Case follows:]

**Statement of the Honorable Ed Case, a Representative in Congress from the State of Hawaii**

Chairman Gilchrest, Ranking Member Pallone, and Members of the Subcommittee:



Thank you for the opportunity to testify today in support of my bill to authorize expansion of the Kilauea Point National Wildlife Refuge on the Island of Kauai. This bill is a vital component of one of my principal goals in Congress: to ensure that federal and/or state or private protection is extended to as many of Hawaii's threatened and irreplaceable areas as possible, both to ensure the survival and recovery of Hawaii's unique endangered and threatened species and to preserve the remaining unspoiled natural treasures of our beautiful islands for future generations.

The Kilauea National Wildlife Refuge, located at the northernmost tip of Kauai, was established in 1985. The initial acreage of 31 acres was increased to 203 acres through additional acquisitions in 1993 and 1994. The refuge provides invaluable habitat for many native seabirds, including the Laysan Albatross, the Red-footed Booby, and the Wedge-tailed Shearwater, as well as for the endangered nene (Hawaiian Goose). Endangered native plants have also been reintroduced to the area. The Refuge and its historic lighthouse have become one of Hawaii's world-class tourist destinations, visited by some 300,000 visitors each year. It is one of the most heavily visited refuges in the United States.

The proposed expansion area comprises three parcels of some 219 acres adjoining the eastern boundary of the Refuge and currently available for purchase from willing sellers. The Kilauea River runs through the land, which also includes an extensive lo'i (irrigated terrace for traditional cultivation of taro, the staple crop of Native Hawaiians) which could be restored to support endangered Hawaiian water birds, including the Hawaiian duck (Koloa), Hawaiian coot ("Alae "ke'oke'o), Hawaiian stilt (Ae'o) and Hawaiian moorhen ("Alae "ula). There is also a high quality estuarine ecosystem at the lower reaches of the river, which includes habitat for endangered birds as well as native stream life, such as the hihiwai (an endemic snail), o'opu (native goby), the native sleeper fish, flagtail, mullet, prawn, shrimp, invertebrates and juveniles of several important recreational and commercial marine fish species. The proposed addition also provides an excellent habitat for the nene, Hawaii's state bird, which was only recently saved from extinction. The beach is also sometimes used by endangered Hawaiian monk seals, and endangered sea turtles nest in the area.

The upper end of the proposed expansion area contains one of the largest waterfalls (Kilauea Falls) in the state of Hawaii.

One of the owners has indicated an interest in donating a portion of valuable beachfront property (5.25 acres) to the Fish & Wildlife Service. And the owners of the two largest parcels have expressed interest in swapping their lands for income-producing real estate that may be in the registry of federal surplus lands.

The three parcels of land are available for sale, and the owners have expressed a desire to see the land protected from development. But given rampant urbanization on Kauai (and elsewhere in Hawaii) and the high demand for waterfront property, we could very well lose this remarkable opportunity to add high quality wild-life habitat to our national refuge system.

The Kilauea community strongly supports protecting the land from development. In fact, the Kilauea Point National Wildlife Refuge is a model for management of other federal refuges nationwide. The operations of the Refuge are supported by community volunteers, who give daily tours of the Refuge and help in the preservation and propagation of native plant species. The principal volunteer group, Kilauea Point Natural History Association, even has a small store in the Visitor Center, the proceeds of which support environmental education programs throughout Kauai.

I append to my testimony, and would like to include in the record of this hearing, letters of support for H.R. 2619 from Kauai's Mayor Bryan Baptiste, State Senator Gary L. Hooser, State Representatives Hermina M. Morita and Ezra Kanoho, as well as from the Kilauea Neighborhood Association, the Kauai Public Land Trust, and the Kilauea Point Natural History Association. I also attach a copy of a resolution in support of H.R. 2619, which has been co-sponsored by each of the members of the Kauai County Council. The resolution will be passed unanimously by the Council today, September 25th.

I respectfully ask the Members of this Subcommittee to support H.R. 2619 and invite you to come to the Island of Kauai to visit the Refuge. I know that if you did so, you would be as convinced as I am of the importance of protecting these lands.

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Mr. GILCHREST. Thank you, Mr. Case.

I want to thank the members for their patience, persistence, their ability to represent their constituencies, either to expand the

refuge or to try to help those who are seeking to get Federal flood insurance. We look forward to working with you on these issues in the coming weeks.

I don't have any questions for each of the members. Mr. Pallone?

Mr. PALLONE. I was going to ask Congressman Case a couple of questions, although I think maybe you have answered all of them. But let me just go over them quickly.

About the estimated cost to expand the refuge as proposed, you said the tax-assessed value was over \$5 million, but I guess some of it would simply be exchanged for other land. What would your cost estimate be? In other words, how much money would we have to provide?

Mr. CASE. First of all, if the assumption is, as I think it's fair to assume, that we can, in fact, achieve some kind of an exchange, the out-of-pocket value would be zero because five acres would be donated and the remaining acres, the owners are perfectly willing to do it by exchange.

Mr. PALLONE. So actually all of the property could theoretically be done by exchange then?

Mr. CASE. Yes.

Mr. PALLONE. Then you talked about willing sellers, because that's always important in terms of any expansion of the refuges. I think you basically confirmed that all the private owners are willing sellers; you said that?

Mr. CASE. That's right. The private owners have properties that are valuable properties. The private owners have a sense of commitment to the preservation of those properties, but not all of the private owners have the ability to simply donate it to the Federal Government, so they would expect some form of compensation. But they are willing, in the sense that they are willing to proceed. They want the Federal Government to acquire these properties.

Mr. PALLONE. Then the last question, I know you said the mayors and the State legislators on the island are supportive. What about the State itself? Are they fully supportive of the legislation?

Mr. CASE. We have not actually confirmed the official State support. We will proceed to do that immediately after this hearing.

But I would tell you that I would be extremely surprised if the Governor and the Director of Land and Natural Resources are not fully supportive of the expansion of this jewel, as they have been in other areas of Hawaii.

Mr. PALLONE. Has the Bush administration told you which parcels they want to acquire and which ones they might not, and have they given you any indication of why they might not want to acquire certain ones?

Mr. CASE. The testimony, I believe, will be that they are not sure they need all of this 219 acres that is available. They have some concerns about the resources to acquire and operate. But they have said they are very interested in some of it.

I think they will confirm for you that what they are interested in is really the coastline and immediate estuary of the Kilauea River, which as I testified earlier they believe, and I agree, has the most value, relative value, for wildlife habitat. That's just simply where the birds are, so that's what they want to protect.

This is also crucial, because I think we all know that when we're talking about endangered species in a hostile environment, you need critical mass with your habitat in order to provide that protection. If you have too little, you're going to be lost. You can't just have 30 acres and expect the species to survive. You need critical mass. This provides that critical mass.

Mr. PALLONE. Because the rest of that is basically upstream from there, in other words?

Mr. CASE. The rest of it is upstream. I don't want to give you the impression that the rest of it is not valuable for wildlife habitat protection. There are endemic, indigenous snails, indigenous shrimp, in that river. And just in terms of protecting the overall aura of this treasure, which is not just a matter of endangered species and endangered habitat, but endangered scenery.

This is an incredible place for people who have been there. It is incredibly scenic. It's the way Hawaii was and the way people want to enjoy it.

The waterfall that is at the top of that river is really an amazing waterfall. It's straight out of the movies, if you've ever seen some of the great movies we have shot on Kauai, like—you know, if I said it, you would recognize them. It's that kind of waterfall. So that's a valuable addition.

Again, the community is entirely supportive and is willing to find the wherewithal to make sure that this addition is absorbed in a way that is manageable.

Mr. PALLONE. I appreciate your explanation. Thanks a lot.

Mr. GILCHREST. Thank you, Mr. Pallone.

So was that Elvis Presley in "Blue Hawaii"? Was that shot in that section of—

Mr. CASE. "Blue Hawaii" was shot down the street from here.

[Laughter.]

Mr. CASE. If you've seen "South Pacific," it may give you some sense of how this looks.

Mr. GILCHREST. Elvis Presley immediately came to mind when you talked about the beauty of Hawaii.

Mr. CASE. I would be happy to sit here and continue to advertise my tourism industry, but you've got other stuff to do.

Mr. GILCHREST. Mr. Bachus?

Mr. BACHUS. I would ask unanimous consent, or whatever I need to ask, that some supporting letters be put into the record.

Mr. GILCHREST. Without objection.

[NOTE: Letters of support for H.R. 2619 attached to Mr. Case's statement have been retained in the Committee's official files.]

Mr. GILCHREST. Frank and I take your testimony seriously, so we want to canoe around the areas in question before we act on this legislation.

Mr. BACHUS. Absolutely. I actually have one letter I want to direct your attention to. Mr. Pallone asked about the State. The Parks Administrator for many of our parks wrote the State's endorsement. In the second paragraph he notes that he is a "Michigan Yankee" who has moved to Alabama, and when he walked and canoed the river, he closes by saying, "If any place in the country deserves and needs preservation and protection, it is the land proposed for the refuge expansion."

Now, I'm sure he has not been to Hawaii. I have several times. But it looks like you're in Hawaii.

Mr. GILCREST. Thank you very much, gentlemen. We appreciate your testimony and we will act expeditiously on your requests.

I ask unanimous consent that Congresswoman Ginny Brown-Waite's testimony be included in the record, along with all of the attachments that are in this document.

[The prepared statement of Ms. Brown-Waite follows:]

**Statement submitted for the record by The Honorable Ginny Brown-Waite, a Representative in Congress from the State of Florida, on H.R. 3056**

Chairman Gilchrest, Members of the Subcommittee:

I thank you for taking the time to discuss my bill, H.R. 3056. Passage of this legislation is vital to my constituents in Cedar Key, Florida.

In 1992, Congress made changes to the Coastal Barrier Resources System that have effectively protected environmentally sensitive communities. These changes have also deterred residents from building or buying lands that are prone to natural disasters, such as flooding and erosion. However, these maps were created using the technology available at the time: paper maps with longitude and latitude markings and hand-drawn boundaries and land masses. Today, we have digital technology available to more accurately depict where the Coastal Barrier Resources Act (CBRA) boundaries lay. Unfortunately, it has been discovered that the original intent of Congress is not being followed; this new technology shows that many areas should have been excluded and are not.

Two such cases exist in my district in Cedar Key. Mr. & Mrs. Oliver and Ms. Smith bought their homes with the belief that they lived in an excluded area of the CBRA system. As you know, if you do not live in an excluded area you do not qualify for federal assistance, the most important being federal flood insurance. The Olivers and Ms. Smith have now had to purchase insurance from private agents, which can cost over six times more than a federal policy. The Olivers were also in the process of selling their home and have found that since this new determination, their home has depreciated by 50-percent.

On September 10th I introduced H.R. 3056. This bill clarifies the boundaries of Unit P25 and the Otherwise Protected Area P25P of the John H. Chafee Coastal Barrier Resources System, which includes the area in which my constituents live. This bill uses digital technology to redraw the boundaries to better reflect the intent of Congress in 1992. The total net gain to P25 is approximately 115 acres, with the net loss to P25P being approximately 98 acres. By looking at a 1"=500 feet scale plot of the excluded area and then estimating how many properties are bisected by the CBRA boundaries on the existing map, compared to the number of properties bisected by the CBRA line on the revised map, the Service estimates that 110 properties would be affected by this legislation.

I support the efforts of my predecessors and the passage of the Coastal Barrier Resources Act. However, digital technology shows us that their intent is not being followed. I implore you to favorably pass my bill, H.R. 3056.

Mr. GILCREST. Panel II this morning will be Mr. Clint Riley, Special Assistant to the Director of the U.S. Fish and Wildlife Service; the Honorable Greg B. Westmoreland, Matagorda County Judge, Bay City, TX; Ms. Becky King, Village Manager, Bald Head Island, Village Council and Community, Bald Head Island, NC; and Mr. Chris Oberholster, Director of Conservation Programs, Alabama Chapter of the Nature Conservancy.

Welcome. Thank you all for coming this morning. We look forward to hearing your testimony. Mr. Riley, you may begin, sir.

**STATEMENT OF CLINT RILEY, SPECIAL ASSISTANT TO THE DIRECTOR, U.S. FISH AND WILDLIFE SERVICE**

Mr. RILEY. Thank you, Mr. Chairman, and members of the Subcommittee. Thank you for the opportunity to provide the Administration's views on H.R. 154, H.R. 2501, H.R. 3056,

making technical corrections to the Coastal Barrier Resources System, as well as H.R. 2619 and H.R. 2623, expanding the Kilauea Point National Wildlife Refuge and the Cahaba National Wildlife Refuge, respectively.

I am Clint Riley, Special Assistant to the Director of the U.S. Fish and Wildlife Service. Mr. Chairman, before proceeding, I would like to request that my written testimony be made part of the record.

Mr. GILCHREST. Without objection.

Mr. RILEY. Thank you. I will try to move quickly to touch on all five of these bills during the time available to me.

Beginning with the bill relating to the Coastal Barrier Resources Act, the administration does strongly support the goals of CBRA legislation and we do believe that that Act has had tremendous positive impacts on the protection of our coastal resources over the last 20 years.

However, the three bills before you today are examples of challenges we face and could be called "growing pains," as we work through the implementation of CBRA. I'm going to begin, if I may, with House Bill 3056, as it is the bill that was not presented by the sponsoring Congressperson this morning, so I will touch on it briefly.

The bill, introduced by Congresswoman Brown-Waite, addresses the Cedar Keys, Florida, Unit P25, where we recently discovered a situation that the Fish and Wildlife Service had in the past incorrectly informed owners of three private lots that their properties were not part of P25 and, therefore, were eligible for Federal flood insurance. These incorrect property determinations were made in good faith, using the existing maps, with the frailties they had and the technology available at that time.

H.R. 3056 would adopt a new digital map that we believe accurately depicts the appropriate portion of P25 by following the geographical features it was meant to follow. By doing so, the new map does remove approximately 32 acres of developable land from P25 and adds approximately 50 acres of wetland and open water to the unit. The digital map would appropriately, we believe, exclude the three lots from P25 and reflects what we believe was the original intent of Congress.

The other two bills related to CBRA were briefly discussed previously. To touch on them again, H.R. 154, introduced by Congressman Paul, addresses T07, a CBRA unit in Matagorda Peninsula, TX. This legislation would adopt a new digital map that we believe would appropriately exclude approximately 19 acres of privately owned land in the Matagorda Dunes Homesites subdivision, based on information that has been presented to us that leads us to believe there are credible records showing that a full complement of infrastructure was available in the subdivision before Congress adopted T07 in 1982.

H.R. 2501, introduced by Congressman McIntyre, addresses NC-07P, which is an otherwise protected area in Cape Fear, NC. The legislation would adopt two new digital maps that provide an accurate and comprehensive revision to NC-07P. As you heard, these maps were prepared collaboratively, and you have heard testimony about them in the past year. Once again, we do believe the bill

would correctly reflect the original intent of Congress to follow the appropriate conservation land boundaries.

I will now turn to the two bills that deal with the National Wildlife Refuges legislation, H.R. 2619, introduced by Congressman Case, and H.R. 2623, introduced by Congressman Bachus.

At this time I will not pretend to add to the discussions that those two gentlemen eloquently provided concerning the biodiversity of those areas and the value, but I do need to say that the administration cannot support either of these bills. Both the administration and the Fish and Wildlife Service are committed to taking better care of the resources currently under our jurisdiction, while ensuring that new land acquisitions truly meet the strategic needs of the National Wildlife Refuge System. We believe there must be a balance between acquiring new lands and meeting the operational, maintenance and restoration requirements for the resources already under public ownership.

Towards this end, the Service is currently developing a plan to guide future growth and land acquisition for the Refuge System, as I believe you are familiar with, and I believe you're also familiar with the Comprehensive Conservation Planning process, the CCP process, which provides an opportunity and a forum for meaningful public participation and improved coordination with the States and local communities concerning the plans for the refuge, including potential acquisition.

In the future, we will be developing draft CCPs for both Kilauea Point and Cahaba River Refuges and the public would have an opportunity to comment on these draft documents.

The Service has evaluated these proposed expansions, however, and after careful review, we have concluded that the funding needs associated with the operational requirements to expand these refuges would compromise our ability to properly manage and address the needs of the refuges and potentially others within the Refuge System. For this reason, the administration cannot support H.R. 2619 or H.R. 2623.

Mr. Chairman, this concludes my prepared statement. Thank you again for the opportunity to testify, and I would be pleased to respond to any questions that you or Congressman Pallone may have.

Thank you.

[The prepared statement of Mr. Riley follows:]

**Statement of Clint Riley, Special Assistant to the Director,  
Fish and Wildlife Service, U.S. Department of the Interior**

Mr. Chairman and Members of the Subcommittee, I thank you for the opportunity to provide the Administration's views on H.R. 154, H.R. 2501, and H.R. 3056, which make technical corrections to the John H. Chafee Coastal Barrier Resources System, as well as H.R. 2619 and H.R. 2623, which would expand Kilauea Point National Wildlife Refuge and Cahaba National Wildlife Refuge, respectively. I am Clint Riley, Special Assistant to the Director of the U.S. Fish and Wildlife Service (Service).

*John H. Chafee Coastal Barrier Resources System Legislation*

Before discussing the Administration's support of the three Coastal Barrier Resources System bills being discussed this morning, I will briefly describe the Coastal Barrier Resources Act (CBRA) and the Service's role in its implementation.

Coastal barriers perform many functions that strengthen our economy and promote a healthy environment. These unique land forms support productive and lucrative fisheries, provide essential habitat for migratory birds and other protected species, serve as recreational areas for the public, and help sustain the vitality of local

economies. Their beautiful beaches, unique dune and wetland environments, and biological diversity attract millions of visitors every year.

With all of the positive attributes coastal barriers provide to people and wildlife, it is no surprise that development pressures on coastal barriers continue to escalate. However, coastal barriers are composed of unstable elements, and are vulnerable to storm damage and chronic erosion. Located at the interface of land and sea, coastal barriers serve as the mainland's first line of defense against the strong winds, huge waves, and powerful storm surges that accompany hurricanes. Their exposure to wind, wave, and tidal energy keeps coastal barriers in a state of flux, losing sand in some places and gaining it in others.

Recognizing the environmental and economic value of coastal barriers and the risks associated with their development, Congress adopted and President Reagan signed into law the Coastal Barrier Resources Act of 1982. Through implementation of the Act, Congress sought to minimize the potential loss of human life, reduce wasteful expenditures of Federal revenues, and protect fish and wildlife and their habitats. The Act identified and included in the John H. Chafee Coastal Barrier Resources System (System) approximately 590,000 acres of undeveloped coastal barrier habitat along the Atlantic and Gulf coasts. The undeveloped status of System lands was an important underpinning of the law. The Act sought to remove Federal subsidies for new construction in hazard-prone and environmentally sensitive areas that were not yet developed, but not to penalize existing communities where significant investments had already been made. CBRA in no way regulates how people can develop their land. Instead, it removes Federal subsidies for development by limiting Federal spending for flood insurance, roads, potable water and other types of infrastructure on coastal barriers within the System. Therefore, individuals who choose to build and invest in these hazard-prone areas will incur the full cost of that risk, rather than passing the cost on to the American taxpayer.

In 1990, Congress passed the Coastal Barrier Improvement Act which significantly increased the size of the System to approximately 1.3 million acres and included coastal barriers along the Great Lakes, Puerto Rico, and the Virgin Islands. The expansion of the System by the 1990 Act is largely due to the designation of "otherwise protected areas" or OPAs. Federal flood insurance is the only Federal spending prohibition in OPAs. By withholding Federal flood insurance, OPA designations give additional protection to coastal barriers already held for conservation purposes, such as park land and wildlife refuges, and discourage development of privately owned inholdings.

When OPAs were first included in the System more than a decade ago, they were mapped with limited resources and rudimentary mapping tools. As a result, many OPAs could not be, and were not, mapped with the highest degree of accuracy and we continue to uncover cases where OPA boundaries do not coincide with the actual conservation land boundaries they were meant to follow. OPAs sometimes include adjacent private lands that are not inholdings, and the owners of these lands cannot obtain Federal flood insurance for their homes. We believe that Congress did not intend to include such adjacent private lands in the OPA. When these discrepancies come to our attention, as is the case with Cape Fear, we work closely with interested land owners, local and state officials, and protected area managers to correctly map the boundaries with the high quality mapping tools now available. Although the process is time consuming and requires a great deal of research and collaboration to ensure that OPA boundaries are correctly depicted on a digital map, we believe the result is well worth the investment. The replacement of crude paper maps with precise digital maps will result in a modernized tool that our customers and partners alike can rely upon for making important investment and planning decisions.

CBRA is a map-driven law that is poised for a modernization process that expands electronic government, increases customer service, and builds upon existing tools used by our partners to conserve the nation's coasts. The Coastal Barrier Resources Reauthorization Act of 2000 directed us to conduct a Digital Mapping Pilot Study that would produce draft digital maps of 75 areas and estimate the cost and feasibility of completing digital maps for the entire System. We are pleased to report that we are making progress on completing the pilot study and look forward to presenting it to you as soon as it is completed.

The Administration strongly supports the intent of CBRA and its free-market approach to coastal protection. Despite the challenges presented by the fact that the controlling CBRA maps were drawn using the imprecise mapping tools available at the time, the Administration believes that the intent of CBRA has largely been achieved. The Coastal Barrier Resources Reauthorization Act of 2000 also directed the Service to conduct an economic assessment of the System. This study was

released in 2002, the year of CBRA's 20th anniversary. The study estimated that CBRA will save American taxpayers approximately \$1.3 billion from 1983 to 2010.

As authorized by Congress, the Secretary of the Interior is responsible for: (1) maintaining the official maps of the System; (2) conducting a review of the maps every five years to reflect natural changes; (3) consulting with Federal agencies that propose spending funds within the System; (4) working with the Federal Emergency Management Agency to ensure that Federal Flood Insurance Rate Maps accurately depict the System boundaries; (5) determining the location of private properties in relation to System boundaries; and, (6) making recommendations to Congress regarding the addition of areas to the System and in determining whether, at the time of its inclusion in the System, a coastal barrier was undeveloped and was appropriately included in the System. The Secretary administers the Act through the Service.

*H.R. 154, To exclude certain properties from the John H. Chafee Coastal Barrier Resources System*

H.R. 154, introduced by Representative Paul, addresses the Matagorda Peninsula, Texas Unit T07. T07, which includes most of the Matagorda Peninsula, was designated as a full System unit with the passage of the Coastal Barrier Resources Act in 1982. In addition, the Coastal Barrier Improvement Act of 1990 designated T07P, an adjacent OPA that includes mostly wetlands and open water on the sound side of the peninsula. H.R. 154 would adopt a new digital map that excludes from T07 approximately 19 acres of privately owned land in the Matagorda Dunes Homesites Subdivision.

When reviewing requests to modify an existing System unit, the Service examines the development status of the unit when it was included in the System by Congress. The Coastal Barrier Resources Reauthorization Act of 2000 codified the criteria for recommending appropriate "undeveloped" coastal barriers for inclusion in the System, and for reviewing a unit's development status at the time of inclusion to determine whether an area was undeveloped and appropriately included in the System. The two criteria are density of development and level of infrastructure present at the time of inclusion. The density criterion is such that the density of development is less than one structure per five acres of land above mean high tide. The infrastructure criterion is such that there is existing infrastructure consisting of: (1) a road, with a reinforced road bed, to each lot or building site in the area; (2) a wastewater disposal system sufficient to serve each lot or building site in the area; (3) electric service for each lot or building site in the area; and, (4) a fresh water supply for each lot or building site in the area.

The Service was presented with records showing that a full complement of infrastructure—roads, wastewater disposal, electricity, and potable water supply—was available in the Matagorda Dunes Homesites Subdivision before Congress adopted T07 in 1982. Based on the information provided and research of the Administrative Record, the Service believes that the subdivision should not have been included in the original T07 Unit because it exceeded the infrastructure criterion used to designate "undeveloped coastal barriers" as part of the System.

When the Service finds a technical mapping error in one part of a System map, we review all adjacent areas to ensure the entire map is accurate. This comprehensive approach to map revisions treats other landowners who may be similarly affected equitably, and it also ensures that Congress and the Administration don't have to revisit the same areas in the future.

However, we were not able to comprehensively revise the maps in this situation. Due to a disagreement between the State of Texas and Matagorda County over land ownership, the Service was unable to revise the boundaries of the nearby T07P OPA, which is depicted on the same maps as those for T07. The State contends that most of the land included in T07P is owned and held for conservation by the State. The County contends that the land is privately owned and not held for conservation. The dispute over land ownership will likely be resolved through future litigation.

The Service supports H.R. 154 that would adopt one new digital map of T07 to exclude the Matagorda Dunes Homesites subdivision and accurately depict the T07 boundaries on the southern portion of the map to follow the shoreline. The new map does not comprehensively revise the existing T07 and T07P boundaries at this time because it is not possible to obtain concurrence from the State and the County on property boundaries. Although the Service supports a less than comprehensive boundary change in this case, our support is due to the unique circumstances described above. Future efforts to revise the System maps will adhere, to the fullest extent practicable, to our traditional comprehensive approach to map revisions that seeks concurrence from all interested parties.



*H.R. 2501, To clarify the boundaries of Otherwise Protected Area NC-07P, Cape Fear, North Carolina*

H.R. 2501, introduced by Representative McIntyre, addresses the Cape Fear, North Carolina, OPA NC-07P, which was designated with the passage of the Coastal Barrier Improvement Act of 1990. H.R. 2501 would adopt two new digital maps of NC-07P that exclude from the OPA approximately 49 acres of privately owned land outside of the conservation land boundaries. H.R. 2501 would also significantly expand the OPA by adding approximately 5,961 acres of conservation land, water, and wetlands that were not included in the OPA in 1990.

The Service supports H.R. 2501. Last year the Service testified in support of a similar bill that would make technical corrections to NC-07P. In the case of private lands adjacent to a conservation area that were included in an OPA, we believe the controlling question is whether Congress intended to include these private lands within the OPA. In this case, all evidence we can find, both from the map itself, and from the legislative history of the 1990 law, suggests that Congress intended only to include the public lands, not these adjacent private lands, in the OPA. The 49 acres of private property in question are outside the boundary of the conservation area, are not inholdings, and are not held for conservation purposes. The new maps provide an accurate and comprehensive digital revision to NC-07P and were prepared through a collaborative process involving the local landowners and officials from the Village of Bald Head Island, Bald Head Island Land Conservancy, North Carolina Department of Natural Resources, and Sunny Point Military Installation.

*H.R. 3056, To clarify the boundaries of the John H. Chafee Coastal Barrier Resources System Cedar Keys Unit P25 and Otherwise Protected Area*

H.R. 3056, introduced by Representative Ginny Brown-Waite, addresses the Cedar Keys, Florida, Unit P25. P25 was designated as a full System unit with the passage of the Coastal Barrier Resources Act in 1982. In addition, the Coastal Barrier Improvement Act of 1990 designated P25P as an OPA. H.R. 3056 would adopt a new digital map that revises the excluded area of Cedar Key to remove approximately 32 acres of developable land from P25 and add approximately 50 acres of wetland and open water to P25. In addition, the new map revises the P25P OPA boundaries to coincide with the Cedar Keys National Wildlife Refuge boundaries which the OPA was intended to follow.

As mentioned above, one of the Service's roles in administering CBRA is to determine whether certain private properties are affected by CBRA. The Service recently discovered a situation on Cedar Key where our field personnel, in the past, incorrectly informed the owners of three private lots on Cedar Key that their property was not part of the System, and therefore was eligible for Federal flood insurance. These property determinations were made in good faith with the best tools available at the time. The tools available were imprecise topographic quadrangle maps that are the current law, and aerial photos used to interpret these maps.

When higher precision mapping tools were recently used to make a property determination in another part of Cedar Key, we discovered the three earlier incorrect determinations. The affected landowners will lose their Federal flood insurance because their properties are actually within the System. Based on our review of the Administrative Record, we believe that the three lots were inadvertently included in P25 due to inaccuracies in the original topographic map. The new map proposed by H.R. 3056 provides a digital revision to the P25 excluded area that reflects what we believe was the original intent of the unit. The revised map appropriately excludes the three lots from the System, as well as other private properties on Cedar Key that never received determinations from the Service.

When the Service finds a technical mapping error in one part of a System map, we review all adjacent areas to ensure the entire map is accurate. Upon reviewing the adjacent P25P OPA, which is depicted on the same maps as those for P25, we uncovered significant State and Federal conservation lands that are not included in the existing OPA boundaries. The process to revise the existing OPA boundaries and depict the new boundaries on a map is lengthy as it requires the Service to work with landowners and local, State, and Federal officials to accurately define the conservation area boundaries.

The Service supports H.R. 3056 that would adopt a new digital map of P25/P25P that accurately delineates the P25 Cedar Key excluded area and the adjacent P25P OPA boundaries. This digital map addresses only part of the existing area that encompasses P25 and P25P. All the boundaries on the digital map are accurate and we have letters of concurrence from Levy County and the State of Florida that confirm this. The areas of P25 and P25P not addressed by this digital map continue to be depicted in the current map. The Service supports a future comprehensive digital revision to the entire P25 and P25P area that follows adequate research to

examine the extent of the adjacent conservation lands that were not included in P25P when the OPA was designated in 1990. We will prepare these maps expeditiously, obtain concurrence from appropriate entities, and present them to Congress for consideration when they are completed.

This situation is a notable departure from our traditional comprehensive approach to map revisions. The Service supports a targeted map revision in this case because the time required to accurately re-map the significant conservation lands of P25P would preclude a timely remedy for the private property owners who received an inaccurate determination from the Service and subsequently lost their Federal flood insurance eligibility. However, in future cases where we uncover a technical mapping error, we will apply, to the fullest extent practicable, our traditional approach of comprehensively re-mapping the entire area.

*John H. Chafee Coastal Barrier Resources System Conclusion*

Mr. Chairman, the situations surrounding the three CBRA bills discussed above are all indicative of the “growing pains” the John H. Chafee Coastal Barrier Resources System is experiencing. We have worked with Congress to develop approaches for making recommendations regarding CBRA maps, and to the maximum extent, we strive to maintain consistency in our approaches. However, we have also learned through experience that we must be flexible enough to deal with unanticipated situations as they arise. Two of the three cases I discussed do not adhere to our preferred approach of comprehensive re-mapping. In those two cases, due to unique circumstances, we believe that providing timely relief to the affected private property owners is essential. In the short-term, we will continue to address technical mapping errors as we uncover them. In the long-term, we are hopeful that our progression towards accurate and up-to-date digital maps will help alleviate many of the challenges we are currently facing due to the imprecise mapping of the past.

The Administration supports the three Coastal Barrier Resources System bills I discussed today and we will continue to work with Congress to achieve CBRA’s objectives and ensure the System is accurate in its boundary descriptions. Our work to correct technical errors is one part of our broader goal to modernize all CBRA maps and provide our partners and customers with better information. We believe this will help achieve all of three of CBRA’s intentions: saving taxpayers’ money, keeping people out of the deadly path of storm surge, and protecting valuable habitat for fish and wildlife.

*National Wildlife Refuge System Legislation*

*H.R. 2623, To provide for the expansion of Cahaba River National Wildlife Refuge*

I would like to begin by giving you a brief summary of Service involvement in the protection of lands in the Cahaba River area. For several years, The Nature Conservancy (TNC) has been working to develop partnerships with corporations, local communities, and other conservation groups to protect the Cahaba River and its unique natural resources. Though the Cahaba River has experienced a dramatic decline of freshwater fish and wildlife during the past 50 years, it is still one of the nation’s most biologically diverse rivers. It currently supports 64 rare and imperiled plant and animal species, and 15 federally listed fish, snail, and mussel species—13 of which are found nowhere else in the world. There are a total of 131 species of fish in this River—more than any other river of its size in North America.

To protect a critical core area along the Cahaba River, Congress passed the Cahaba River National Wildlife Refuge (NWR) Establishment Act, which became Public Law 106-331 following the President’s signature on October 19, 2000. The Act directs the Secretary of the Interior to acquire up to 3,500 acres of lands and waters within a designated acquisition boundary. In partnership with TNC, the Service began acquiring land for the Cahaba River NWR in September 2002, and we have acquired a total of 2,977 acres.

*H.R. 2619, To provide for the expansion of Kilauea Point National Wildlife Refuge*

H.R. 2619 authorizes expansion of the Kilauea Point NWR. It is one of three National Wildlife Refuges managed as part of the Kaua’i NWR Complex. This Refuge was established in 1985 when the Coast Guard transferred 31 acres to the Service. Today the Refuge consists of 203 acres of protected land on the island of Kaua’i, near the northernmost tip of the Hawaiian Islands.

The Kilauea Point NWR is managed to provide protected marine and terrestrial habitats for a host of increasingly rare Hawaiian wildlife species. The steep cliffs on this Refuge support nesting seabirds, such as red-footed booby, Laysan albatross, great frigate bird, red-tailed tropic bird, white-tailed tropic bird, and wedge-tailed shearwater. Hawaii’s state bird, the endangered Hawaiian goose (or nene), and the Pacific Golden plover use the refuge’s grasslands. Endangered Hawaiian monk seals

haul out on the rocks below the cliffs, and endangered humpback whales, threatened green sea turtles, and protected spinner dolphins migrate through the adjacent National Marine Sanctuary. The refuge's endangered plant restoration program is giving a number of rare species a chance to survive on Kilauea Point's protected and managed environments. Kilauea Point is one of the few Hawaiian refuges open to the public and is one of the most popular spots for visitors and residents of Hawaii alike, with an average of 300,000 visitors a year.

*Status of the National Wildlife Refuge System*

The Administration is committed to taking better care of what we have, while ensuring that new acquisitions truly meet strategic needs of the NWRS. This includes purchasing in-holdings within currently approved refuge boundaries. There must be a balance between acquiring new lands and meeting the operational, maintenance and restoration requirements for the resources already in public ownership. Towards this end, the Service is currently developing a plan to guide future growth and land acquisition for the NWRS.

The National Wildlife Refuge System Improvement Act of 1997 (Pub. L. 105-57) requires the Service to develop a Comprehensive Conservation Plan (CCP) for each refuge in the National Wildlife Refuge System (NWRS). The CCP describes the desired future conditions of a refuge and provides long-range guidance and management direction to achieve refuge purposes. It is during this process that expansion of a refuge is considered and recommended if increasing the size will help fulfill the purpose for which the refuge was established. Development of a CCP provides a forum for meaningful public participation and improved coordination with the states and local communities. It also affords local citizens an opportunity to help shape future management of a refuge, recognizing the important role of refuges in nearby communities. In the future we will develop draft CCPs for both Cahaba River and Kilauea Point refuges, and the public will have the opportunity to comment on these drafts.

We have evaluated the areas identified in H.R. 2623 and H.R. 2619 as potential additions to Cahaba River and Kilauea Point National Wildlife Refuges and, after a careful review of our current priorities and funding constraints, have concluded that the funding needs associated with the operational requirements to expand these refuges would compromise our ability to properly manage and address the needs of these refuges, as well as existing refuges throughout the system. However, the Pacific Regional Office has begun evaluating whether a scaled-back expansion at Kilauea Point NWR limited to the coastal strand, estuary, and grassland north of the estuary (totaling approximately 40 acres) would be valuable additions to the refuge based on benefits to threatened and endangered species.

We note that other opportunities and tools exist for protecting resources along the Cahaba River and coastal Kaua'i. Service programs such as Partners for Fish and Wildlife, the North American Wetlands Conservation Act, the Landowner Incentive Program, and Private Stewardship Grants can be used in cooperation with State, local and private partners to restore and protect these natural resources. The States of Alabama and Hawaii both receive funds through the Federal Aid in Wildlife Restoration, Federal Aid in Sport Fish Restoration, and state wildlife grants that can assist in protecting these areas and their resources. The State of Hawaii Department of Land and Natural Resources, the County, the City of Kilauea, and other local partners have all expressed interest in protecting the natural resources along the coastal area of Kaua'i. Thus, we believe the Service working in partnership with other interested agencies can achieve the resource protection goals suggested by H.R. 2623 and H.R. 2619.

We appreciate that Representative Bachus and Representative Case and their constituents are interested in having the Fish and Wildlife Service expand our role in the areas around Cahaba River and Kilauea Point National Wildlife Refuges. However, for the reasons stated previously, the Administration cannot support this legislation.

*Conclusion*

In conclusion, for the reasons outlined above the Administration supports the three Coastal Barrier Resources System bills being discussed this morning, but cannot support the two National Wildlife Refuge expansion bills.

Mr. Chairman, this concludes my prepared statement. Thank you again for the opportunity to testify at today's hearing. I would be pleased to respond to any questions you or the Committee Members may have.

Mr. GILCREST. Thank you very much, Mr. Riley.

Judge, the Honorable Greg B. Westmoreland, welcome, sir, to the great city of Washington, D.C., from the great State of Texas.

**STATEMENT OF HON. GREG B. WESTMORELAND,  
MATAGORDA COUNTY JUDGE, BAY CITY, TEXAS**

Judge WESTMORELAND. Yes, sir. Thank you very much. It's an honor to be here.

I would like to thank you, Mr. Chairman, and all the Honorable Members of the Subcommittee, for allowing a County Judge from a small rural county in Texas to come before you on a problem that is big to us but, undoubtedly, small in the national picture.

There is a small subdivision at Matagorda Beach, known as Matagorda Dunes Homesites, that has 45 lots with 10 existing homes. We have the paperwork that proves this subdivision was platted with electrical and water service provided to all of the lots in 1976-77, which met the requirements to be excluded from the Coastal Barrier Resources Act in 1982. As you just heard, the U.S. Fish and Wildlife Service has confirmed that this subdivision should not have been included in the Act.

In fact, all 10 homes that have been built there have been built with the belief that they were excluded from the CBRA zone. They were able to secure loans from financial institutions only because of the security of Federal flood insurance and State windstorm coverage programs.

These individuals and financial institutions have been left in limbo since the Texas windstorm pool looked at a map and discovered about a year-and-a-half ago that this subdivision was indeed included in the CBRA zone. At this time the homeowners and lienholders were sent cancellation notices of insurance and told, "Sorry, we can no longer cover your property."

This started the trail that eventually brought me to Washington today. A mistake was made 21 years ago that placed this little subdivision in CBRA. It does not matter who made the mistake, but now, since the mistake has come to light, please help us fix it. Your action to remove this subdivision from the CBRA zone is greatly appreciated and will restore value to these property owners.

Thank you so much for your time and consideration. I will be happy to try to answer any questions you might have.

[The prepared statement of Judge Westmoreland follows:]

**Statement of Greg B. Westmoreland, Judge, Matagorda County, Texas**

Dear Congressman Gilchrest and Honorable Members of the Subcommittee:

First of all, let me thank you for taking the time to listen to a County Judge from a small rural county in Texas that has a problem that is Big to us, but undoubtedly Small on the National Level.

There is a small Subdivision at Matagorda Beach, known as Matagorda Dunes Homesites, that has 45 lots with 10 existing homes. We have the paperwork that proves that this subdivision was platted with electrical and water service provided to all of the lots in 1976-77 which met the requirements to be excluded from the Coastal Barrier Resources Act in 1982. The U.S. Fish and Wildlife Service has confirmed that this subdivision should not have been included in the Act.

In fact, all 10 homes that have been built have been with the belief that they were EXCLUDED from the CBRA Zone. They were able to secure loans from Financial Institutions only because of the security of Federal Flood Insurance and State Windstorm Coverage Programs.

These individuals and Financial Institutions have been left in limbo since the Texas Windstorm Pool looked at a map and discovered about a year-and-a-half ago

that this subdivision was indeed included in the CBRA Zone. At this time the homeowners and lien holders were sent cancellation notices of insurance and told sorry we can no longer cover your property.

This started the trail that eventually brought me to Washington today. A mistake was made 21 years ago that placed this little subdivision in CBRA. It does not matter who made the mistake, but now, since the mistake has come to light, please help us fix it. Your action to remove this subdivision from the CBRA Zone is greatly appreciated and will restore value to the property owners.

Thank you so much for your time and consideration.

I will be happy to try to answer any questions you may have.

Mr. GILCHREST. Thank you very much, Judge.

Judge WESTMORELAND. Thank you, sir.

Mr. GILCHREST. Miss Becky King, welcome to Washington.

**STATEMENT OF BECKY KING, VILLAGE MANAGER, BALD HEAD ISLAND VILLAGE COUNCIL AND COMMUNITY, BALD HEAD ISLAND, NORTH CAROLINA**

Ms. KING. Thank you, Chairman Gilchrest, and Members of the Subcommittee. My name is Becky King and I'm the Village Manager for the Village of Bald Head Island. I am here today representing the Bald Head Island Village Council and the community.

Thank you for inviting me to testify on Congressman McIntyre's bill, H.R. 2501, which is a bill to clarify the boundaries of the Coastal Barrier Resources System, Cape Fear Unit NC-07P, which directly affects Bald Head Island.

The community strongly supports the proposed bill, as it would allow for a needed clarification of the CBRA areas, allow affected homeowners to purchase Federal flood insurance, and would bring 200 acres of environmentally sensitive property under Federal protection through CBRA.

Let me begin my testimony by describing to the Committee the community of Bald Head Island. Bald Head Island is a barrier island at the mouth of the Cape Fear River in Brunswick County, NC. It is accessible by passenger ferry and the primary mode of transportation on the island is by electric vehicles or golf carts.

The community of Bald Head is extremely environmentally sensitive. It has been carefully planned and developed to protect the maritime forest, estuarine and ocean environments that exist there on Bald Head. The preserved "natural state" of the island is, in fact, the primary draw of the island to those who live and visit there. Many areas on Bald Head are protected by virtue of the Coastal Barrier Resources Act, others through gifts to the State of North Carolina, the purchase of property by the Smith Island Land Trust, which is a nonprofit organization, and thoughtful development.

Residential development of the island began in the early 1970s. However, the village did not become a governmental entity until 1985, and not until 1991 did the village government adopt a flood damage prevention ordinance in order to participate in the National Flood Insurance Program. The Flood Insurance Rate Map, or FIRM map as we know it, became a part of this ordinance, which is the tool the village utilizes to determine CBRA areas.

Many lots on Bald Head Island were platted and recorded prior to Congressional enactment of the CBRA, the Coastal Barrier

Resources Act. A total of eight homes have been constructed in the CBRA zone, or otherwise protected area, prior to the Coastal Barrier Resources Act becoming law. Since that time, other homes have been built in OPAs, many of which property owners were not notified of being in a protected area. Due to the scale of the FIRM maps, being one inch equals 2,000 feet for our area, accurate delineation of the CBRA area is very difficult to determine generally, impossible to determine precisely.

The Village of Bald Head believes that H.R. 2501 is much needed legislation. The CBRA zone, as it exists on the 1993 FIRM maps, which is what we use for our area, is currently inaccurate according to the premise of the Coastal Barrier Resources Act of 1982.

The area on Bald Head Island that was included in the CBRA zone as an OPA was supposed to have been the marshland below mean high water and certain areas of high ground, such as marsh islands, that had been specifically identified and previously deeded for public ownership.

However, in the process of delineating the CBRA zone, areas on FIRM maps resulted in the CBRA line following mean high water in some areas, but moving up on high ground areas along Bald Head Creek. The delineation of these lines simply appears to be a mistake.

The primary significance of areas included under the CBRA designation as OPA is that property owners are not eligible for Federal flood insurance. In the areas of misinterpretation, some houses have been built and insurance policies written in some of these areas. In the event of a loss, FEMA can interpret the area to be in the CBRA zone, deny the claim, and tell the property owner that the insurance company error in writing the policy, leaving the property owner completely unprotected.

Therefore, revision of the map is imperative for Bald Head, as hurricanes are a constant threat in our area, and risk of loss is probable. To provide an example, if Hurricane Isabel had directly hit Bald Head Island, and a homeowner had a house in the CBRA zone that is inaccurately delineated, then that property owner would have absolutely no recourse. Because they are not eligible for Federal flood insurance, it would be a complete loss to them.

The revised map would remove 26 homes and 15 lots from the Otherwise Protected Area designation. Of the 26 structures, eight of those were in place prior to November of 1990, when the original Otherwise Protected Area was drawn.

In addition to removing existing structures and undeveloped lots from the CBRA zone, which is an Otherwise Protected Area again, the revised NC-07P would add 186.59 acres of maritime forest and 11 acres of environmentally sensitive property under Federal protection through CBRA.

To conclude, the Village of Bald Head Island and the community strongly supports H.R. 2601, as it provides needed clarification for the CBRA boundaries and would allow affected homeowners to purchase Federal flood insurance under the National Flood Insurance Program. The bill would also serve as a positive environmental measure, affording approximately 200 acres of maritime forest and environmentally sensitive property Federal protection through

CBRA. The bill has the support of the governing body, the community, and the Bald Head Island Nature Conservancy.

Amending the map to clarify the original intended boundaries would not be detrimental but enhance the public interest. It is my understanding the Congress established the Coastal Barrier Resources System to minimize the loss of human life, wasteful expenditure of Federal revenues, and damage to fish and wildlife and other natural resources. Passage of the proposed bill is not inconsistent with these goals, but would seek to promote them.

The Village of Bald Head Island urges your support of the proposed legislation. Thank you for your time and consideration of my testimony.

[The prepared statement of Ms. King follows:]

**Statement of Becky King, Manager, Village of Bald Head Island**

Chairman Gilchrest, members of the Subcommittee. My name is Becky King and I am the Village Manager for the Village of Bald Head Island and I am here today representing the Bald Head Island Village Council and Community. Thank you for inviting me to testify on Congressman Mike McIntyre's bill, H.R. 2501, a bill to clarify the boundaries of Coastal Barrier Resources System Cape Fear Unit NC-07P, which directly affects Bald Head Island.

*Professional Background*

I was raised in a farming family in a rural area along the coast of North Carolina. I attended the University of North Carolina at Chapel Hill and earned a Bachelor of Science degree in Business Administration in 1994. I subsequently obtained a Master's of Business Administration in 1998 from the University of North Carolina at Wilmington.

While obtaining my Master's Degree, I worked as a Planner both for County and Municipal Government in the coastal areas of Brunswick County. This experience allowed me to gain knowledge in various Coastal issues by serving as a Coastal Areas Management Act Local Permit Officer and assisting in administration of the Flood Prevention Ordinance. Since June 2000 I have served as Village Manager for the Village of Bald Head Island, which has further exposed me to addressing difficult coastal issues.

Since 1994, I have worked in one capacity or another in local government, promoting the interest of the public. I have assisted in drafting many local ordinances that were geared toward protection of the environment, specifically marshes, estuaries, and other protected areas. Therefore, I am familiar with the principles upon which the Coastal Barrier Resources Act is founded.

*Introduction*

Let me begin my testimony by describing to the Committee the Community of Bald Head Island. Bald Head Island is a barrier Island located at the mouth of the Cape Fear River in Brunswick County, North Carolina. It is accessible only by passenger ferry and the primary mode of transportation is by electric vehicles or golf carts. The community of Bald Head Island is extremely environmentally sensitive. It has been carefully planned and developed to promote the protection of the maritime forest, estuarine and ocean environments that exist on Bald Head Island. The preserved "natural state" of the Island is in fact the primary draw of the Island to those who live and visit there. Many areas on Bald Head Island are protected by virtue of the Coastal Barrier Resources Act, others through gifts to the State of North Carolina, purchase of property by the Smith Island Land Trust (a non-profit organization), and thoughtful development.

Residential development of the Island began in the early 1970's; however, the Village did not become a governmental entity until May 6, 1985, by grant of Charter by the State of North Carolina. Not until 1991 did the Village government adopt a Flood Damage Prevention Ordinance in order to participate in the National Flood Insurance Program. The ordinance was adopted on May 18, 1991, and the Flood Insurance Rate Map (FIRM) became a part of this ordinance.

Many lots on Bald Head Island were platted and recorded prior to the Village Charter, adoption of the Flood Damage Prevention Ordinance as well as Congressional enactment of the Coastal Barrier Resources Act. A total of eight homes have been constructed in the COBRA Zone or "otherwise protected area" (OPA) prior to

the Coastal Barrier Resources Act becoming law. Since that time, other homes have been built in OPA's, many of which property owners were not notified of being in a protected area. Due to the scale of the FIRM maps (the tool utilized to delineate COBRA areas) being 1 inch equals 2,000 feet for our area, accurate delineation of the COBRA area is very difficult to determine generally, impossible to determine precisely.

#### *Overview*

The Village of Bald Head Island believes that Congressman McIntyre's bill, H.R. 2501, to clarify the boundaries of Coastal Barrier Resources System Cape Fear Unit NC-07P, is much needed legislation. The COBRA Zone, as it exists on the 1993 Flood Insurance Rate Map (FIRM) for our area, is currently inaccurate according to the premise of the Coastal Barriers Resources Act of 1982. For example, some areas depicted as located in a COBRA Zone or "otherwise protected areas" (OPA's) on Bald Head Island are not even in flood hazard areas. Other areas that are inappropriately labeled as OPA's are privately held and in upland areas or areas completely out of the marsh where development has occurred.

The area on Bald Head Island that was included in the COBRA Zone as an OPA was supposed to have been the marsh area below mean high water and certain areas of high ground (marsh islands) specifically identified and previously deeded for public ownership. However, in the process of delineating the COBRA Zone, areas on FIRM maps resulted in the COBRA line following Mean High Water (MHW) in some areas but moving up on high ground in areas along Bald Head Creek. The delineation of the lines in these areas simply appears to be a mistake.

The primary significance of areas included under the COBRA designation as OPA is that property owners are not eligible for Federal Flood Insurance. In the areas of misinterpretation, some houses have been built and insurance policies written in some of these areas. In the event of a loss, FEMA can interpret the area to be in the COBRA Zone, deny the claim, and tell the property owner that the insurance company erred in writing the policy, leaving the property owner unprotected.

Clarification of NC-07P would be a very positive measure for Bald Head Island. The revised map would remove 26 homes and 15 undeveloped lots from the OPA designation. Of the twenty-six structures in existence, eight of those were in place prior to November of 1990, when the original OPA was drawn. Revision of NC-07P is imperative as hurricanes are a constant threat along our coast, with the potential to leave many Bald Head Island property owners unprotected in the event of a catastrophic storm.

In addition to removing existing structures and undeveloped lots from the COBRA Zone (otherwise protected area), the revised NC-07P would add 186.59 acres of maritime forest and 11.06 acres of environmentally sensitive property under federal protection through COBRA. Therefore, the bill would not only clarify the originally intended boundary for Bald Head Island, but would also enhance the environmental impact to the Island by adding further protection to environmentally sensitive areas.

#### *Conclusion*

The Village of Bald Head Island and the community strongly supports H.R. 2501 as it provides needed clarification for COBRA boundaries and would allow affected homeowners to purchase flood insurance, under the National Flood Insurance Program. The bill would also serve as a positive environmental measure affording approximately 200 acres of maritime forest and environmentally sensitive property federal protection through COBRA. The bill has the support of the governing body, the community, and the Bald Head Island Nature Conservancy.

Amending the map to clarify the original intended boundaries would not be detrimental but enhance the public interest. It is my understanding that Congress established the Coastal Barrier Resources System to minimize loss of human life, wasteful expenditure of Federal Revenues, and damage to fish and wildlife and other natural resources. Passage of the proposed bill is not inconsistent with these goals, but would seek to promote them.

The Village of Bald Head Island urges your support of the proposed legislation. Thank you for your time in consideration of my testimony.

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Mr. GILCHREST. Thank you very much, Miss King.  
Mr. Chris Oberholster. Welcome.



**STATEMENT OF CHRIS OBERHOLSTER, DIRECTOR OF CONSERVATION PROGRAMS, ALABAMA CHAPTER, THE NATURE CONSERVANCY**

Mr. OBERHOLSTER. Thank you.

Chairman Gilchrest, Ranking Member Pallone, and Members of the Subcommittee, I really appreciate the opportunity to present the Nature Conservancy's testimony in support of H.R. 2623, legislation to expand the Cahaba River National Wildlife Refuge in Alabama.

A recent analyses, as Mr. Bachus had pointed out, of the biological heritage of the U.S. revealed that Alabama is one of the richest States in the Nation with respect to its wildlife heritage, ranking right up there with the great States of Hawaii, Texas and California. Alabama also has a lot more species than any other State in the mainland U.S., second only to Hawaii, with its fragile island ecosystems.

Within this landscape of biological wealth, the Cahaba River stands out as one of the crown jewels of our Nation's natural heritage. The existing refuge established in 2000 protects an impressive array of biological resources, including the world's largest population of the spectacular and imperiled shoal spider lily, known locally as the Cahaba Lily.

The proposed expansion offers an opportunity to expand the list of rare species, like migratory songbirds and other resources protected in the refuge, manyfold. Among other things, the proposed expansion would increase the list of rare plant species protected from five to sixty-six, and the rare species of animals from 25 to 40 species. It would protect the habitat for 12 federally endangered or threatened species in this one area, almost 10 percent of the total for the whole State of Alabama.

The expansion would also protect the largest populations of at least 12 globally imperiled plants, potentially precluding their need to be listed in the future. So this is a proactive step. It would include virtually all of the unique Ketona dolomite glades habitat, which is found nowhere else on Earth, and has only recently been found to have eight new species of plants to science.

It would provide direct protection to more than 20 miles of river frontage along the Cahaba and key tributaries. It would protect extensive hardwood forests harboring many species of migratory songbirds, including several of the more rapidly declining species like the Louisiana Waterthrush, Swainson's Warbler, Acadian Flycatcher and others.

The proposed expansion would authorize eventual ownership of up to about 26,000 additional acres, the majority of which are owned by three major corporate landowners. All of these have indicated a willingness to be included in the expansion and would be willing to consider selling at fair market value. Acquisition of these additional acres might cost between \$25-35 million over time, and obviously the length of time would be contingent on several factors, including availability of appropriated funds.

A very low percentage of Alabama, I might point out, is publicly owned, around 5 percent. Tremendous support exists from people who want additional public recreational, wildlife-related opportunities, such as hunting, fishing, hiking and canoeing.

More than one million people, a quarter of Alabama's population, live within a 1-hour drive of this refuge. In addition, the proximity to major interstates, an expanded refuge would be much more attractive as a destination to visitors, especially important to Bibb County, a very rural and impoverished county, and to Alabama in general, where heritage and ecotourism are being promoted actively.

Local press coverage has been favorable, and we have not heard of anyone opposed to the expansion. Supporters for the expansion include the Alabama Department of Conservation, the Cahaba Trace Commission, and many other groups, including many statewide and local conservation groups, such as the Cahaba River Society.

We are particularly grateful for the strong support of our Congressional delegation. U.S. Representative Spencer Bachus and Governor, then U.S. Representative, Bob Riley, cosponsored the original legislation to establish the refuge. Their leadership, along with support from both Senator Sessions and Senator Shelby, for subsequent appropriations has resulted in acquisition of virtually all land in the refuge boundaries within two Federal fiscal years after establishment.

I should add that the local citizens from Bibb County are particularly strongly supportive of the refuge concept, and especially the expansion. I believe Mr. Bachus' testimony has included letters of support, especially one from the Bibb County Commission, expressing their strong support for the expansion.

As direct evidence of their commitment, the Bibb County Commission has set aside in escrow \$68,000 in support of O&M for the refuge, and the Nature Conservancy has pledged an additional \$150,000 to support O&M startup activities in the refuge. We are also working at our own expense, as a private organization, to cover a lot of different aspects of O&M for the refuge currently. For example, developing a detailed map, GPS unit based map, of the refuge road network, and we are also working with refuge staff to develop a draft vegetation management plan, again at our expense.

An exciting management partnership is emerging here. Clearly, more acres are likely to result in some increase in O&M costs for the refuge. However, the proposed increase will not necessarily lead to a significant increase in staffing at the refuge, which is one of the primary operating costs. The planned staffing level at the existing refuge is six FTEs, and when one factors in the strong existing and emerging partnerships here, the Service will be in a very strong position regarding tangible assistance toward meeting their O&M needs.

While we are sensitive to Service concerns regarding the continued growth of the refuge system, particularly at a time of fiscal constraints, we feel strongly the Service should not halt expansion while it develops a strategic vision for the system. We encourage the Service to support limited growth system in areas that would contribute significantly to the protection of Federal trust resources and that enjoy strong public support.

The Cahaba River is one of these places. It is quite simply a national treasure. Because of the significant biological resource and public trust values outlined here, and the partnerships that are

developing regarding O&M, we strongly support this proposed expansion and request Committee support for H.R. 2623.

Thanks for your attention. I would be happy to answer any questions.

[The prepared statement of Mr. Oberholster follows:]

**Statement of Chris Oberholster, Director of Conservation Programs,  
Alabama Chapter, The Nature Conservancy**

Mr. Chairman and members of the Subcommittee, I appreciate this opportunity to present The Nature Conservancy's testimony in support of H.R. 2623, legislation to expand the Cahaba River National Wildlife Refuge in Alabama.

The Nature Conservancy is a leading international, nonprofit organization that preserves plants, animals and natural communities representing the diversity of life on Earth by protecting the lands and waters they need to survive. To date, the Conservancy and its more than one million members have been responsible for the protection of more than 14 million acres in the United States and have helped preserve more than 102 million acres in Latin America, the Caribbean, Asia and the Pacific. We currently have programs in all 50 states and in 30 nations.

Thank you, Mr. Chairman for scheduling a hearing on this important piece of legislation. The Conservancy presented testimony to this Subcommittee at its hearing on June 8, 2000, that led to the enactment of legislation to establish the Cahaba River National Wildlife Refuge. The U.S. Fish and Wildlife Service is one of our most important conservation partners and we are sensitive to their concerns regarding the continued growth and expansion of the National Wildlife Refuge System particularly in a time of fiscal constraints.

The Conservancy has wrestled with many of the issues the Service is facing. To better orient us to achieve our mission, a framework was created and implemented in the 1990s. We call this framework for mission success Conservation by Design. This framework translates our broad mission into a unifying articulation of common purpose and direction—to align the organization in taking the most effective conservation action to achieve tangible, lasting results at scale.

The reasons for developing and instituting Conservation by Design included a recognition that our core strategy of purchasing land for conservation ownership was inadequate to meet the challenges of protecting biodiversity, that we were not utilizing the best available science to the fullest extent possible, that meeting the costs of operations and maintenance for a system of preserves was not the most leveraged use of our charitable dollars, and that we needed to be more creative and flexible in achieving our conservation goals. Many of these same issues challenge the leadership and staff of the National Wildlife Refuge System.

A key activity in the conservation process outlined in Conservation by Design is the development of ecoregional plans. In fact, the plans are closer to biological assessments—they identify a portfolio of conservation areas and ecological targets within an ecoregion that, if conserved, would protect the full range of biodiversity within that ecoregion. The identification of these portfolio sites—in essence, a blueprint for conservation action—is the platform for our conservation work. The Conservancy is committed to supporting and working with the Service to see how our experience with large-scale planning can help them craft a vision that meets their needs.

We feel strongly, however, the Service should not halt the expansion of existing Refuges or the creation of new refuges while it develops a strategic vision for the System. We encourage the Service to support limited growth of the system in areas that would contribute significantly to protection of federal trust resources and that enjoy broad public support. The Cahaba River National Wildlife Refuge is one of those places.

*Alabama is a Global Hotspot for Biological Diversity*

Recent analyses of the biological heritage of the United States reveal that Alabama is one of the richest states in the nation. In the publication *States of the Union: Ranking America's Biodiversity*, published by NatureServe and the Conservancy in 2002, scientists ranked states according to four key biological characteristics: diversity, risk, endemism and extinction. Four states in particular stand out as having exceptional levels of biological diversity with respect to all four measures: California, Texas, Hawaii and Alabama. Alabama is ranked 2nd in number of extinct species among the 50 states (second only to the islands of Hawaii), 5th in overall species diversity, 4th in number of species at risk, and 7th in number of endemic species (i.e. those found only in Alabama).

The Southeastern United States is a hot spot for freshwater biodiversity, resulting from the coincidence of a diverse physical geography, favorable climate, and a long, but dynamic, history. This varied landscape was spared the repeated habitat-crushing advances of continental ice sheets during the Pleistocene era, allowing living things to persist and evolve over time. Over time, changes in climate, stream drainage patterns, and coastline position isolated many populations, enabling them to diverge genetically and evolve into new species. This unique history is evident today in Alabama. Some interesting facts about Alabama's natural resources include:

- Alabama ranks fifth in the nation in terms of biological diversity and, on a per square mile basis, only Florida is home to a greater number of species;
- Alabama has more species of freshwater turtles, fish, mussels, snails and crayfish than any other state;
- Alabama's freshwater streams and rivers contain 38% of the nation's native fish species, 60% of native turtles and 43% of native aquatic snails; and,
- Alabama ranks near the bottom of states regarding area of public land designated specifically for the protection of biodiversity and provision of compatible outdoor recreational opportunities.

*The Cahaba River and Its Tributaries are a Unique Resource*

The Nature Conservancy has identified the Cahaba River watershed in Alabama as one of these unique conservation opportunities. Almost fifty percent of all documented U.S. species extinctions since European settlement have occurred during this century in the Mobile River Basin, through which the Cahaba River courses. Alabama bears the unfortunate distinction of being the most extinction-prone state in the continental United States, with 98 species extinct.

Within this landscape of species loss, the Cahaba River remains the state's longest free-flowing river, and one of our nation's most biologically rich. The Cahaba River basin supports 69 rare and imperiled species, including twelve fish and mussel species that are listed under the U.S. Endangered Species Act. It has more fish species, 131, than any river its size in North America. To put this in perspective, the Cahaba River has more species of freshwater fish than the entire state of California. One of these fish is the Cahaba shiner, which is found only in the mainstem of this river and the nearby Locust Fork. Although the number of freshwater mussels and snails has declined sharply from historical numbers, many species are still well represented in the river.

The Cahaba River is a treasure trove of botanical life as well. As the river flows southward into rural Bibb County, it shelters the largest known stands of the imperiled shoal lily (*Hymenocallis coronaria*). Celebrated locally as the Cahaba Lily, this spectacular and surprisingly delicate flower grows in the middle of the river, wedging its bulbs into crevices in the sandstone rock. Bibb County is also home to several unique terrestrial plant communities, centered on outcroppings of the unusual Ketona dolomite rock formation. These open gravelly, grassy islands in the otherwise forested landscape are found immediately adjacent to the Little Cahaba River and other tributaries of the Cahaba River, and virtually all examples are in the proposed expansion area of the Refuge. In 1992 scientists discovered eight new species of plants on these dolomite outcrops along the Cahaba's banks—a discovery befitting expeditions to uncharted tropical wildernesses.

*Partnerships are Important to Manage Threats to the Cahaba River*

Until recently, development was kept to a minimum by the steep-sided Appalachian ridges of the Cahaba's headwater tributaries. However, population growth is pushing residential and commercial development from Birmingham into the Cahaba River watershed, resulting in increased stormwater runoff, sedimentation, and municipal wastewater discharges. At the same time, domestic drinking water withdrawals from the Cahaba divert virtually its entire flow during drought periods. Although threats in the upper watershed are growing, the lower two-thirds of the watershed, where the Cahaba's biodiversity is most remarkable, is somewhat healthier.

To prevent degradation of this rich biological resource, government agencies, conservation groups, and citizens' groups are working together to protect the Cahaba's rare and endemic aquatic species and natural communities from its headwaters to the confluence with the Alabama River near Selma.

In the cities and suburbs situated in the headwaters of the Cahaba River, the Conservancy is working with many stakeholders to implement a comprehensive network of greenways to maintain the water quality of the Cahaba River, the primary drinking water source for the one million residents of the metropolitan area. Participants in this partnership include representatives of a comprehensive array of local city and county governments, business and economic development interests, and

environmental groups. The Black Warrior-Cahaba Rivers Land Trust, funded by Jefferson County, and the Birmingham Waterworks Board are actively acquiring land to protect riparian buffers in the upper watershed to protect water quality for drinking water and a healthy river.

Along the first thirty miles of the Cahaba River downstream from the suburban edge of Birmingham, there is a strong interest on the part of the State of Alabama in eventually acquiring lands currently leased on a short term basis to establish a permanent Cahaba State Wildlife Management Area for public hunting, fishing, and other outdoor opportunities.

In the lower eighty miles of the river in the Coastal Plain, partners plan to work with farmers and other landowners to help them participate fully in the existing Farm Bill programs such as the Wetlands Reserve Program, Conservation Reserve Program and others. In addition, the Conservancy hopes to acquire inholdings from willing sellers along the Cahaba and its tributaries where they pass through the Oakmulgee Ranger District of Talladega National Forest. In the lower Cahaba watershed, the Conservancy is working in partnership with various city and county governments, the State of Alabama and Alabama Power Company to protect the river and provide public access for recreational purposes.

*The Proposed Expansion of the Cahaba Refuge is a Highly-Leveraged Investment*

The proposed expansion of the Refuge would expand the list of biological resources protected many-fold. For example, the list of species documented would increase from about five rare plants and 25 rare animals, to at least 66 rare plants and forty rare animal species.

This expansion would provide an outstanding opportunity to protect and recover populations of many Federally-listed species on public land. At least twelve Federally-listed plants and animals are present in the area of the proposed expansion (almost ten percent of the total Federal threatened and endangered list for Alabama). A further four threatened and endangered species were historically present, presenting an opportunity for eventual recovery of these species too.

The proposed expansion area includes virtually all of the unique Ketona dolomite glades, and almost all populations on earth of the eight plants new to science discovered here in the past dozen years. In total the proposed expansion area harbors the world's largest populations of at least twelve globally imperiled plants on the glades, and in the surrounding forests. Unexpected discoveries of rare animals also continue to be made in the proposed area. A very significant recent (2002) discovery of the Septima's clubtail dragonfly was made in the Little Cahaba River portions of the proposed Refuge expansion area. Scientists had not seen this globally imperiled species in Alabama, despite intensive searches, since its original discovery and description in the 1940's.

The proposed expansion would increase direct protection of the banks of the mainstem Cahaba River from three-and-a-half miles to more than twenty miles and more than four miles of the Little Cahaba. Almost as important, it would also add protection for key feeder tributaries and watershed lands that are deemed critical to maintaining the water quality and flow of this biologically rich middle section of the river. These rivers and streams provide extensive high quality habitat for many additional common and rare aquatic animals. These waters are renowned for the healthy populations of game fish such as the Coosa (red-eyed) bass, spotted bass and southern walleye, and dozens of other less obvious species.

The proposed expansion lands include extensive remnant and restorable riparian and bluff hardwood forests harboring breeding populations of many migratory songbirds. The federal/state/private Partners in Flight Partnership for North American bird conservation has ranked several of these birds to be declining and of conservation concern, including Kentucky Warbler, Louisiana Waterthrush, Acadian Flycatcher, Swainson's Warbler and Worm-eating Warbler, amongst others. The proposed expansion offers an opportunity to have large enough areas of stable habitat that would host large viable populations of these declining songbirds over the long term.

The additional lands also present a major opportunity to protect and restore blocks of the longleaf pine forests which once covered the higher, drier ridges. This will contribute to the conservation of the Red-cockaded Woodpecker, and may help the U.S. Forest Service meet recovery objectives for the bird in the nearby Oakmulgee Ranger District. Other declining birds that would gain significant areas of stable habitat are the Northern Bobwhite Quail, Brown-headed Nuthatch, and perhaps, Bachman's Sparrow.

Several caves are known from the proposed Refuge expansion area, especially along Sixmile Creek. These are biologically unexplored and, based on findings at

caves in other nearby counties, quite possibly may harbor unique, cave-adapted animals found nowhere else.

The proposed expansion would authorize eventual ownership of up to about 26,000 additional acres. The majority of these additional acres are owned by three landowners; all have indicated a willingness to be included in the expansion, and would be willing to consider selling at fair market value. The Nature Conservancy anticipates that acquisition of the additional 26,000 acres for the Refuge would cost between twenty-five and thirty-five million dollars. The length of time for acquisition of these lands obviously would be contingent on several factors, including the availability of appropriated funding for acquisition.

*Ongoing Support for Restoration and Stewardship is Critical for Conservation Success*

The expanded Cahaba River National Wildlife Refuge would protect significant habitat for many imperiled and declining birds, fish, mussels and plants, several of which are found nowhere else in the world, but especially unique is the land management partnership emerging between the USFWS, the U.S. Forest Service, The Nature Conservancy, Bibb County, and Hancock timber company. The Conservancy is working with Hancock to develop a timber restoration plan on their lands within the proposed Refuge expansion area. Hancock will harvest the loblolly pine plantations as they become mature, and the Conservancy will assist Hancock in meeting the slightly higher costs of replanting with native mountain longleaf pine rather than simply replanting ecologically inappropriate loblolly pine. In this way, we are getting a major head start on ecological restoration of the area in advance of more permanent protection.

The local citizens from Bibb County strongly support the refuge concept. Included with this testimony is a resolution adopted unanimously by the Bibb County Commission expressing their strong support for the expansion of the Cahaba River National Wildlife Refuge. As direct evidence of their commitment to the Refuge, the Bibb County Commission, in conjunction with the Cahaba River Authority (a committee appointed by the Commission to monitor activities regarding the river) has set aside in escrow \$68,000 to support operations and management of the Refuge.

In the spirit of cooperation with local citizens, elected officials, and the federal government, The Nature Conservancy has also pledged \$150,000 towards the establishment of this refuge. Service and Conservancy staffs are currently looking into various grant-funding programs, for example through the National Fish and Wildlife Foundation, in an effort to leverage these and the Bibb County funds further.

The Conservancy is currently working on two crucial operations and management projects with Service staff that will result in direct savings to the agency, and allow management and restoration activities to commence on the ground sooner. In collaboration with faculty and students from Samford University, Conservancy land management staff is using Geographic Positioning Systems to develop an accurate and detailed GIS map of the road network in the Refuge for the Service. In close consultation with Refuge staff, Conservancy land managers are also developing a draft Vegetation Management Plan for the Refuge.

Clearly, more acres will result in increased operations and maintenance costs for the Refuge. However, the proposed increase will not necessarily lead to a substantial increase in staffing at the Refuge—one of the primary operating expenses. The planned staffing level of the existing Refuge is six FTEs. When one factors in the strong existing (e.g., Bibb County, The Nature Conservancy and others) and promising new partnerships (e.g., with U.S. Forest Service), the Service will be in a very strong position regarding tangible assistance toward meeting their operations and maintenance needs.

*Public Support for Protection of the Cahaba is Strong*

A very low percentage of Alabama is publicly owned. Tremendous support exists from people who want additional public recreational opportunities, such as hunting, fishing, hiking and canoeing. Evidence of this support can be seen in the passage of the Forever Wild land acquisition program, which was approved in a statewide referendum by 84% of the voters in 1992. More than one million people—a quarter of Alabama's population—live within a one-hour drive of the Refuge. As proposed for expansion, the Refuge is clearly one of the best areas for an increasingly urban population to maintain their links with their natural heritage, and of critical importance for citizens' quality of life.

The Nature Conservancy has received hundreds of calls from local citizens, conservation organizations, and public corporations expressing their support for the establishment of the Refuge and inquiring how they can help with this project. Local press coverage indicates strong support and we have not heard of anyone opposed

to the expansion of this refuge. In addition to the Bibb County Commission, other supporters include the Cahaba River Society, Cahaba River Authority, Cahaba Trace Commission, Black Warrior-Cahaba Rivers Land Trust, Alabama Department of Conservation & Natural Resources, Alabama Rivers Alliance, and Alabama Environmental Council, amongst others.

Members of the Congressional delegation for Alabama have demonstrated strong support for the Refuge. U.S. Representative Spencer Bachus and Governor (then U.S. Representative) Bob Riley co-sponsored the legislation to establish the Refuge in 2000, and both U.S. Senators Richard Shelby and Jeff Sessions have shown strong support for both establishment and subsequent appropriation of funding for land acquisition. Virtually all land in the original Refuge boundaries have been acquired with funds appropriated within the two federal fiscal years after establishment.

Since the very beginning of this partnership, The Nature Conservancy has been working very closely with the USFWS on the establishment and subsequent management planning and implementation steps. In light of the significant additional biological resource and other public trust values outlined here, and the strong collaborative partnerships that are developing to assist the agency with operations and management, we strongly support this proposed expansion.

The proposed expansion of the Cahaba River National Wildlife Refuge represents an outstanding opportunity to protect a large number of some of the rarest species and habitats in the nation via a remarkable public private partnership. The Nature Conservancy requests Committee support of H.R. 2623.

Thank you for your attention. I would be happy to answer any questions you may have.

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Mr. GILCHREST. Thank you very much, Mr. Oberholster. I appreciate it. We may have a vote within about 5 minutes, so we're going to move on right away to questions.

I would like to ask either Judge Westmoreland or Miss King or Mr. Riley—maybe you can speak to the issue in Florida. Based on your testimony, the Fish and Wildlife Service made a mistake in their mapping of these areas based on the Act. Can any one of you tell me who found the mistake and when was it found, as far as the mapping errors that took these people out of the National Flood Insurance Program?

Mr. RILEY. I can speak to that, Mr. Chairman, for a moment, because there's as common answer to all three, in some sense, and that is that, as I believe you're familiar, we are working—

Mr. GILCHREST. Are you remapping, are you digitizing existing maps?

Mr. RILEY. Exactly.

Mr. GILCHREST. How did you find the error?

Mr. RILEY. The error in Cedar Keys was specifically found when there was a request from an individual about whether their property was within the unit or not, and in the process of digitizing that area to provide a precise answer to that individual—

Mr. GILCHREST. When they first asked the question, did you have an answer, whether they were in or out of the program?

Mr. RILEY. These three individuals were given an answer previously. A separate individual more recently asked the question and, given the more current technology when providing an answer to that person, we discovered that had we used the digitized technology, which hadn't been available the first time, we would have had a different answer to the first three individuals.

Mr. GILCHREST. So the first three individuals were told they were not covered?

Mr. RILEY. They were told that they were—

Mr. GILCHREST. So they built, and are they covered now by Federal flood insurance?

Mr. RILEY. They would not be covered by Federal flood insurance according to the correct interpretation of the maps.

Mr. GILCHREST. So they're not covered now?

Mr. RILEY. They would not be covered. But they were told they would be covered.

Mr. GILCHREST. But they're not covered?

Mr. RILEY. Correct.

Mr. GILCHREST. What's happening with them? They're just not covered?

Mr. RILEY. At the moment, the current law would have to be that—They have been under the assumption that they could build and have flood insurance.

Mr. GILCHREST. So there was a mistake at Fish and Wildlife thinking they were not inside the boundary. Who discovered that? Do you work with the Mitigation Division within FEMA that deals with Federal flood insurance, who gets it and who doesn't?

Mr. RILEY. Right. They contact us. They may be the ones to contact us frequently, and it's in response to a request from someone wanting to know which side of the boundary they're on.

What we do now, any time anyone requests that information and they're anywhere close to a boundary, we do make a digital read of the map to ensure that we're giving a precise answer. In doing that, other landowners near where we may be doing that analysis, we can, as happened here, could discover that previous answers provided some years ago before we were capable of a digitized answer may have been given an incorrect determination.

Mr. GILCHREST. Are you digitizing the entire system now? Is it done?

Mr. RILEY. Currently we're not. We are conducting a pilot study to—

Mr. GILCHREST. You only do it when a request comes in?

Mr. RILEY. We are looking forward to providing information about a pilot study that we're undertaking, and we hope that the information in the pilot study would demonstrate—

Mr. GILCHREST. So right now you're only doing it when a request comes in. You're only using the digitizing and mapping technology when a request comes in to ask whether or not they're in or out of the system.

Mr. RILEY. The priority would be when someone requests it or it's part of the pilot study. We do hope to digitize everything. Currently, the resources are allowing the pilot study to go forward, or upon request.

Mr. GILCHREST. I think we have three requests today to be removed from the system. Can you tell me how many requests are out there?

Mr. RILEY. I can't tell you exactly.

Mr. GILCHREST. Are these the last three requests that we're going to see over the next 20 years?

Mr. RILEY. I very much doubt it, sir. I very much expect that over time, as we digitize the rest of the system, we will discover additional errors that would need correction.



Mr. GILCHREST. So the pilot project is to take just certain areas within the system to see how accurate it is?

Mr. RILEY. Fifty units in 25 OPAs, 75 areas generally are being digitized, and we believe it will demonstrate that a digital system will provide more accurate and more complete and quick—

Mr. GILCHREST. I see. Is there a policy within the Service that if somebody is told they're outside the system and they can get Federal flood insurance, and all of a sudden actually they are inside—for example, in this instance, inside the system, so they can get Federal flood insurance, but they built, I assume, because they thought they were protected, what's the policy in the Service for those people?

Mr. RILEY. Our policy is to follow the law and tell them we made a correction and the law requires them to not be eligible for Federal flood insurance.

Mr. GILCHREST. Miss King, can you tell me what a maritime forest is?

Ms. KING. A maritime forest—

Mr. GILCHREST. And welcome to Washington, too. Your testimony was very well delivered.

Ms. KING. Thank you. I'm a business major, not an environmentalist, but I have been at Bald Head long enough to know what a maritime forest is.

Mr. GILCHREST. It sounds like you're from North Carolina.

Ms. KING. I am. I do have that accent, I know.

A maritime forest on Bald Head Island, there is almost 200 acres of maritime forest on the Island. It is primarily a dense forest where things just grow naturally. Bald Head Island I think is the northernmost point where palm trees grow naturally.

Mr. GILCHREST. Really?

Ms. KING. So our maritime forest is very dense and thick with live oaks, a lot of indigenous vegetation that has been unspoiled.

Mr. GILCHREST. Thank you very much. It sounds like a beautiful place.

Ms. KING. It is.

Mr. GILCHREST. We have a vote on, so I'm going to yield now to Mr. Pallone.

Mr. PALLONE. I'm going to try to be brief, too, because I know we want to finish with this panel before the vote.

These questions are for Mr. Riley. You mentioned the digital mapping. When you talked about these future map errors that might be found, is it primarily in full units or in the OPAs? In other words, is the problem really with the OPA boundaries?

Mr. RILEY. There could be problems with both. The cause of the problem is slightly different, of course. The OPAs would have problems because we are learning more about the actual boundaries, legal ownership boundaries of the conservation areas. We believe the intent of Congress was to follow those boundaries. The example in North Carolina is an occurrence there.

Examples of errors with system unit boundaries would more likely be the example in Cedar Keys, where the more rough maps attempted to follow geographical markers where the coastal areas needed protection were, and more current technology allows us to

follow those more precisely. So it could occur in either case, for slightly different reasons.

Mr. PALLONE. OK. Turning to the refuge bills, in your statement you note that the Service is currently developing a plan to guide future growth and land acquisition for the National Wildlife Refuge System. When would Congress expect to see a final plan from the administration?

Mr. RILEY. I'm aware, Mr. Congressman, that you have been awaiting that for awhile. We do believe that within the very near future we will be contacting your staff and other interested congressional staffers to provide a briefing on that.

Mr. PALLONE. Weeks, months, the near future?

Mr. RILEY. Hopefully weeks at this point.

Mr. PALLONE. All right. Thank you.

I think I'm going to limit it to that, Mr. Chairman.

Mr. GILCHREST. The gentlelady from Guam.

Ms. BORDALLO. Thank you very much, Mr. Chairman.

I also have a question that was on Mr. Riley's list on H.R. 2619. Under the language of Public Law 100-653, which expanded the size of the refuge, the Fish and Wildlife Service was instructed to complete a number of specific projects on the newly required lands. These goals included public access foot trails, an access road, a fence to protect wildlife, native plant restoration, and the establishment of a recreation area.

What is the status of each of these goals?

Mr. RILEY. I apologize, Madam Congresswoman. I'm not personally familiar with that. That's certainly something I can try to provide to you after the hearing.

Ms. BORDALLO. All right. No one else can answer that. All right. Thank you, Mr. Chairman.

Mr. GILCHREST. Thank you very much.

We do have a vote on. We will be in touch with you over the next several weeks, if it's all right, to ask additional questions as we try to close the book on some of these issues.

Mr. Riley, thank you for coming today, representing the Fish and Wildlife Service. Judge, good luck with your community down there in Texas. You are represented very well by Mr. Paul. Miss King, it sounds like you come from a stunningly beautiful area and we would like to help you with this issue and help preserve the natural beauty of that place. Mr. Oberholster, thank you for coming up to help Mr. Bachus preserve that wonderful place down there in Alabama. Thank you all very much for coming to testify here.

We will adjourn the hearing and start the markup, my guess is within a half-an-hour. This hearing is adjourned.

[Whereupon, at 11:15 a.m., the Subcommittee proceeded to other business.]