

THE HOUSE SUBCOMMITTEE ON INSULAR AFFAIRS
Testimony by
VIRDIN C. BROWN
FORMER OFFICIAL, VIRGIN ISLANDS GOVERNMENT
July 9, 2007

RE: H. R. 59 – To convey certain submerged lands to the Government of the Virgin Islands and for other purposes

Honorable Donna Christensen and members of the House Subcommittee on Insular Affairs, my name is Virdin C. Brown. I thank you for the opportunity to give my personal comments on H. R. 59. I am a former official of the Government of the U. S. Virgin Islands who has been intimately involved with the acquisition and administration of the submerged lands in this U. S. Territory. It is well known that the submerged lands in the U. S. Territories were administered by the U. S. Department of Interior prior to October 5, 1974. This long distance oversight was ineffective and inefficient to govern day-to-day activities and operations in our waters and along our shorelines during a period of increased economic development and growth in our marine facilities. The periodic visits by one staffer from the Office of Territories in the Department of Interior did nothing to stop illegal dredging and the construction of unpermitted docks that were being constructed on St. Thomas, St. Croix and St. John.

In 1971, I, as a Senator in the Ninth Legislature of the Virgin Islands, appealed to the late Congressman Phillip Burton to correct this shortcoming by transferring the submerged lands to the Government of the Virgin Islands and clearly delineating its authority over said submerged lands. The rest is history that is known by most of us. On October 5, 1974 the act of Congress was signed by the President and was designated as Public Law 93-435.

In February, 1975, I was sworn in as the Commissioner of the V. I. Department of Conservation and Cultural Affairs (1975-79). This was the predecessor agency of the Department of Planning and Natural Resources. As Commissioner of DCCA I was the chief administrator of the newly acquired submerged lands and immediately began to regularize the permitting process and to bring unpermitted structures into compliance. My staff and I made a conscious effort to learn as much as we could about this demanding responsibility which made me the number two chief “Trustee” (second only to the Governor) of the peoples submerged lands – “The Trustlands.” I believe that my small staff and I did a good job in the short time that I was tasked with this responsibility. We did a joint project with the Army Corps of Engineers to rid our waters and shorelines of numerous derelict and sunken vessels that were classified as “potential hazards to navigation” at that time. Later, as a Senator in the 15th-19th Legislatures, I chaired or

served as a member of the committee that had oversight of the administration of the submerged lands.

I capsulized that little bit of history to let you know that I was closely involved in and had a working knowledge of the administration and disposition of the submerged lands in the Virgin Islands. From that day to the present I am acquainted with only two exceptions exercised by the President of the United States under PL93-435 to reserve certain submerged lands for continued federal use and ownership. They were Proclamation No. 4346, which reserved an additional 30 acres of submerged lands around Buck Island Reef National Monument as it existed in 1975, and Proclamation No. 4347, which reserved certain identified submerged lands on the west coast of St. Croix for use by the U. S. Navy. That is all.

I sincerely respect and appreciate the apparent objectives of H. R. 59. However, this proposed legislation will do nothing to correct the harm done and the legality, or illegality, of Presidential Proclamation No. 7392 and No.7399. Proclamation No.7392 enlarged Buck Island Reef National Monument by taking away 18,135 marine acres of submerged lands from the Government of the Virgin Islands which had been conveyed to it by PL93-435. Similarly, Presidential Proclamation No.7399 expropriated 12,708 marine acres of Virgin Islands submerged lands to establish the V. I. Coral Reef National Monument around St. John. These proclamations not only took 30,843 acres of submerged lands from the Government and people of the Virgin Islands but they also took away the ownership and right to the natural, cultural and historical resources as well as title to any oil gas and mineral deposits that may be found therein. These were, and still are, rights of title and ownership that were granted by an act of Congress. They were taken away without just compensation to the people who were most directly impacted – the fishers.

It is my recommendation that H. R. 59 return the 30,843 marine acres of submerged lands taken by Presidential Proclamation Nos. 7392 and 7399 to the Government and people of the Virgin Islands as they were originally granted by PL93-435.

The implications are legion throughout the Virgin Islands for some future administration in Washington to use the same 2000-2001 rationale to claim other submerged lands throughout these islands that were conveyed to the people of the Virgin Islands if these proclamations are not reversed. I would hate to see some future administration in Washington lay claim on Charlotte Amalie Harbor, Christiansted Harbor, or Cruz Bay Harbor simply because they own land on Hassel Island, or a Historic District in Christiansted, or an office, berthing space and reception facilities in Cruz Bay. It may sound farfetched, but I never thought that I would see the federal government take 30,000 acres of submerged lands from the Government and people of the Virgin Islands after we had quietly enjoyed title to same for a quarter of a century. This is not just. The Government and people of the Virgin Islands should be able to enjoy the submerged lands and all of the natural, cultural, historical, and mineral resources conveyed by PL93-435 without fear of these assets being taken away on the whimsical notion of a few zealous employees, interest groups, or lobbyists.

To this end, I recommend that the Secretary of Interior should execute an agreement to lease/convey land on St. John to the Government of the Virgin Islands for the purpose of developing a public school within the boundary of the Virgin Islands National Park. This agreement should be executed without further requests for compensation or exchange of lands. The National Park Service has already acquired 30,843 acres of submerged lands from the Virgin Islands Government and its people without just compensation. Therefore it should negotiate an agreement without any additional demands for land, islands, cays or other gifts or donations from the V. I. Government. The only conditions should be to insure the protection of historical, cultural and natural resources within the park and to minimize the impacts on the surrounding park lands.

I am grateful to you for this opportunity to offer my comments.

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Testimony by

VIRDIN C. BROWN, VICE CHAIR – CARIBBEAN
FISHERY MANAGEMENT COUNCIL

July 9, 2007

RE: H. R. 59 – To convey certain submerged lands to the Government of the Virgin Islands and for other purposes

Honorable Congresswoman Donna Christensen and Honorable members of the House Subcommittee on Insular Affairs, I am Viridin C. Brown, Vice Chair of the Caribbean Fishery Management Council (CFMC). The CFMC was established by the Magnuson-Stevens Fishery Conservation and Management Act of 1976 which has recently been amended and reauthorized by Public Law 109-479 in January, 2007. I am a resident of the U. S. Virgin Islands and have served as Chair of the Council at various times. Here with me today is the current CFMC Chair, Eugenio Pinero, and Miguel Rolon, our Executive Director. We are pleased to have the opportunity to review and comment on H. R. 59.

The CFMC takes no position on the legality or the appropriateness of the conveyance of the submerged lands identified in H. R. 59 and the extension of the seaward boundary of the Virgin Islands to twelve (12) miles. We assume that this proposed 12 mile extension will be subject to other legally recognized international boundaries and state or territorial waters of the Commonwealth of Puerto Rico. However, we are concerned about the impacts that these proposed boundary extension will have on several marine protected areas (MPAs) that have been established by CFMC under fishery management plans (FMPs) that have been approved by the U. S. Secretary of Commerce in accordance with the Magnuson-Stevens Act (MSA) in the Exclusive Economic Zone (EEZ) of the United States Caribbean Waters. I have submitted copies of charts that depict the locations of the MPAs near St. Thomas (The Red Hind Bank MCD and Grammanik Bank) and near St. Croix (The Red Hind and Mutton Snapper Areas – seasonal closures).

We believe that it is important to raise several questions about the application and enforcement of the legislation if it becomes law. They are the following:

1. Is it the intention of H. R. 59 to dissolve the MPAs established by the FMPs approved the Secretary of Commerce under the MSA? They protect vital marine resources.
2. Will the management guidelines for each MPA be continued and enforced by the Government of the U. S. Virgin Islands?
3. What kind of enforcement regime is contemplated if the MPAs are continued in effect? Who will do the enforcement?

4. The imaginary boundary lines proposed for the western and eastern boundaries of the submerged lands to be conveyed to the Government of the Virgin Islands may not be easily enforceable since they seem to suggest the use of line-of-sight to determine locations. Perhaps it would be helpful to include coordinates to make it easier to determine when a person or vessel is operating within V. I. Territorial Waters or in the U. S. EEZ.

These matters are not made clear in H. R. 59. We respectfully request that we be apprised of proposed amendments that may be developed to clarify any of these issues.

We sincerely thank you and the members of the Subcommittee for the opportunity to offer our comments.