

Committee on Resources  
Subcommittee on Fisheries Conservation, Wildlife and Oceans  
Statement – April 6, 2006

STATEMENT OF WILLIAM DONOHUE, EXECUTIVE DIRECTOR  
JEKYLL ISLAND AUTHORITY,  
BEFORE THE SUBCOMMITTEE ON  
FISHERIES, CONSERVATION, WILDLIFE AND OCEANS  
UNITED STATES HOUSE OF REPRESENTATIVES

REGARDING:

H.R. 138 , A BILL TO AMEND A PORTION OF JEKYLL ISLAND FROM ITS DESIGNATION AS AN  
OTHERWISE PROTECTED AREA UNDER THE COASTAL BARRIER IMPROVEMENT ACT OF 1990

Introduction: My name is Bill Donohue. I am the Executive Director for the Jekyll Island-State Park Authority[ , a public authority, corporation, and instrumentality of the State of Georgia, ] created by the General Assembly of the State of Georgia on February 13, 1950. (O.C.G.A. 12-3-232) On that day the Authority was granted a lease for a term of 50 years, extended in 1957 to 99 years, to that barrier island known as Jekyll Island and its adjacent and adjoining marshes and marsh islands. (O.C.G.A. 12-3-241)

Representative Kingston's bill, H.R. 138, proposes a correction to the Jekyll Island unit of the CBRA System. In 1990, all lands of Jekyll Island were included as an Otherwise Protected Area in the Jekyll Island unit, even though 35% of those lands were fully developed in the '60s and '70s, including residential and commercial structures, water, sewer, electric and phone services, paved roads and public access via state highway. The bill proposes taking this developed 35% of Jekyll Island, about fourteen hundred thirty (1,430) acres, out of the OPA designation and "replacing" these lands with approximately fourteen hundred thirty (1,430) acres of marsh and wetlands still undeveloped and not previously included in any unit of the CBRA system.

The financial impact to the National Flood Insurance Program (NFIP) of removing already developed Jekyll lands, is none. These lands pose no additional financial risk as they are already included in and insured by the NFIP. In fact, the risk of flood damage may be substantially lowered as reconstruction on already developed lands would have to comply with today's FEMA standards.

The impact of this correction on the long term integrity of the Coastal Barrier Resources System is only positive. Additional acres of marsh and wetlands are added to the system; a barrier island which has already demonstrated that responsible development and administration enhance conservation and protection efforts will be preserved; and the ongoing correction, electronic remapping and modernization processes of the Act are validated.

The beneficiaries of this correction are the American people. Only if this correction is made will Jekyll Island be able to continue as the self-supporting public education and recreation community specifically envisioned and now accomplished, where the developed 35% of the Island supports and endows the 65% of the Island which by Georgia law is to remain undeveloped and be conserved and protected. The beneficiaries are the 1.2 million Jekyll Island visitors annually from the 50 states, including Georgia, and international visitors as during the G-8 conference of June 2004.

Brief History:

Guale Indians (pronounced "Wally"), Spanish missionaries, English and French immigrants and some of America's wealthiest families all have one thing in common: they were once residents of Jekyll Island. The island is best known for the Jekyll Island Club era (1886-1942) when it served as the exclusive retreat for American millionaires including the families of Rockefeller, Morgan and Gould. The Club era is relived through the ongoing restoration of the Jekyll Island Historic Landmark District. In 1947, the State of Georgia purchased the island from the Jekyll Island Club members and in 1950 the Georgia General Assembly created the Jekyll Island Authority to preserve the beauty of the island and to make its facilities available for people of average income. Today, the Authority staff operates the Island as a self-supporting entity with the guidance of a 9-member Board appointed by the Governor.

Contrary to common perception, Jekyll Island is not part of the state park system in Georgia, although there are references to "Jekyll Island State Park" in the statutes. Jekyll Island Authority's operating budget is not funded as a part of the State Park System, rather the Authority is mandated to render the island self-supporting from lease revenues and other revenue generating activities. (O.C.G.A. 12-3-235) (The Jekyll Island Authority is assigned to the Georgia Department of

Natural Resources for administrative purposes only.) The Authority's statutory powers are limited to Jekyll Island and its surrounding marshes, and the Authority, in the exercise of its powers, must develop, manage, preserve, and protect Jekyll Island. (O.C.G.A. 12-3- 243.1)

#### Quick Facts:

Location: Jekyll Island is a "developed barrier island" off the coast of GA

Visitation: Approximately 1.2 million guests visit each year by car

Population: 623 single-family residential properties built in the 60's and 70's

Lodging: 10 hotels, which include the historic Jekyll Island Club Hotel, built in 1887 and 9 hotels built in the 1970s along the Atlantic Ocean (1,520 rooms) and a 200-site public campground

Convention Center: 55,000 sq. ft. of meeting space built in 1961

Restaurants: 17 restaurants

Churches: 3 churches serving 5 denominations built in 1964 – 1971

Access: By car, via 5.6 mile causeway built in 1954; By airplane, land at Jekyll Island Airport, 75-ft. by 3,700-ft.; runway built in 1965

Roads: 26.71 miles paved roads 1955 and 5.5 miles historic shell roads

#### Major Attractions:

- 240-acre National Historic Landmark District, which includes 33 historic structures, built 1886-1942, and Horton House, built 1740's
- Four championship Golf Courses including an historic links course built in 1926 and three courses built in 1964, 1968 and 1975
- Water Park built in 1988
- Tennis Center with 13 clay courts
- 20 miles of bicycle / jogging trails

#### Mission and Vision Statements

##### The Jekyll Island Authority Mission Statement:

To provide trustworthy stewardship and conservation of our natural and cultural resources, and generate appropriate revenues to sustain, enhance and develop services, programs and amenities that maximize benefits to our customers, guests and employees.

##### Jekyll Island Authority Vision Statement:

Continuing improvement and excellence through progressive stewardship, product and service delivery, employee career development and financial responsibility. Jekyll Island will be recognized as the choice destination among all who discover and enjoy its unique environment, services and amenities.

I greatly appreciate the opportunity to offer testimony regarding the bill affecting the Coastal Barrier Resources System (CBRS). The bill being considered today is H.R. 138, a bill specifically to amend the CBRS Jekyll Island Unit GA- O6P.

#### Background

The Coastal Barrier Resources Act of 1982 (CBRA), 16 U.S.C. Section 3501 et seq. (1994) (Pub. L. 97-348), established the Coastal Barrier Resources System (CBRS) in order to achieve three goals: to minimize the loss of human life, the wasteful expenditure of federal revenues, and the damage to fish, wildlife, and other natural resources associated with coastal storms and overdevelopment on the coastal barriers along the Atlantic and Gulf coasts. Undeveloped coastal barriers included in the CBRS would receive no federal assistance for development including any form of loan, grant, guarantee, insurance, payment, rebate, subsidy or any other form of direct or indirect Federal assistance. There are only specific and very limited exceptions. Jekyll Island, which had approximately 35% of its lands developed by 1982, was not included in the CBRS.

In 1990, Congress passed the Coastal Barrier Improvements Act (CBIA) (Pub. L. No. 101-591) as an amendment to the CBRA in an effort to add a layer of Federal protection for lands already held for conservation or public recreation purposes by federal, state, or local agencies. All of Jekyll Island, developed and undeveloped, was included as an Otherwise Protected Area under the 1990 Act. In a further move to prevent new development, this Act limited the availability of Federal flood insurance to those structures which were constructed before the CBIA's effective date. If an existing insured structure was substantially improved or damaged after that date, any prior existing federal flood insurance policy would not be renewed. The owner must try to obtain private flood insurance for their home. Requirements for mortgages include flood insurance if in the flood zone. This private insurance has not been made available through traditional insurance companies and has been offered only through Lloyds of London with a premium of \$14,300 per year with a \$50,000 deductible. Most "average income" people cannot afford Lloyds of London.

### Definition of Undeveloped Coastal Barrier

The 1990 Coastal Barrier Improvement Act states that an "undeveloped coastal barrier" is a barrier island that is subject to wave, tidal, and wind energies - but only if the island and its associated habitats contain few manmade structures, and these structures and man's activities on the island and within such habitats, do not significantly impede geomorphic and ecological processes.

The Act defines "undeveloped" as "less than one structure per five acres of fastland" (non-wetland area above the mean high tide line). [50 Fed. Reg. 8700 (March 4, 1985).] The Secretary of the Interior defined "structure" to mean a legally authorized building larger than 200 square feet in area. [H. R. Rep. No. 101-657(I), p.6. See also 44 CFR 71 (Oct. 1, 1996).] If an area of fastland contains fewer than roughly one structure per five acres, it is considered undeveloped, except when geomorphic ecological processes are altered... by extensive shoreline manipulation or stabilization, or intensive capitalized development projects, such as condominiums, which are considered to effectively establish a commitment to stabilize an area even though there are few actual structures.

An additional consideration when determining "undeveloped" is whether there is a "full complement of infrastructure" on the parcel prior to its inclusion in the System. A full complement of infrastructure includes electric lines, water lines, sewer pipes/septic systems and paved roads.

Under CBRA and CBIA, the United States Fish and Wildlife Service (F&WS) is authorized to give an opinion regarding the validity of changes to the Coastal Barrier System and to Otherwise Protected Areas. This F&WS opinion, based on its evaluation of whether or not the parcel meets the definition of an "undeveloped coastal barrier", is then to be considered by the Congress in determining whether or not a bill for change or correction represents a valid technical correction. The key point is whether or not the land was "undeveloped" at the time of inclusion. It is for this reason that the definition of "undeveloped" is of paramount importance.

### Jekyll Island is and was "developed"

Based on existing evidence, it is clear: (1) Jekyll Island should not have been included in 1990 on the CBRS maps as an OPA because it was "developed" long before it was included in the system; (2) the inclusion of Jekyll Island runs counter to Congressional intent as OPA's were to include only "undeveloped" lands held for conservation; (3) the inclusion of Jekyll Island runs counter to State intent as 35% of the Island by Georgia law must be developed, and is necessary to be developed to render the Island self-supporting; and (4) the Governor of Georgia and the Georgia Department of Natural Resources objected to the inclusion of Jekyll Island in the System because of the already accomplished development of 35% of the Island and the hope of continuing Jekyll Island as a self-supporting agency for public recreation and education and public resource and wildlife protection and preservation. For these reasons, detailed below, we strongly recommend a favorable Subcommittee report on H.R. 138.

Specifically, we request removal of the 35% long - developed portion of the Island from the System for the following reasons:

Unit GA-06P was incorrectly included as an Otherwise Protected Area in 1990.

(1) In 1990, the Jekyll unit exceeded the minimum density limit of one structure per five acres and could not be classified as undeveloped:

According to legal documents, maps, records and photographs, the Island developed in the 1960s and early 1970s, clearly exceeding "one structure per five acres of fastland". Jekyll Island had 867 identified structures in 1990, on 3,753.65 acres of fastland (4,226.68 acres above the 4.3 mean high water mark less 473.03 acres of fresh water wetlands). This exceeded the minimum requirement of 751 by 116 structures. ["Fastland" is identified as non-wetland areas.] (Acreages from 1996 land area analysis by Tunnell-Spangler & Associates. Acreages not made available by F&WS as of date of report.)

(2) The Island had a "full complement of infrastructure" that would define it as "developed":

By 1970 the Island had 26.71 miles of paved roads, and it had water and sewer, and electricity and phone service to each property, residential, commercial and historic. In addition Jekyll had a 5.6-mile causeway and bridge built in 1954 to connect the Island to the mainland.

(3) In 1962, geomorphic ecological processes were altered to stabilize the Island:

In 1962, 4 miles of beach was armored with a seawall along the Island's northern shoreline paralleling existing development. In addition, necessary dredging of the Brunswick River, a harbor channel just North of Jekyll Island, to facilitate the Brunswick port leaves this area more exposed to erosion.

Division of Federal Program Activities, U.S. Fish and Wildlife Services, August 2002, "Federal Savings from the Coastal Barrier Resources Act Report "

According to the study completed by US Fish and Wildlife Services in August of 2002 as requested by Congress, "the undeveloped status of System lands was an important underpinning of the law. The idea was to help steer new construction away from risky, environmentally sensitive places where development was not yet found, not to hurt existing communities where serious commitments of time and money had already been made." It further states as a "vital point: the Act works best when coupled with State and local actions to protect coastal barriers before the economic incentives for development surpass the law's fiscal disincentive."

Today, the State of Georgia, through the "Georgia Coastal Management Program", a federally approved coastal management program, works to balance environmental conservation with economic development (1998). The Georgia "Coastal Marshlands Protection Act" of 1970, amended in 1992, protects tidal wetlands, requires permits for structures, dredging and filling, and establishes the Coastal Marshlands Protection Committee. These laws and programs work with the Shore Protection Act (O.C.G.A. 2-5-230, 1981) that protects and manages all shoreline features, including sand dunes, beaches, sandbars and shoals. These Georgia laws support and further the Jekyll Island- State Park Authority Act (O.C. G.A. 12-3-243, 1950) which provides that not more than 35% of the land area of Jekyll Island which lies above water at mean high tide shall be subdivided and improved, that the Authority may never in any way sell or otherwise dispose of any riparian rights, and that the "beach areas of Jekyll Island will never be sold but will be kept free and open for the use of the people of the State". The Authority was to beautify, improve, and render the Island self-supporting; it was to plan, survey, subdivide, improve and manage projects to be located on property owned or leased by the Authority. ["Projects" is defined to include "any subdivision, hotel, cottage, apartment house, public buildings, school, utility, dock, facility, water course, airport, bridge, golf course, tennis court, or other resort recreational facility." (Ga. L 1950, p154, 155)]

Long before Jekyll Island was included in CBIA as an OPA, the State of Georgia worked legislatively to create, and continues to aggressively pursue a balance among development, public access and education and conservation. The Georgia-created balance for Jekyll Island is now in jeopardy as redevelopment is critical to the viability of the Island. Jekyll Island has in place a master plan and design standards that limits building heights, sets density standards, and will maintain limited development.

The financial impact to the National Flood Insurance Program (NFIP) of removing already developed Jekyll lands is none. These lands pose no additional financial risk as they are already included in and insured by the NFIP. In fact, the risk of flood damage may be substantially lowered as reconstruction on already developed lands would have to comply with today's FEMA standards.

Recommendation

In 1982, with CBRA, and later in 1990 with CBIA, Jekyll Island did not meet the definition of “undeveloped”: the Island had more than 1 structure per 5 acres of fastland, its shoreline had been extensively manipulated, it had a full complement of infrastructure and it was intensively capitalized with development projects. Jekyll Island - State Park Authority in 1950 was charged to develop 35% of the Island, and it did so intensely in the 60's and 70's. This developed 35% was not held for “wildlife refuge, sanctuary, recreational, or natural resource conservation purposes” as Congress intended for an OPA. This 35% was leased for up to 99 years to tax-paying citizens for residential and commercial development. This 35% was purposely developed as a destination for conventions, vacationers, and residents.

The Jekyll Island - State Park Authority requests Congress to accept the attached revised digital map which removes the already developed portions of Jekyll Island from the OPA. This map was created with the assistance of the U.S. Fish and Wildlife Service mapping contractor, Dewberry and Davis.

The revised map proposes changes to unit GA-06P on the Otherwise Protected Area map to coincide the boundaries of the OPA with those lands that actually are held for conservation purposes on Jekyll Island. These changes conform the boundaries of the OPA unit to be the same as the Jekyll Island - State Park Authority nondevelopment boundaries and conform those boundaries to the 65% that must be held for conservation and recreational purposes as mandated by the Georgia General Assembly.

