

Committee on Resources

Subcommittee on Fisheries Conservation, Wildlife and Oceans

Statement

Testimony Before the U.S. House of Representatives

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Subcommittee on Fisheries Conservation, Wildlife and Oceans

On H.R. 4070

By The Honorable Thomas B. Evans, Jr.

Thursday, May 11, 2000

Introduction

Good Morning Mr. Chairman, and members of the Committee. I very much appreciate the opportunity to appear before you today and am grateful to you and others for supporting the goals of the Coastal Barrier Resources Act.

I am here today to register my opposition to H.R. 4070, which I believe is an assault on the integrity of the Coastal Barrier Resources Act. The bill seeks to remove land owned by the St. Joe company from the Coastal Barrier Resources System. It is clear that the company, part of whose business is real estate development, seeks to do exactly what the law was painstakingly created to stop. They seek to leverage taxpayer dollars for their own private profit through developments that are much too risky for the American taxpayer. The very purpose of the Act was to defend against this very thing - if they want to develop in hurricane-prone, and otherwise vulnerable areas, they should do so on their own nickel, not on the taxpayers'.

I also would like to submit for the record a letter signed by a number of diverse organizations that have joined me in opposing this bill because of the precedent setting nature of the deletion it seeks.

History of the Coastal Barrier Resources Act

I thought it might be useful to share with you some of the history of the Coastal Barrier Resources Act. A number of Members and staff worked diligently over a period of many months trying to reach a consensus, because we all knew that saving lives, saving dollars and preserving the environment made eminently good sense. In the end, fiscal and environmental responsibility won out over narrow special interests.

Believe me, achieving these goals was not easy. Earlier attempts in the 1970's fizzled because of competing interests and their inability to come together. Developers and environmentalists could not even agree on a starting point. But the Coastal Barrier Resources Act ultimately was crafted by wide-ranging and diverse

interests: Republicans and Democrats, conservatives and liberals, environmentalists and tax hawks, all worked together. This willingness to work together was there because the concepts embodied in the Act made eminently good sense then, as they do today. Support for environmental protection, fiscal restraint and saving lives cannot and should not be opposed.

Among the supporters with wide ranging philosophies were Democrats like: John Breaux, Phil Burton, Bill Hughes, Bill Nelson, Billy Tauzin, Lindy Boggs, Gerry Studds, Bruce Vento, Fred St Germain, and Charles Bennett. On the Republican side, we had the support of Clay Shaw, Bob Lagomarsino, Don Clausen, Doug Bereuter, Trent Lott, Norm Lent, Bill Carney, Joel Pritchard, Ed Forsythe, Pete McCloskey, Gene Taylor and others. This was an unusual and strange coalition, to put it mildly. And don't forget that Ronald Reagan signed this bill into law.

The Act was also supported by diverse interests such as the Coast Alliance, the National Taxpayers Union, the National Wildlife Federation and the Red Cross. As you can see from the letter I have submitted, this support still stands today.

H.R. 4070

Mr. Chairman, as the principal author of the Coastal Barrier Resources Act, I have come here today because I remember so well the historic bi-partisan, painstaking work that it took to devise the common sense measure that is embodied in the CBRA. When we passed this law, everyone had an opportunity to present their positions, and they were all carefully considered.

The Coastal Barrier Resources Act enjoys very broad support, but the bill before you today could be just the beginning of an effort to tear the entire program apart at the seams. H.R. 4070 may only seem to be a small change, but it sets a major policy precedent that threatens to unravel a hard won and broadly supported program. These consequences may be unintended, but they are real; and, sadly, I see the noble goals of the Coastal Barrier Resources Act washing out with the tide. The burden of proof should be overwhelming for those suggesting change.

When the Coastal Barrier Resources Act was drafted, most of us recognized that federal investment in coastal development was a losing proposition. We realized that barrier lands are low-lying areas that are storm-prone, and are certainly not "terra firma." These shifting sands are the first line of defense for the mainland against the full force of hurricanes, and they create and maintain, among other things, the estuaries that nurture fish stocks so important for recreational and commercial fishing. These lands provide natural habitats for numerous species of birds and other wildlife including federally endangered species. And the wetlands they protect serve as spawning grounds for most of the nation's commercially important fisheries. Unfortunately, they have also been the targets of tremendous development because of man's quest to live near the sea. We must protect our remaining barrier islands, because they are vital for so many reasons, including the economy and future generations of Americans.

The area being considered today was in the direct path of a hurricane less than five years ago. Hurricane Opal, which was not a major storm by any stretch, still exacted damages of over \$3 billion. This storm slammed the area from Pensacola to Mexico Beach. Luckily, it subsided before making landfall, but next time we may not be so lucky. Clearly, Opal should remind us that barrier lands are no place to build homes. Removal of land from the CBRS gives one a false sense of security, and serves to place more lives in harm's way.

Unfortunately, HR 4070 does exactly that by removing land from the Coastal Barrier Resources System. According to the U.S. Fish and Wildlife Service (USFWS), the bill reflects a reversion to the 1982 boundary that would remove 280 acres of land that Congress added in 1990. This is by far the largest removal of land from any CBRA parcel to date.

I am told that the USFWS failed to fully disclose that the land was being added, and that this bill provides a remedy. While the USFWS did not explicitly describe the addition of the land in its report to Congress back in 1988, the land in question was definitely mapped as being included at that time. St. Joe, which is arguably the largest landowner in the state of Florida, certainly should have known with any degree of due diligence in looking at the maps that the land in question was a part of the Coastal Barrier Resources System.

Furthermore, there should be some statute of limitations on such changes. Why didn't St. Joe come forward in 1990 during the public comment period? Why did the company not come forward in 1993 when they realized the land was included? Was it a conscious decision made by a company which, at the time, was in the timber business, not the real estate business? Had St. Joe benefited financially in its purchase price since the lands were about to become part of the CBRs? These questions certainly should be answered before H.R. 4070 is considered further by the Committee.

The clear intent of the Coastal Barrier Resources Act is that any person requesting a change after the one-year grace period would bear an overwhelming burden of proof to show that the change is appropriate. What argument could possibly be made for granting federal subsidies paid for with taxpayer dollars to assist this corporation with its risky development plans?

Let us not forget that CBRA does not ban development. The owners are free to develop the land, but they do not get a free ride. CBRA withholds flood insurance and other federal subsidies that facilitate or encourage land development. This bill is an attempt by a major corporation to gain access to federal assistance. This bill is "Welfare for the Wealthy" taken to an extreme.

Let's look at just how much this welfare is costing American taxpayers. In 1988, the Department of the Interior determined that development on an acre of coastal barrier land taps the taxpayer funded Treasury to the tune of approximately \$50,000. That figure, adjusted for inflation to \$82,000/acre, suggests that over time, taxpayers will spot landowners in this parcel an additional \$23 million as a result of this bill.

It is important to note that the USFWS, which may make recommendations to Congress in this regard, has only stated that it would "not oppose" this bill. The Service has not said that it supports the bill. It is up to the Congress to make the final decision, and that is precisely what the Coastal Barrier Resources Act intended.

Closing Statement

The ramifications of this bill are much greater than the maps would suggest. The changes described today may not look earth shattering; however they are a giant step in the wrong direction. If Congress reverts to the 1982 boundary as requested by St. Joe, it will be a precedent setting change that could place more CBRA lands in jeopardy at a huge cost to the American taxpayer, the economy and our environment.

Please do not be misled by what may appear to be a small change that supposedly removes a barrier to economic development. CBRA is not a barrier to development; and flood insurance for new construction in

areas known to be vulnerable is not, and must not be, an entitlement.

In an effort to protect American taxpayers and preserve the integrity of the CBRA, I have suggested on other occasions that it would be helpful to codify in law the criteria for including parcels in the Coastal Barrier Resources System. If the standards now used were codified, it would make it more difficult to remove acres that properly belong in the system. Codification would also ensure fair consideration, based on merit, not politics, on all initiatives to remove acreage from the system.

Thank you, again, Mr. Chairman and members of the committee. I appreciate very much being invited to testify today and, more importantly, I appreciate your support of the Coastal Barrier Resources Act.

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