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REPORT
108–359

REPLACEMENT OF JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM MAP

NOVEMBER 17, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 154]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 154) to exclude certain properties from the John H. Chafee Coastal Barrier Resources System, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. REPLACEMENT OF JOHN H. CHAFEE COASTAL BARRIER RESOURCES SYSTEM MAP.

(a) IN GENERAL.—The map described in subsection (b) is replaced by the map entitled "John H. Chafee Coastal Barrier Resources System Matagorda Peninsula Unit T07/T07P" and dated July 12, 2002.

(b) DESCRIPTION OF REPLACED MAP.—The map referred to in subsection (a) is the map relating to the John H. Chafee Coastal Barrier System unit designated as Coastal Barrier Resources System Matagorda Peninsula Unit T07/T07P that is subtitled "T07/T07P" and included in the set of maps entitled "Coastal Barrier Resources System" and referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)).

(c) AVAILABILITY.—The Secretary of the Interior shall keep the replacement map referred to in subsection (a) on file and available for inspection in accordance with section 4(b) of the Coastal Barrier Resources Act (16 U.S.C. 3503(b)).

PURPOSE OF THE BILL

The purpose of H.R. 154 is to exclude certain properties from the John H. Chafee Coastal Barrier Resources System.

BACKGROUND AND NEED FOR LEGISLATION

Coastal barriers are natural landscape features that protect the mainland, lagoons, wetlands and salt marshes from the full force of wind, wave and tidal energy. Major types of coastal barriers include fringing mangroves, tombolos, barrier islands, barrier spits, and bay barriers. Composed of sand and other loose sediments, these elongated, narrow land forms are dynamic ecosystems and prone to frequent disruption by storms. Coastal barrier systems provide habitat for a variety of wildlife, and are an important recreational resource. Despite their vulnerability to hurricane damage and shoreline recession, these areas are attractive places to locate private homes and resorts.

The Coastal Barrier Resources System was established by the Coastal Barrier Resources Act of 1982 (CBRA, Public Law 97–348) and was expanded by the CBRA amendments adopted in the Coastal Barrier Improvement Act of 1990 (Public Law 101–591). CBRA is designed to eliminate or limit federal development incentives on undeveloped coastal barriers to prevent the loss of human life and property from storms, minimize federal expenditures and protect habitat for fish and wildlife.

This System is unique because it protects coastal barriers without restricting the use of private property. Inclusion of property in the System does not prevent private development nor does it prevent actions to process and issue federal permits necessary for development. However, the CBRA does restrict the availability of new federal financial assistance to develop property within the System. Of particular importance, no new federal flood insurance can be issued for properties located in System units, but existing flood insurance policies for property currently within the System remain in place. However, if the property is damaged, it cannot be rebuilt with federal flood insurance if the cost of rebuilding is more than 50 percent of the value of the property. Also, if an insured property within the System is substantially expanded or replaced with more development, flood insurance coverage is lost. Other forms of federal assistance that are restricted for property within the Coastal Barrier System include disaster relief, community block grants, flood control, construction of new federal highways, construction of new infrastructure and beach stabilization or erosion projects.

CBRA System units are delineated on maps referenced in law and maintained by the Department of the Interior's U. S. Fish and Wildlife Service. These units encompass areas that were undeveloped (defined as having low densities of structures per acre and negligible infrastructure) when the units were made part of the System. In 1990, otherwise protected areas (OPAs) were also included in the System. OPAs are public or private lands already held for conservation purposes, such as wildlife refuges or parks. Like system units, OPAs also are delineated on maps referenced in law. Therefore, any change to the boundary of an OPA requires Congressional action.

OPAs are based on maps prepared by the Department of the Interior and included in a report to Congress that formed the basis for the 1990 additions to the System. That report stated that OPAs shown on the maps were in fact areas held for conservation purposes. Unfortunately, boundaries drawn for some OPAs have been shown to be poor renditions of the actual boundaries of the underlying conservation areas. Once included in the System, property included in OPAs become subject to the same flood insurance restrictions as those in System units. Consequently, any owners of developed property incorrectly labeled as property held for conservation purposes lose their eligibility for federal flood insurance.

Since 1990, Congress has corrected inaccurate boundaries for OPAs in New York, Delaware, Virginia, North Carolina, Florida and Alabama. Most recently these modifications have been conducted using digital mapping technology, substantially increasing the reliability of the data.

This legislation would revise the boundaries of the Matagorda Peninsula Unit (T07) in Texas to remove the 19-acre Matagorda Dunes Homesites subdivision. This new map would more accurately reflect the intent of the original 1982 CBRA. According to the Fish and Wildlife Service, the subdivision should not have been included in T–07 because it contained a full complement of infrastructure including roads, potable water, wastewater and electricity prior to designation. In fact, the subdivision exceeded the infrastructure criteria used to determine what is a "undeveloped coastal barrier" within the John H. Chafee Coastal Barrier Resources System. Until recently, these private property owners had both State wind storm insurance and federal flood insurance which have now been cancelled. The fundamental goal of this measure is to correct this mistake and to accurately redraw the boundaries of the unit.

COMMITTEE ACTION

H.R. 154 was introduced on January 7, 2003, by Congressman Ron Paul (R–TX). The bill was referred to the Committee on Resources and within the Committee to the Subcommittee on Fisheries Conservation, Wildlife and Oceans. On September 25, 2003, the Subcommittee held a hearing on the bill. On October 29, 2003, the Full Resources Committee met to consider the bill. The Subcommittee was discharged from further consideration of the bill by unanimous consent. Chairman Richard Pombo (R–CA) offered an amendment in the nature of a substitute that replaced generic language with a specific reference to a July 12, 2002, replacement coastal barrier resource map and language ensuring that the new map will be on file and available for inspection at the Department of the Interior. The amendment was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office (CBO), enactment of this bill could increase federal revenues by less than $100,000 annually, but these collection would be partially offset each year by new mandatory spending. CBO concludes that "H.R. 154 would not have any significant impact on the federal budget. The bill could affect direct spending, but we expect that net changes would be negligible."

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 10, 2003.

Hon. RICHARD W. POMBO,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 154, a bill to exclude certain properties from the John H. Chafee Coastal Barrier Resources System.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

H.R. 154—A bill to exclude certain properties from the John H. Chafee Coastal Barrier Resources System

CBO estimates that enacting H.R. 154 would not have any significant impact on the federal budget. The bill could affect direct spending, but we expect that net changes would be negligible.

H.R. 154 would modify the boundaries of the Matagorda Peninsula Unit (in Texas) of the Coastal Barrier Resources System to exclude about 45 lots or houses on 19 acres of private land. This change would enable the owners of these properties to obtain federal flood insurance. CBO estimates that, once insurance policies have been written on all properties, premium collections into the national flood insurance fund would increase by less than $100,000 annually. Collections would be partially offset each year by new mandatory spending for underwriting and administrative expenses. The federal government may also incur additional costs for losses associated with any future floods that might affect the newly insured properties, but CBO has no basis for predicting such events.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On October 23, 2003, CBO transmitted a cost estimate for S. 1066, a bill to correct a technical error from Unit T–07 of the John H. Chafee Coastal Barrier Resources System, as ordered reported by the Senate Committee on Environment and Public Works on October 15, 2003. The provisions of S. 1066 and H.R. 154 are identical, as are the estimated costs.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

ADDITIONAL VIEWS

While I supported the passage of H.R. 154 by Unanimous Consent in the House Committee on Resources, I remain concerned about legislative erosion of the Coastal Barrier Resources System.

Coastal barriers are natural landscape features that protect the mainland, lagoons, wetlands and salt marshes from the full force of wind, wave and tidal energy. Composed of sand and other loose sediments, these elongated, narrow land forms are dynamic ecosystems and prone to frequent disruption by storms. Despite their vulnerability to hurricane damage, these areas are attractive places to locate private homes and resorts. However, the force of nature on these systems frequently exceeds these human endeavors. Storms destroy these properties, jeopardize safety of the public and emergency response personnel, and put taxpayers at risk. Construction in these fragile ecosystems damages wildlife habitat and can be the cause of further erosion.

The Coastal Barrier Resources System is designed to limit federal development incentives on undeveloped coastal barriers, to prevent the loss of human life and property from storms, minimize federal expenditures and protect habitat for fish and wildlife. Since its expansion in 1990, however, numerous petitions have been made to Congress to adjust the system boundaries or to exclude coastal properties from the system. The intent of Congress in creating this system is to distance the federal government from providing any incentive for such development.

H.R. 154 addresses a unique situation in which improvement in mapping technology revealed an erroneous inclusion of a 45-home community in the system more than 20 years ago. This is an appropriate situation for congressional consideration. However, annual requests for congressional intervention in the boundaries of the system indicate a need to comprehensively review this system, to identify and resolve inconsistencies, and to provide guidelines under which future reviews and appeals may occur.

WAYNE T. GILCHREST.

