H.R. 3937, H.R. 4882, H.R. 4883, H.R. 4966, AND OVERSIGHT HEARING ON THE NATIONAL COASTAL AND OCEAN SERVICE AUTHORIZATION ACT; THE NATIONAL MARINE FISHERIES SERVICE AUTHORIZATION ACT; AND THE NATIONAL OCEANIC AND ATMOSPHERIC RESEARCH SERVICE AUTHORIZATION ACT.

HEARING

BEFORE THE

SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS

OF THE

COMMITTEE ON RESOURCES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

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LEGISLATIVE HEARING ON H.R. 3937, A BILL TO REVOKE A PUBLIC LAND ORDER WITH RESPECT TO CERTAIN PROPERTY ERRONEOUSLY INCLUDED IN THE CIBOLA NATIONAL WILDLIFE REFUGE IN CALIFORNIA; H.R. 4882, THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICERS ACT OF 2002; H.R. 4883, THE HYDROGRAPHIC SERVICES IMPROVEMENT ACT AMENDMENTS OF 2002; H.R. 4966, THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION ACT; AND OVERSIGHT HEARING ON THE NATIONAL COASTAL AND OCEAN SERVICE AUTHORIZATION ACT; THE NATIONAL MARINE FISHERIES SERVICE AUTHORIZATION ACT; AND THE NATIONAL OCEANIC AND ATMOSPHERIC RESEARCH SERVICE AUTHORIZATION ACT.

Thursday, May 16, 2002
U.S. House of Representatives
Subcommittee on Fisheries Conservation, Wildlife and Oceans
Committee on Resources
Washington, DC

The Subcommittee met, pursuant to call, at 2:05 p.m., in room 1334, Longworth House Office Building, Hon. Wayne T. Gilchrest [Chairman of the Subcommittee] presiding.

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

Mr. GILCHREST. Good afternoon, everyone. The Committee will come to order. When Mr. Hunter comes in, we will probably—the order of the hearing was going to be Mr. Hunter and the issue dealing with California. Then we were going to go to the NOAA

programs, but Mr. Hunter has been delayed, so we will start with you, Scott, and I will just submit my statement for the record and say that we look forward to your testimony, the myriad of programs that NOAA has under its jurisdiction. We are offering a legislative draft to sort of tighten that up a little bit and we would like your response to that as we move this through the process. We appreciate your attendance here this afternoon. I tried to put the word honorable in front of your name, but I guess I didn't get here in time.

Mr. GUDES. I saw a letter like that once.

Mr. GILCHREST. Thanks for coming this afternoon, Scott.

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

Today we will be hearing from witnesses regarding legislation to authorize National Oceanic and Atmospheric Administration programs, and H.R. 3937, a bill to resolve a boundary dispute involving the Cibola National Wildlife Refuge.

The House Resources Committee has jurisdiction over many National Oceanic and Atmospheric Administration (NOAA) programs, including the agency's navigation services, fishery and coastal zone management, and oceanography programs. Some of these programs are authorized under program specific statutes, for instance, the National Marine Sanctuaries Act and the Magnuson–Stevens Fisheries Conservation and Management Act. Other programs rely on more general authorizations. No comprehensive authorization for these programs has been enacted since 1992. The 1992 authorizations have expired and administrative reorganization plan under which the agency was established in 1970 has become outdated.

The NOAA bills before the subcommittee today authorize agency programs under the jurisdiction of the Resources Committee that do not have other specific authorizations; reauthorize the Hydrographic Services Improvement Act; and update the statutory framework for NOAA's administrative structure, and for the NOAA Commissioned Officers Corps. I look forward to hearing the agency's views on this draft.

The second part of our hearing is on H. R. 3937, a bill introduced by our colleague Duncan Hunter of California to resolve a boundary dispute involving the Cibola National Wildlife Refuge. This refuge was created to conserve migratory waterfowl and a variety of different types of habitat along the lower Colorado River.

Specifically, H. R. 3937 will revoke a small portion of the Public Land Order that originally created Cibola in 1964. While the refuge is more than 17,000 acres, there is a small component of the refuge known as "Walter's Camp". This camp has provided recreational opportunities for thousands of visitors for over forty years. The concessionaire who operates this camp has consistently obtained the necessary concession permits from the Bureau of Land Management. The fundamental goals of this legislation are to remove 140 acres of land from the refuge, to end the confusion as to whom should have title to this property and to reaffirm that the management of the concession is the jurisdiction of the Bureau of Land Management. It is my understanding that both agencies strongly support this long overdue modification.

STATEMENT OF SCOTT GUDES, DEPUTY UNDER SECRETARY FOR OCEANS AND ATMOSPHERE/ADMINISTRATOR, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. GUDES. On behalf of Vice Admiral Conrad Lautenbacher and the 12,500 men and women at NOAA working across the country, I want to thank you, Mr. Chairman, and the Subcommittee for inviting me to speak today on the draft legislation that reauthorizes many of NOAA's ocean and coastal programs, in fact a good part of the agency. And, as always, Mr. Chairman, I would just like to thank you again, the Subcommittee, your staff, John Rayfield, Dave Jansen, for your very, very strong support of NOAA and our programs. It is something that I think those men and women

across the country are very aware of and very appreciative and the expertise that is here on this Subcommittee.

Mr. Chairman, as you can appreciate, there are 6, I think, separate bills that are before the Subcommittee today and I will speak to each briefly. But before I do that, I would like to mention 2 organizational and programmatic reviews of NOAA that are ongoing.

First, coming to NOAA, our new administrator, Vice Admiral Conrad Lautenbacher, called for a bottom-up fundamental review of NOAA programs to be conducted by the agency called the NOAA Program Review, to take a look at our strengths and opportunities for improvement. He actually started off this process in a noble way by going out to all NOAA employees, asking them for their ideas, and then he asked me to put together a group of 16 NOAA executives that represented every part of the agency to work over 3 months and take a look at these different suggestions, add some of our own. We are really at a point where we are about to report back to the administrator or what we call the "NOAA Executive Council," which represents the senior leadership, and then they will decide which ideas have merit and go forward and go to Commerce leadership, and then we would like to come back through OMB and to you, to show you the results or what we think would make good ideas to build a better NOAA. This is about where NOAA should be to remain the premier science and service and stewardship agency in 5 years and in 10 years and in 20 years to be what we really can be and continue to be as good as we want to be.

Also, of course, as you know, there is the President's Ocean Commission, which continues to examine NOAA in part in terms of its reviews and, in fact, Vice Admiral Lautenbacher is not here today. He is actually out in the Pacific where he just testified to the Ocean Commission.

Now I will address the 6 bills.

First of all, the NOAA Act of 2002 updates the administrative structure of NOAA and authorizes 5 line offices, including OAMO, Aircraft Operations, officer corps that operates on NOAA ships and aircraft. The general bill authorizes—

Mr. GILCHREST. Mr. Gudes, I think what we will do so we don't split your testimony and give you plenty of time so you don't feel like you are rushed, I think we will yield now to Congressman Hunter, and then we will come back to your testimony. Thank you for your indulgence.

Mr. Hunter.

Mr. HUNTER. Mr. Chairman.

Mr. GILCHREST. Front and center. You have the floor, Congressman Hunter. We appreciate you coming to the Subcommittee to testify on behalf of your legislation and your constituents, and I am supposed to ask you before you begin, did you give that fishing pole back that somebody lent you a couple of years ago?

Mr. HUNTER. Actually, Mr. Chairman, it was taken from me as I was leaving the Eastern Shore, Maryland. Actually somebody did steal my golf clubs out of my car, but they discovered, I am sure, when they got them that there is not a single club that matches another one. But that fishing pole is a very high class fishing pole and it will be returned.

Mr. GILCHREST. But that is a sign of a good golfer.

Mr. HUNTER. I appreciate the kayak rescue also.H.R. 3937

STATEMENT OF THE HON. DUNCAN HUNTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. HUNTER. Mr. Chairman, thank you, and I want to thank Mr. Saxton, too, also, and staff for being here to listen to our request. I want to thank you for holding the hearing on H.R. 3937 and also want to thank my constituent, Mr. Frank Dokter, who is right here behind me. Mr. Dokter, if you could let them know who you are here, because he has made a long journey from California to testify today.

And this legislation is necessary to right a past error that the Department of Interior made in designating one of our great refuges in California, the Cibola National Wildlife Refuge. Mr. Dokter and his family operate an area called Walter's Camp which is a BLM concession on land that is right next to the Lower Colorado River in Imperial County, California, and it is now within, as a result of the mistake, within the Cibola refuge, and it provides visitors with a very family friendly outdoors experience, including camping, hiking, canoeing, fishing, bird watching and rockhounding, not unlike your family residence on the Eastern Shore of Maryland. I guess the only thing you don't have is rockhounding, Mr. Chairman.

In an increasingly crowded southern California, Mr. Dokter and his family have provided a welcome diversion from city life for a lot of our folks who are outdoor enthusiasts.

Walter's Camp—and it was named after BLM was serving many years ago and it was a little piece of land, I guess, that initially had been homesteaded by a gentleman named Walter and they called it Walter's camp. It was first authorized in 1962.

In August 1964, Public Land Order 3442 withdrew 16,000-plus acres along the Colorado River to create the Cibola Wildlife Refuge. The withdrawal erroneously included this 140.32 acre, Walter's Camp. But neither BLM nor Fish and Wildlife immediately recognized they made a mistake, and BLM continued to renew the original permit allowing the recreational concession use to continue unbroken until the present day. But because they have now discovered this mistake, BLM doesn't have the authority to continue to issue the concession contracts to Walter's Camp until this is pulled back out of the refuge. And the Fish and Wildlife Service and BLM agree that the land has, and I quote them, insignificant, if any, existing or potential wildlife habitat value. So in terms of this 16,000-acre refuge, it is not an important aspect of that refuge. And that is stated in a Department of Interior memo. And as a result of that, I introduced this legislation to correct this mistake and allow BLM to continue to operate to issue contracts to Walter's Camp.

So I want to thank you on behalf of my constituent, Mr. Dokter, and also all the folks in southern California who have—find it tougher and tougher to kind of get away from the crowd. And, as you know, we have a huge population in the L.A. Basin and the so-called Inland Empire now and in the San Diego region. And this is one of the few places you can get away from the city and from

the population centers. It has got nice recreational vehicle areas that—where you can put in for the night with your RV and you can camp and has fishing obviously right there on the river. It is just a grand place for folks who like the outdoors. And this is becoming kind of a disappearing resource in southern California, as you now know. There is a lot of competition now on the river, so it makes sense to restore this area that has been so heavily used by Californians in the past.

[The prepared statement of Mr. Hunter follows:]

Statement of The Honorable Duncan Hunter, a Representative in Congress from the State of California

Mr. Chairman, I would like to thank you and the Subcommittee members for holding this important hearing on H.R. 3937. I would also like to express my appreciation for my constituent, Mr. Frank Dokter, who made the long trip out here from California to testify today. This legislation is necessary to right a past error by the Department of Interior in designating the Cibola National Wildlife Refuge.

Mr. Dokter and his family operate Walter's Camp, a Bureau of Land Management (BLM) concession on land near the lower Colorado River in Imperial County, California, near and within the Cibola Refuge. The facility provides visitors with a family-friendly outdoors experience, which includes camping, hiking, canoeing, fishing, birdwatching and rock-hounding. In an increasingly crowded Southern California, Mr. Dokter and his family have provided a welcome diversion from city life to many of the region's outdoors enthusiasts.

Walter's Camp was first authorized in 1962, and in August 1964, Public Land Order 3442 withdrew 16,627 acres along the Colorado River to create the Refuge. The withdrawal erroneously included the 140.32 acre Walter's Camp, but neither the BLM or the Fish and Wildlife Service immediately recognized the mistake. The BLM continued to renew the original permit, allowing the recreational concession use to continue unbroken until the present time. However, given the discovery of the past mistake, the BLM does not have the authority to continue issuing the concession contracts to Walter's Camp.

The Fish and Wildlife Service and the BLM agree that the land has "insignificant, if any, existing...or potential...wildlife habitat value," as stated in a Department of Interior memo. Therefor, I have introduced H.R. 3937 to correct this mistake and allow the BLM to continue to issue contracts to Walter's Camp.

Again, Mr. Chairman and Members of the Subcommittee, I offer my sincere recommendation that this land be taken out of the Cibola National Wildlife Refuge, and that Mr. Dokter's family be allowed to continue such a valuable and productive service to our region.

Mr. GILCHREST. Thank you, Mr. Hunter, and we appreciate the information you have given us here this afternoon, and I am sure your constituent appreciates the representation you have given him. And I think we would be wise to work with you to help facilitate this transfer for someone that loves the land such as yourself and the outdoors, and I am sure Mr. Dokter is the same way and would like to bring people to a better level of understanding about the beauty of nature and how to protect it, and what better place than at the doorstep of one of America's finest refuges. So thank you for your testimony.

Mr. HUNTER. Thank you, Mr. Chairman. And that fishing pole will be returned shortly.

Mr. GILCHREST. Actually, it is probably something that I broke later.

Mr. HUNTER. I never lost it and it was a long time ago.

Mr. GILCHREST. I am not sure if anybody else has questions for Mr. Hunter.

Mr. SAXTON. I don't have any questions. I would just like to note it appears to me that the Fish and Wildlife Service supports this transfer, and there is some language here in our notes that indicates all the reasons why they support Mr. Hunter's bill. So this should not be a problem.

Mr. HUNTER. Thank you very much. Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Always a pleasure to have the gentleman from California to testify before our Committee. Once we settle the Crusader issue, I will be pleased.

Mr. HUNTER. Unlike Crusader, I don't have to explain the memo that I had the day before saying I liked it and now the memo I have got saying I don't like it.

Mr. GILCHREST. And I think at this point we will bring up Mr. Gudes from NOAA and then, Mr. Dokter, we will be with you in just a short time. Thank you.

You may begin again.

Mr. GUDES. I will pick up where I started talking about the 6 bills, Mr. Chairman.

The first act, the NOAA Act of 2002, updates the administrative structure of NOAA and authorizes our 5 line offices, including the Office of Marine Aviation Operations, which oversees NOAA's commissioned officer corps and operates our ships and aircraft. This general bill authorizes our ability to use cooperative agreements, grants, contracts to move funds which enable partnerships with other sectors to conduct research monitoring assessments.

You have heard me say many times, and members of the Subcommittee, how important it is that at NOAA we believe so much in our partnerships and how much we work with universities and State and local governments and outside groups which is very key to our work.

As you know, I think, members of the Subcommittee know, education is a big priority for us. And I believe very strongly that our mission includes creating the next generation of marine biologists, of meteorologists, of oceanographers, social scientists, coastal managers, ocean explorers. And NOAA supports, especially at our regional offices all over the country and local offices, we support the education outreach efforts. And I think there really does remain a need for an agencywide authority in education to develop an integrated and coordinated education strategy that will really help environmental literacy and really help us make a difference.

And in the bills that are put forward today, I think in the research bill, there actually is an education authorization, and I would ask the Subcommittee to consider whether it could put an overall education authorization in the overall NOAA bill because I think it pertains to all of our components. I could give you great examples that work, National Weather Service, Fisheries Service.

The second bill, National Coastal and Ocean Service Authorization Act, renames the National Ocean Service to give equal credit to our coastal management mission. This bill proposes to advance efforts to integrate existing and planned regional and coastal monitoring and observation systems into one national coastal marine observing system. NOAA is a full participant in the National Ocean Research Leadership Council and in the overall National Oceanographic Partnership Program, or NOPP, which will approve an

interagency report for this ocean-observing system, ocean and coastal-observing system. Very supportive of these efforts. But I would like to defer comments on the actual organization of the observing system until this report has been considered by the administration and delivered to Congress.

Third, or related to that, NOAA appreciates the Subcommittee's suggestion to specifically authorize the Coastal America Partnership Program. I think that Coastal America is an excellent example of NOAA coming together and working with other agencies and with the private sector to really effectively do habitat restoration and environmental work.

Next, we appreciate the Subcommittee's reauthorization of the Hydrographic Service Improvements Act Amendments of 2002 which allow NOAA to continue providing data that promotes safe, efficient maritime commerce and port security and represents the underpinnings, the real structure underneath our maritime transportation system.

I think I have been before this Subcommittee a number of times and relayed to you the appreciation we have for the leadership that you have shown to really try to get NOAA to step up and do the job it should do in terms of reducing the backlog of hydrographic surveys and the products we provide for ports.

There is one issue that I should raise to your attention, which has to do with slight changes to the quality assurance provisions. The way the bill is currently drafted, it would require NOAA to certify all hydrographic survey products. This raises issues of liability and impingement on the responsibilities of the U.S. Coast Guard with regard to navigational products. We have concern about litigation, I think, as this Subcommittee knows, in the fisheries and natural resource area. It seems sometimes like there is not much we can do without being in litigation and we wouldn't want to really look to our hydrographic work to be similar to that.

Next, we appreciate the Subcommittee's enactment of the NOAA Commissioned Officers Act of 2002, which updates and consolidates the NOAA Corps. This legislation maintains the NOAA corps officers on an updated parity with the officers of other commissioned uniformed services. I think that the NOAA Corps, as I have said many times in front of our officers, is the Nation's smallest uniformed service, but I am extremely proud of them, and I often say they are the best of our uniformed services. They are all scientists. They work very hard. They are very dedicated. In fact, we are reminded each summer these are the individuals who fly into hurricanes, take our P3s. I had the opportunity last year to fly into Hurricane Michelle with Captain Tennison out of Tampa, and the dedication of these people is overwhelming.

Tomorrow night we are, in fact, celebrating the 85th anniversary of Coast and Geodetic Survey which became actually the corps which led to finally in 1970 the NOAA Corps. Very proud of this.

Finally, another bill, the National Oceanic and Atmospheric Research Services Act—I said there were 6 in the beginning. I think I had that right—which would strengthen the ability of NOAA research, our Office of Oceanic and Atmospheric Research, to perform its vital role in oceanic and atmospheric sciences, including climate, to benefit the Nation.

The overall issue of science in NOAA, as well as the chief scientist of NOAA, the NOAA Science Advisory Board, will be among the areas that the program review that I talked about in the beginning we will be looking at and will be coming forward to our administrator.

The Subcommittee's bill also updates and modernizes the authorization of climate research, a very topical area. This legislation establishes a formal Office of Climate Research that will support NOAA's sustained observing and monitoring capabilities to maintain our role as a leading science agency in climate research and services.

I understand that the NOAA climate change report will be reviewed by the Science Committee within the next week as requested and we intend to try to get that up here to Members of Congress.

Last, NOAA would like to work with the Subcommittee to ensure that the National Marine Fisheries Services Establishment Act enables NOAA to comprehensibly manage the Nation's living marine resources. In addition, of course, the managing commercial fisheries and recreational fisheries in a sustainable manner. It is very important to stipulate our—as I say, fiduciary responsibilities to protect its species to marine mammals, endangered and threatened species like sea turtles, for example, and to manage and conserve and restore habitat, very big issue to us, as you know, Mr. Chairman, as you know on the Eastern Shore and the work we have done in habitat restoration.

NOAA appreciates this opportunity to provide initial comments on draft legislation. As I said at the beginning to all the members of the Subcommittee and the staff, we really do on behalf of all the men and women, on behalf of Vice Admiral Conrad Lautenbacher, we very much appreciate your interest in the agency and support for the agency and leadership on these issues. Thank you.

[The prepared statement of Mr. Gudes follows:]

Statement of Scott Gudes, Deputy Under Secretary for Oceans and Atmosphere, National Oceanic and Atmospheric Administration, U.S. Department of Commerce

I. INTRODUCTION

Thank you, Mr. Chairman and Members of the Subcommittee, for this opportunity to appear before you to testify on this draft legislation reauthorizing many of the ocean and coastal programs of the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA). NOAA appreciates your continued support and interest in ensuring that it has the appropriate authorities and organization to address its ocean and coastal missions and responsibilities. In recent years, these programs have been the subject of many hearings before this Subcommittee. We note that the draft bills would authorize the National Oceanic and Atmospheric Administration, and four of its line offices, the Office of Oceanic and Atmospheric Research (OAR), the National Marine Fisheries Services (NMFS), the Office Marine and Aircraft Operations (OMAO), and the National Ocean Service (NOS), as well as the Hydrographic Services Improvement Act. These draft bills are being reviewed by the Department and the Department would appreciate the opportunity to provide written views on them prior to the markup.

One apparent goal of the legislation is to clarify the roles and responsibilities of four NOAA line offices that have ocean and coastal responsibilities'the National Ocean Service, the Office of Marine and Aircraft Operations, the Office of Oceanic and Atmospheric Research, and the National Marine Fisheries Service. The thrust of the legislation is to better integrate existing activities and capabilities versus creating new programs, and to improve the scientific basis for decision-making. The

Department and NOAA will continue working with the Subcommittee to ensure that the different bills appropriately address authorizations for each NOAA line office.

The Administration is implementing the Oceans Act of 2000. The President appointed the Commission on Ocean Policy last summer. Currently, the Commission is in the midst of a series of nine regional fact-finding meetings. In fact, Vice Admiral Lautenbacher is presently testifying at an Oceans Commission Field Hearing. Commission Chairman, Admiral James D. Watkins, USN (Ret), has indicated his intent to complete the Commission's work and produce a final report on schedule a year from now.

The Administration shares your interest in the relationship among these programs. Upon coming to NOAA, our Administrator, Vice Admiral Conrad C. Lautenbacher, Jr. USN (Ret.), called for a bottom-up, fundamental "NOAA Program Review" to examine the Agency's strengths and opportunities for improvement. In February, the Vice Admiral gave all NOAA employees an opportunity to suggest organizational, resource and business process changes. Since that time, I have been serving as chair of the NOAA Program Review Team, a group of sixteen NOAA Executives representing each line and staff office, supported by a staff of executive leadership candidates, and a contract facilitator. This team has discussed and debated a number of programmatic and organizational issues, employee suggestions and has put forward their own ideas for building a better NOAA to serve the American people.

As you know, most of the new leadership for NOAA has now come on board. At this time, we are drafting the Program Review Team (PRT) report and will soon present this to the Administrator, Deputy Administrator and senior NOAA and Department of Commerce leadership for their consideration. While I cannot discuss the report prior to its review, approval and release, I should note that we have considered some of the issues raised by this Subcommittee and this legislation. NOAA leadership will, of course, return to discuss with you and the Committee staff relevant issues after the Administration has considered the PRT report. I hope that we can work with you on any reforms and legislative changes that may be required.

I will provide some comments on the draft legislation here today. But, in part because of the review we are finalizing, I would also like to reserve the right to provide subsequent suggestions. I will keep the Subcommittee updated on the Administration's efforts and look forward to working with you as a bill is finalized. NOAA will continue working with the Subcommittee to ensure that authorizations for each NOAA office are appropriately addressed and are consistent with the President's Budget.

II. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION AUTHORIZATION

Generally NOAA supports the provisions in Title I, Section 101, outlining the activities NOAA is authorized to undertake in pursuit of its missions. As you know, NOAA's mission is twofold: to describe and predict changes in the earth's environment, and to conserve and manage wisely the Nation's coastal and marine resources and to provide sustainable economic opportunities. NOAA will also work with the Subcommittee to be sure we have the necessary funding authorities for grants, contracts, and other agreements. As these authorities are the tools we need to do our job, it is important that this section provides the necessary flexibility and efficiency.

III. THE NATIONAL COASTAL AND OCEAN SERVICE AUTHORIZATION ACT

The National Coastal and Ocean Service Authorization Act renames NOAA's National Ocean Service (NOS) the National Coastal and Ocean Service—a change which better reflects the scope of NOS programs. NOS' mission is to be our principal line office for coastal stewardship through partnerships at all levels. NOS works to support and provide the science, information, management, and leadership necessary to balance the environmental and economic well-being of the Nation's coastal resources and communities. Programs like our NOS Coastal Services Center integrate NOAA programs and focus on program delivery for our customers—America's coastal managers and communities.

Section 3. National Coastal and Ocean Service

As Section 3(b) indicates, NOS relies on a variety of underlying statutory authorities. Among these authorities are the Coastal Zone Management Act and the National Marine Sanctuaries Act, both of which support NOS' mission of managing and conserving the coastal and ocean resources upon which our Nation depends. Explicit in these management programs is the need for interagency cooperation and partnerships. NOS uses, promotes and relies upon partnerships with other agencies, States, local authorities, nongovernmental organizations, Federally recognized Indian tribes, academia and the private sector. Section 3(d) of the draft bill is intended

to promote this partnership-based approach by providing the authority to use a variety of agreements, grants and other cooperative tools; however, we believe the section, as drafted, may require technical revision, and the Department will work with the Subcommittee on this language. NOAA suggests that the bill provide explicit authority for the Coastal America Partnership Program in this section of the bill. NOAA will continue to work with the Subcommittee to ensure that the grants and agreements language provides both the flexibility and the efficiency to carry out its work.

Section 4. Coastal Monitoring, Assessment, Observation, and Forecasting

Throughout the Federal Government, as well as at the State and local level and academia, people are engaged in a wide variety of coastal monitoring and related activities. Much of the monitoring is regional and often is conducted or supported by a variety of Federal agencies ranging from NOAA, the U.S. Geological Survey and the Coast Guard to the National Science Foundation and the U.S. Navy. Data is gathered to meet the program requirements or the needs of a specific group of users.

Currently there are efforts underway to coordinate these various systems into an Integrated and Sustained Coastal Ocean Observing System. This effort is part of the larger effort to develop the U.S. contribution to the Global Ocean Observing System (GOOS), which is international in scope. NOAA is a full participant in these efforts, which are being led by the National Ocean Research Leadership Council (NORLC) of which NOAA is a member. In March, a meeting was held in Virginia to further develop an implementation plan for the U.S. contributions to GOOS. The meeting was held in order to help coordinate a response to a Congressional request for various agencies to develop a plan for an ocean observing system. A paper is being prepared and should be presented to the NORLC for approval at the semiannual meeting on May 23. The Council intends to forward it to the White House Office of Science and Technology Policy (OSTP) for its final review before delivery to Congress.

While supportive of the objectives of Section 4, I would like to defer comments on the specific organization of the coastal observing system until the OSTP/NORLC report is delivered to Congress.

Section 5: Coastal and Navigation Services

This section on technical assistance provides the authority to train, educate and assist others through the transfer of technology and expertise in areas relating to ocean and coastal resource management.

Section 6: State of the Coast Report

A periodic assessment would help identify new challenges and help monitor and assess the success of ongoing research and management efforts. NOAA will work with the Committee to determine the most effective means for achieving this objective.

IV. HYDROGRAPHIC SERVICE IMPROVEMENT AMENDMENTS

Overview

The Administration supports reauthorization of the Hydrographic Services Improvement Act (HSIA) of 1998. NOAA's hydrographic services provide data that promote safe, efficient maritime commerce and port security. We do have several comments on some elements of the draft bill under consideration by the Subcommittee, relating to the implementation of a product quality assurance program, discussing the program mission, creating a permanent advisory panel, repealing of the Act of 1947 and authorizing appropriations.

Section 3: Quality Assurance Program

The Hydrographic Services Improvement Act of 1998, Section 303 (a)(3) directs NOAA to promulgate standards for hydrographic services provided by the Administration. Under Section 304, the Administrator then may, at his or her discretion, certify hydrographic products produced by non–Federal entities that meet those standards. Some examples of standards NOAA has promulgated or is promulgating include: International Hydrographic Organization (IHO) S–44 Standards for Hydrographic Surveys, the NOAA Hydrographic Manual and survey specifications in contracts for hydrographic surveys; Tide and Current Table production standards; the Nautical Charting Manual and IHO chart specifications; and recommended Standards for Electronic Chart Systems.

The Quality Assurance section of the HSIA (Sec. 304) states that NOAA may develop and implement a quality assurance program to certify "hydrographic products," which the HSIA defines as "any publicly or commercially available product

produced by a non–Federal entity that includes or displays hydrographic data." The draft bill changes the term "may" to "shall." The draft bill would require the Secretary to implement such a program within 2 years. For the following reasons, NOAA opposes this change.

The language raises questions of liability. The proposed amendment would require NOAA certify any and all products on a basis that is equally available to all interested parties. Certification would imply that NOAA authorizes products for a specific use, i.e., for navigation. Therefore, if enacted and implemented, the Federal Government would likely be named as a party to litigation stemming from marine accidents in which one or more of the parties used a privately produced product that had been certified by NOAA. The HSIA attempts to limit exposure to liability at Section 304(c), which says the Federal Government shall "not be liable for any negligence by a person that produces" certified products. But, parties could bring other causes of action against NOAA by claiming that NOAA itself was negligent by failing to discover the negligence of the party producing the hydrographic product prior to issuing a certification. NOAA's certification obligations are also unclear under the new language. NOAA may be under an obligation to identify all producers of hydrographic products and review them for accuracy prior to certifying them. This creates a potential litigation threat and could raise legal costs for the Department of Commerce.

It may impinge on responsibilities of the U.S. Coast Guard. As noted, certification by NOAA would imply Federal approval of the product for use in navigation. This could lead to confusion because the Coast Guard, not NOAA, has responsibility for certifying aids to navigation (including NOAA charts) as meeting legal carriage requirements as established under international law and agreements. NOAA would coordinate the certification requirement very closely with the U.S. Coast Guard. NOAA recommends a thorough Coast Guard review of the quality assurance provisions before enactment.

The HSIA at Section 304(b)(2) says NOAA can charge a fee for certification and that the fee can be set to cover the complete cost of the certification process, including administration. The proposed amendment states that implementation is "subject to the availability of appropriations." It is unclear whether the program should be self sufficient or not. If mandated to implement the quality assurance program, the program should not be subsidized by taxpayers.

Section 4(a).—Mission

In the mission statement, NOAA recommends including language to enable NOAA to support port security efforts. NOAA disagrees with the Subcommittee's proposed amendment which would permit the Administrator to use funds directly in support of two other NOAA missions, coastal and fishery management. As drafted, this could potentially divert resources from navigation requirements, such as reducing the survey backlog. Instead, NOAA recommends language that would direct the Agency to aggressively seek such ancillary uses of hydrographic data.

Section 5—Creating a Permanent Advisory Panel

The creation of permanent advisory panels can provide some benefits for pressing public matters that require ongoing, frequent interaction among all interests. In this case, alternatives, such as studies by the National Research Council/National Academies of Science and routine outreach activities could be used to achieve similar results. Also, NOAA currently is an active participant in the interagency effort on the Marine Transportation System (MTS), which already has an advisory group. The MTS National Advisory Committee could create a working group to address issues related to hydrographic services. This may be better option because a working group could look beyond NOAA and examine all Federal agencies with navigation information responsibilities, including the Navy, the National Imagery and Mapping Agency (NIMA), the Army Corps of Engineers, and the Coast Guard.

Section 4(b)(2)—Repeal of the Act of 1947

The draft bill repeals the 55 year old organic authority for NOAA's navigation and positioning programs, including surveying, mapping, charting, tides, currents and related activities. The goal of merging the 1947 Act and the HSIA has merit but, as proposed, the 1947 Act's permanent authorization for these programs is not sustained. The Administration understands that limiting authorizations of appropriations to a set number of years provides an impetus for Congress to maintain its oversight responsibilities. Programs relating directly to public safety, however, should not be subjected to the potential uncertainty that is created when such authorizations lapse. The Administration recommends that the following language be inserted at the end of Section 7:

"(5) If this Act is not reauthorized before Fiscal Year 2009, such sums as necessary may be appropriated for the activities authorized under this Act for each subsequent fiscal year beginning in Fiscal Year 2009."

Section 7: Authorization of Appropriations

The proposed section authorizing appropriations should be consistent with the President's Fiscal Year 2003 budget request.

V. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICERS ACT OF 2002

The availability of commissioned officers within this agency, in numbers sufficient to satisfy our operational requirements, is a matter of growing importance as we face new challenges. The Corps has proven its usefulness and I believe it has a continuing role to play as NOAA strives to reach its fullest potential in service to the Nation. The administration supports better alignment of the substance of current NOAA Corps personnel authorities and practices with similar authorities and practices, as now reflected in the revised and modernized Title 10 of the United States Code. Much of the existing language for the NOAA Corps has as its source the Coast and Geodetic Survey Commissioned Officers Act of 1948, which served to provide parity with the other commissioned services. Little substantive modernization has occurred in the existing language over the years. Consolidation into one comprehensive Act of existing statutory language related to the NOAA Corps, language that is now scattered in the United States Code, would be helpful. We are reviewing the draft bill, including the statutory roles assigned to the President, and will provide written views as soon as the review is complete.

VI. THE NATIONAL OCEANIC AND ATMOSPHERIC RESEARCH SERVICE ACT

I would like to next address the portion of the bill entitled, A National Oceanic and Atmospheric Research Service Act,@ which authorizes changes in what is now NOAA's Office of Oceanic and Atmospheric Research (OAR) or A NOAA Research@ as it is often called. As an important and integral component of NOAA, NOAA Research explores the earth and atmosphere from the surface of the sun to the depths of the ocean. The NOAA Research role within the agency's larger mission is to provide research for products and services that describe and predict changes in the environment. Our results allow decision makers to make effective judgments in order to prevent the loss of human life and conserve and manage natural resources. The office conducts research in three major areas: atmosphere, climate, and ocean and coastal resources.

Section 4. Assistant Administrator for Oceanic and Atmospheric Research and Chief Scientist

This draft bill establishes the current NOAA OAR as the A National Oceanic and Atmospheric Research Service@ within NOAA. The bill provides that the Assistant Administrator of the Service will serve an additional role as the Chief Scientist of NOAA. The section authorizes the outreach and education functions of the Service and provides a legislative mandate for the Office of Weather and Air Quality, an Office of Climate Research, and an Office of Oceanographic Research, Exploration, and Extension. It authorizes the National Undersea Research Program as well as authorizes the Assistant Administrator to oversee the National Sea Grant College Program. In respect to Sea Grant, the Administration recommends that the legislation be amended to be consistent with the President's Budget. The legislation formalizes the existing partnerships between NOAA Research and our university partners in 11 Joint Institutes. In addition, the legislation mandates that the Assistant Administrator/Chief Scientist will be selected for the position by virtue of education and scientific credentials and shall be the principal science advisor to the NOAA Administrator.

Current legislative mandates for NOAA Research programs include the National Weather Service Organic Act of 1890 (15 U.S.C. ' 313), which provides a non-expiring authority for NOAA to monitor and record climatic conditions, and the 1990 Global Change Research Act (15 U.S.C. ' 2921), which establishes the U.S. Global Change Research Program (USGCRP) aimed at understanding climate variability and predictability. The Non-indigenous Aquatic Nuisance Prevention and Control Act of 1990 provides authority through 2002 for NOAA to fund research, prevention and control activities that relate to aquatic nuisance species. The National Sea Grant College Program Re-authorization Act of 1998 authorizes the National Sea Grant College Program, the Knauss Fellows program, and research on invasive species, oyster disease, and harmful algal blooms through 2003. The Sea Grant program was originally authorized in 1966.

Science and research at NOAA is one of the areas that has been discussed by the NOAA Program Review Team (PRT). The issue of NOAA research and science in support of our oceanic and atmospheric missions as well as the role of the Chief Scientist and the NOAA Science Advisory Board will be one of the areas that the PRT report will cover. As I noted earlier in my testimony, these are issues that will be discussed with the Administrator, Deputy Administrator and the senior leadership team in NOAA and the Department of Commerce.

Section 5. Office of Climate Research

As you are aware, NOAA is well established as a leading science agency in climate research. Our research in this area has led to key accomplishments such as helping to identify the cause of the ozone hole in the Antarctic and providing a six-month warning on El Nino in 1997. The agency hears from stakeholders that the need is greater than ever for delivery of reliable climate information for enhanced planning and decision making. Providing reliable climate information is becoming increasingly important to the health, safety and vitality of the American people and to the national and global economies. The Federal Government should play a strong role in providing climate information that is crucial in helping our stakeholders manage their lives and businesses.

To respond to the need for a coordinated Federal research effort and reliable climate information, the Administration has proposed restructuring climate programs within the Federal Government to better enable them to answer scientific questions that ultimately influence policy. Therefore, the White House has proposed that the government's climate change research be coordinated through two new offices, a Climate Change Science Program Office and a Climate Change Technology Program Office. The Assistant Secretary of Commerce for Oceans and Atmosphere will be designated to head the Climate Change Science Office. The Administration is seeking to address the concerns that the current U.S. Global Change Research Program overseen by seven Federal agencies may not be wide enough in scope to meet the constantly changing needs of climate research and may not provide sufficient accountability. Under the Administration proposal, a cabinet-level Committee on Climate Change Science and Technology Integration will make recommendations to the President on climate change issues. It is anticipated that NOAA will play a significant role in supporting this effort. We look forward to working with the Congress toward achieving our common goals in delivery of the world's best climate research.

Section 6. Office of Weather and Air Quality Research

We are very appreciative of the support from Congress on the recent passage of the amendment to the energy legislation as passed in H.R. 4 which provides NOAA with authority to issue air quality forecasts and regional warnings as a mission of the agency. Providing a mandate for NOAA's air quality research will be beneficial to the American public. The 1990 Clean Air Amendments define NOAA's role in providing the atmospheric chemistry and transport research that supports the efforts of the interagency National Acid Rain Precipitation Program. We look forward to working with the Committee to develop language that properly clarifies NOAA's role in air quality forecasting research.

Section 7 - 10. Oceanographic Research, Exploration, and Extension, Ocean Exploration Program, and the National Undersea Research Program

The current version of the National Oceanic and Atmospheric Research Act establishes an Office of Oceanographic Research, Education and Extension and an Office of Ocean Exploration and the National Undersea Research Program (NURP). NOAA Research and NOAA Ocean Service manage an Office of Ocean Exploration (OE) that has a mission of searching and investigating the oceans for the purpose of discovery and the advancement of knowledge of the ocean's physical, chemical and biological environments, processes, characteristics, and resources. OE accomplishes this through interdisciplinary expeditions to unknown, or poorly known regions and through innovative experiments. The program advocates discovery-based science and collaboration between multiple partners and disciplines.

As proposed, the authorization bill mandates an outreach and education function within NOAA Research. Education is an important component of NOAA's mission and of ensuring that future generations are prepared for the science needs of tomorrow. An education focus has been provided for some specific NOAA programs, but it would be preferable to have the agency-wide authority to develop an integrated and coordinated education strategy and program. To deliver information about our research effectively, a strong communications function is critical to success. If we are to promote scientific literacy and foster the next generation of world-class scientists to lead us into the 21st century, we need to strengthen our outreach and education capabilities and fully integrate communications into the management

structure of the agency. We look forward to working with the Committee meet these objectives.

An important feature of the authorization is that it supports the longstanding relationships NOAA has with university partners through the Joint Institutes. We believe that these partnerships are critical to achieving NOAA's research goals and that the relationships have been key to our successful track record in environmental research. We look forward to further solidifying those partnerships through a legislative mandate.

VII. NATIONAL MARINE FISHERIES SERVICES ESTABLISHMENT ACT

NOAA appreciates the Subcommittee's efforts to formally authorize the National Marine Fisheries Service through this draft bill. It is important to note that this authorization would supplement NOAA's existing authority to manage the Nation's additional living marine resources, such as marine mammals and endangered or threatened species, among others. NOAA serves a significant role in protecting and managing these resources through its authority under the Marine Mammal Protection Act and the Endangered Species Act. These resources also include managing the effects to marine or anadromous species due to hydropower projects, and preservation of essential fish habitats. NOAA would also suggest that section 3(b)(1) be changed to reflect NOAA's present work which includes resources in state and international waters, such as marine mammals. For these resources, NOAA partners with states and other countries to ensure that the resources are managed in a comprehensive manner. NOAA would like to work with the Subcommittee to ensure these important authorities that will enable NOAA to comprehensively manage the Nation's living marine resources.

VIII. CONCLUSION

NOAA appreciates this opportunity to provide initial comments on this draft legislation. NOAA commends the Subcommittee for recognizing the need to facilitate the integration of ongoing research and management programs and to focus national monitoring and observation efforts on meeting diverse national needs and requirements. We look forward to working with the Subcommittee as this legislation is introduced and makes its way through the legislative process.

Mr. GILCHREST. Thank you, Mr. Gudes. The bottom-up review that is being conducted by your agency now, is there a general timeframe when that will be concluded so that it will correspond to the movement of this authorization before it hits the House Floor so we can adopt some of those suggestions, changes?

Mr. GUDES. What I can tell you is that the review has been completed, that we have been—we use some of our executive—it was an internal NOAA staff effort, leadership and staff, ideas that came from the people who work across the agency, across the country. I chaired it. We are moving forward next week to the Admiral and to the leadership panel. He is the boss. He works things as a corporate board. We are a bureau of the Department of Commerce. The next stage would be to go to the Secretary of Commerce level, and I would assume the Office of Management and Budget. I know the Admiral's disposition would be to have us come up and brief the Committee staff and the Committee. Unfortunately, I really can only tell you from the first part of my statement that I know when it is going to the NOAA board. I don't know how long it will take and how many issues will have to be reviewed. I don't know how long it will be able to bring it to you.

Mr. GILCHREST. We would like to stay in touch with you on that so as you go through that process in the next, let us say, week or two, we might have some estimate as to the length of time that you can come to some conclusions and recommendations, so that perhaps in the process of—before we mark it up, I think it would be the best time in the Subcommittee, but any time it hits the House Floor. We would like to mark this bill up and get it signed this ses-

sion and not wait another year on that. So any recommendations you can give us would be very helpful.

Mr. Gudes, you mentioned a specific authorization for education. Would you have some language as to the direction that that would take? Is that the Ph.D. Level, undergraduate, graduate degree, public schools? How do you envision that?

Mr. GUDES. In certain parts of NOAA like the marine sanctuary program, there are specific authorizations that say that education is part of our mission. As an agency we have gone far beyond that and we very much take to heart the effective way to do environmental education. There are specific programs, University of Maryland - Eastern Shore, we have worked on. I think where we are sort of lacking is an overall direction in terms of an organic act in terms of Congress that says what I said, that what our mission includes education as we interpret it, as we believe it. I think that all the above that you mentioned are true.

We work at the university level very much and I find some of the most uplifting, impressive things that people in the agency do are with K through 12 at the local level. I could sit here and talk about a lot of these efforts.

Mr. GILCHREST. So this is something that is being reviewed with that bottom-up review.

Mr. GUDES. Yes, education is one of the areas we looked at. A lot of our employees had a lot of comments about it and it is something that I think most people across NOAA share. My new boss came from the Consortium for Oceanographic Research and Education. He is a big believer in educational outreach and what we can do, as I said, to help the next generation. It is an important issue for the country and an important issue for the agency in terms of where our workforce will come from.

Mr. GILCHREST. In that bottom-up review, is there a good amount of time being spent with the National Marine Fisheries Service and the kinds of—all of the issues surrounding their relationship with the council's overcapitalization, ecosystem, management plans, the education of—a consortium with the industry to gather data to use their boats for data, those kinds of things?

Mr. GUDES. We haven't had a number of those efforts ongoing. I know we are dealing with performance measures and workshops. We have been getting together with different constituents in terms of fisheries to look at some of the very issues you raised. You tend to look more corporately at NOAA overall in issues like science in NOAA that I mentioned before and that would relate to fisheries as it would to a number of areas where we conduct research. We didn't address as much some of the specific line office issues.

Mr. GILCHREST. Just the basic structure of NOAA.

Mr. GUDES. The admiral asked 3 basic questions and sent it out to the NOAA employees, and they kind of go like: "Are we aligned correctly for our mission now and in the future?"

Mr. GILCHREST. Just taking that one question as an example, coastal ocean-observing program, how is that aligned with the NMFS community to gather information to give to the councils to make their allocation decisions?

Mr. GUDES. Well—

Mr. GILCHREST. Or is that something —

Mr. GUDES. We might address an issue like how many parts of NOAA do ocean observing, what sort of programs do they run, does that current structure make sense. Fisheries—as you know, biological and fishery observing centers like FOCI would be one of the types of systems that one would consider.

As far as getting the second part of the question, getting the data to the council, I don't think that would be the type of issue that would be addressed.

If I could, Mr. Chairman, just to make sure I finished. There were 3 fundamental questions the admiral asked the NOAA employees in the program review. One was, "Are we aligned for our mission now and in the future?"

Second, "Are we resourced correctly?"

And, third, "Are our—this is my paraphrasing—our business processes as good as they could be? Are we doing business as efficiently as we could?" And it is those sort of general parameters.

And generally, NOAA corporate, if you will, if that—

Mr. GILCHREST. And that is very good and we would like to—as you come through with that kind of information, we would be very happy to participate in that process before we come up with our bills, especially the collaborative end of that, how do you synthesize all of that information, what is NOAA's mission, for example, it is a myriad of things. And there is climate studies going on out there that are going to impact and the specific purpose for the climate studies. Some of them, at any rate, is to see how they impact the fisheries. And there are observing tools out there for ocean currents and maybe a classic book could be written by an employee of NOAA as ocean currents and scallop larvae would be a best seller, I think. But to understand that ocean currents—where they carry the phytoplankton and where the larvae is carried pretty much determines how much fish you are going to have in a particular place.

So if all of that information that is absorbed by the various entities of NOAA, that data is pulled together and synthesized along with the climate variabilities, we up here can get a better picture and determine policy. I just look forward to working with you on that bottom-up review.

Mr. GUDES. Thank you, Mr. Chairman.

Mr. GILCHREST. Mr. Underwood.

Mr. UNDERWOOD. Thank you, Mr. Chairman, and I want to submit my opening statement for the record.

Mr. GILCHREST. Without objection.

[The prepared statement of Mr. Underwood follows:]

Statement of The Honorable Robert Underwood, a Delegate in Congress from Guam

Thank you Mr. Chairman. The programs and activities of the National Oceanic and Atmospheric Administration are of paramount interest to the members of this subcommittee.

In this regard, I always welcome new opportunities to have representatives from NOAA come before the subcommittee to further enlighten us about NOAA's essential role as the Federal Government's principal steward of our Nation's living ocean and coastal resources.

But as much as I enjoy hearing from NOAA, I must say that I find it odd to convene a legislative oversight hearing on several draft NOAA bills and fail to invite any witnesses other than NOAA to testify.

Rest assured, I am confident that we will hear only the unvarnished truth from NOAA about the merits or faults of these bills. But I cannot believe the we would not benefit from the views and comments of interested parties outside of the agency.

In addition, it remains uncertain to me why this subcommittee, or the Congress in general, should be considering at this time organic legislation to authorize the administration and organizational structure of NOAA.

At present, two separate panels—the National Commission of Ocean Policy and the Pew Oceans Commission—are in the midst of comprehensive reviews of U.S. domestic ocean policy, governance and resource management. Both commissions are likely to produce valuable insights and comprehensive recommendations that could be pivotal in determining how best to reorganize not only NOAA, but also how to reshape the entire Federal Government as it applies to our future interaction as a society with the ocean environment.

By these comments, it is not my intent to insinuate that the ideas contained in these draft bills are without merit. Nothing could be further from the truth. In fact, ideas such as re-authorizing the Hydrographic Survey Act, or authorizing an entirely new integrated coastal monitoring program, are laudable and worth pursuing.

Rather, I am simply saying that we may be acting prematurely. If we do decide to move organic authorizing legislation for NOAA, I strongly suggest that we will need a more thorough vetting of these ideas to ensure that the subcommittee has all the facts in hand before proceeding.

As always, Mr. Chairman, I look forward to working cooperatively and in a bipartisan fashion with you, and with the other members of this subcommittee, to ensure that NOAA remains the Federal Government's pre-eminent authority on ocean and coastal matters. Thank you.

Mr. UNDERWOOD. I thought you might object.

Mr. GILCHREST. I was thinking about objecting.

Mr. UNDERWOOD. I want to submit Mr. Pallone's statement for the record.

Mr. GILCHREST. Without objection.

[The prepared statement of Mr. Pallone follows:]

Statement of The Honorable Frank Pallone, Jr., a Representative in Congress from the State of New Jersey

Mr. Chairman, I have strong concerns about the draft reauthorization measure for the National Oceanic and Atmospheric Administration (NOAA) because it does not include adequate authorizing text for the National Undersea Research Program (NURP). Instead, there is inclusion of a new mandate to authorize the Ocean Exploration program, a new program that duplicates the NURP mission in many respects. It was a shock to me that NURP did not receive much in the way of support in this bill.

NURP has a long record of accomplishment that includes science-based programs resulting in information used to form national policy on deep sea disposal, fisheries management and shoreline protection. NURP has been in existence for over 20 years but has never received formal reauthorization, and instead has relied on Congress to support it through the budget process. The six regional undersea centers comprising the NURP perform a major role in the nation's research effort, promoting the sustainable development of aquatic resources, global environmental change and ocean technology.

The National Undersea Research Center for the Middle Atlantic Bight region is located in my district at Rutgers University. The Center, which was created in 1992, has focused on establishing Long-term Ecosystem Observatories that enable multidisciplinary science using in situ observations and manipulations. A key strength of NURP is its partnerships with scientists and resource managers from academia, private research institutions and Federal, state and local agencies.

The language that has been created for the authorization measure for NURP is simple and has been approved by both NOAA and the 6 regional NURP centers. I would like an explanation for why NOAA did not move forward on text that was already agreed upon by all NURP regional centers and NOAA itself.

In addition, formal language is needed that promotes partnering between NURP and the Ocean Exploration program since NOAA can save money if the two programs work together. The new Ocean Exploration program possesses several unique objectives that can complement the NURP mission and long record of achievement.

By working more closely together, both programs can become a more efficient and effective asset for NOAA research.

Mr. UNDERWOOD. Mr. Gudes, you know the National Undersea Research Program, NURP, was agreed upon last year by all 6 NURP centers and NOAA itself, that you know it was going to receive some attention and some priority. Don't you think it should be included in the reauthorization of NOAA specifically?

Mr. GUDES. I think the bill before the Subcommittee—you have addressed it under ocean exploration as a generic term, if I understand it, which relates both to—I believe this is what the Subcommittee has proposed—both the ocean exploration program, undersea research program and actually, I think, some of the related programs like JASON. That is the Subcommittee's judgment, I think, on whether there should be subelements to that.

Mr. UNDERWOOD. I appreciate that, but I am asking for what you think and what NOAA thinks about specifically identifying the NURP program.

Mr. GUDES. I think NURP is an excellent undersea research program being conducted at 6 centers and has been going on since the late 1970's, early 1980's timeframe. I think the ocean exploration program that this Subcommittee helped get going 2 years ago—the NURP program were both complementary programs. I probably see the similarities between undersea research and ocean exploration maybe more than the two programs do. And I think that they are, in fact, slightly different.

I think when we talked last year, we talked about nonhypothesis-driven research.

Mr. UNDERWOOD. Just seems like yesterday.

Mr. GUDES. You had said that you didn't quite understand that, and I almost said back to you I don't quite understand it, either, but I couldn't say that. I think there are ways of doing undersea research and exploration in doing the right kind of things that NOAA needs to do and the country needs to do, and there are slightly different ways of doing it. Ocean exploration is a little bit oriented toward going to areas to see what is there, but also a little bit different in terms of who competes. It is bringing more partnerships into the program. It is bringing new undersea exploration partners into the program.

In the NURP program we have been funding the infrastructure at 6 centers. They are very solid—I can go through them, if you want, and I think that that helps provide the infrastructure and underpinning and, in fact, just to show you back what I said, there are a number of these initiatives and competitions run under the ocean exploration program which NURP centers are competing for and winning.

So, for example, we will be conducting research in the Arctic area of Alaska and in the Gulf of Alaska and the University of Alaska NURP program will likely be a member of that and a part of that.

We conducted exploration missions along the East Coast last year. University of Connecticut, Avery Point NURP Center, Rutgers, New Jersey NURP Center, and University of North Carolina-Wilmington were all part of that exploration mission. So I really do see them as interrelated programs.

Mr. UNDERWOOD. Just to understand—you know, I know that NOAA's currently undergoing this bottom-up review. And also in the current environment, there is also the National Commission of Ocean Policy and the Pew Ocean Commission are also conducting in the midst of comprehensive reviews of U.S. Domestic policy, ocean policy governance and resource management. How are those efforts different or how do they complement yours, and how is it, in your mind, do you think we can make the best use of all of those efforts in the Subcommittee?

Mr. GUDES. I think all of these things, first of all, are very positive. I think Admiral Lautenbacher said last year when I saw him at the Ocean Policy Commission, we do this once every 30 years, Stratton Commission, the new commission, a good fundamental review, Federal-wide what we are doing, nationwide what we are doing. Again the Pew effort. I think this is all positive. It is all about the year of the oceans, it is all about the sort of efforts that you all have been advocating. A number of these are external groups of which they are looking in part at NOAA and telling us what they think we do well or don't do well or how we fit.

The internal review—the program review is an internal review. It is NOAA employees coming forward and taking a look how we—and it goes beyond just ocean programs, all NOAA atmospheric ocean programs from solar forecasting to undersea research, how we think we fit together as an organization internally and a little bit looking out. So it is two sides of some of the same issues.

I don't think these other groups will be looking at business practices, for example, which we are within NOAA, things like human resources.

I talked about education. Human resources, how are we going to attract the kind of work force that NOAA is going to need to attract to be the premier scientific agency, research and service agency, stewardship agency in 5 years, 10 years, 20 years as the workforce is declining. Those are the kind of issues that we are taking about. Probably these other commissions are not. So they are all related.

Mr. UNDERWOOD. Thank you.

Mr. GILCHREST. Thank you, Mr. Underwood. Mr. Saxton.

Mr. SAXTON. Thank you, Mr. Chairman. I would like to submit my statement for the record as well.

Mr. GILCHREST. Without objection.

[The prepared statement of Mr. Saxton follows:]

Statement of The Honorable Jim Saxton, a Representative in Congress from the State of New Jersey

Good afternoon Mr. Chairman and members of the subcommittee. Thank you to the witnesses for taking the time to be here today. I am pleased this hearing is being held to discuss a number of draft bills, including the National Oceanic and Atmospheric Administration Act of 2002.

I would like to express my concern however, with one provision of this bill. The current draft does not include adequate authorizing text for the National Undersea Research Program (NURP). In fact, the draft bill does not adequately provide for this program, which is a hallmark for the nation's undersea research, education, and technology development efforts.

Of particular concern is the inclusion of a new mandate to authorize the Ocean Exploration program, a mandate that duplicates the NURP mission in many respects. NOAA and the Council of NURP Center Directors drafted authorization text for NURP last year. I respectfully request you consider this modification as a substitute for the current language in the draft bill.

In addition, collaboration between the NURP and Ocean Exploration programs needs to be improved. NURP has many strengths that can be brought to bear on the emerging Ocean Exploration program. I have long been a strong supporter of the NURP program, and look forward to working with the Chairman and the other members of the subcommittee to address the concerns I have with this bill, as it is currently written.

Thank you, and I look forward to hearing from the witnesses.

Mr. SAXTON. And I would also like to say there are others who share Mr. Underwood's concern that the current draft does not include adequate authorizing text for the National Undersea Research Program, and I have discussed this with staff, including John Rayfield who is sitting next to me. And my opening statement discusses this issue in detail. I am satisfied that we will be able to work this out between now and markup, so—

Mr. GILCHREST. I would—I will be glad to work it out with Mr. Underwood, Mr. Saxton, and certainly NOAA. National undersea research and ocean exploration programs to me are extremely critical into finding out what we don't know. We can't set a program and create status and standards until you get out there to see what is out there. And I think part of that phenomenon is finding out about those thermal vents where you have these creatures that don't use sunlight to survive. Some extraordinary things we can find out in this—what was that—we can end this Congress. Congress is a human institution, so we have some strange phenomenon happening here on a regular basis, but that is to be expected, I think, sometimes enjoy.

But the ocean exploration, Mr. Saxton, I want to assure you that I am not sure $14 million dollars that is authorized for that is enough. So if we can pursue that and make sure that—the discussion we had 2 years ago was a good discussion, Mr. Gudes. I would certainly urge you to ensure in that bottom-up review that the Members of Congress at least in this Committee are urging you to continue that with all deliberate speed and all the curiosity and ingenuity that you can muster. So we will work with Mr. Saxton in developing the language.

Mr. Faleomavaega?

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. I am a little deaf. I was trying to figure, did you say nurd center or nerve center?

I do want to echo the sentiments expressed by Mr. Saxton about the consolidation and whatever efforts that NOAA is trying to do here.

I do have some questions to Mr. Gudes. I think I have introduced a bill about something to do with tsunami warning and wanted to see if NOAA—I know there is a tsunami center that has been built or constructed in Hawaii. But it provides only with reference to coastal States. But leaving out the ancillary areas—and I wanted to ask Mr. Gudes if this was intentional or is this an oversight? Can we be a little more inclusive in terms of the programs out of the tsunami program that is currently being implemented?

Mr. GUDES. Congressman Faleomavaega, we run 2 tsunami warning centers. They are actually under the weather service part of NOAA. One is in Palmer, Alaska, and one is in I think Eva Beach in Hawaii. I believe that we do, in fact, present an inter-

national structure and provide tsunami warnings to the islands of the Pacific, just like the weather service very strongly works on providing weather services across the Pacific, but I will get back to you if I am incorrect on that.

Mr. FALEOMAVAEGA. I would appreciate. There has also been consideration—and here again I am pleading ignorance about the global warming research, if NOAA is actively engaged in this. You know, my good friend from California, a distinguished Member of Congress who happens to chair one of the Science Subcommittees, described global warming as global baloney. And I sincerely hope that this is not NOAA's position in terms of the seriousness of this phenomenon or this issue and that we will be getting accurate scientific data to support the concerns about this issue. And I wanted to ask you if this is an ongoing program as well with NOAA.

Mr. GUDES. Absolutely, Congressman, global change and climate research are among the most important programs run in the agency. We spend some $305 million or so on climate services and climate research in NOAA. It is an area where when people talk about atmospheric NOAA and oceanic NOAA, you can't make that distinction because the oceans are the drivers of the world's climate. And this is an area that we have been stepping up to for some period of time. The TAO Array across the Pacific by which we know El Nino, for example, started in the early 1980's and it is something that really showed the way, if you will, for what can be done on a worldwide ocean-observing system such as the Committee is talking about.

Mr. FALEOMAVAEGA. This is also taking sentiments expressed by Congressman Underwood and which I am very interested in the fact that probably the 2 deepest areas in the world, one is called the Marianas Trench and also the Tallin Trench. And I wanted to ask if NOAA is seriously proactive in terms of doing as much exploratory research. And I think if I am correct, and please correct me if I am wrong, these are the 2 deepest areas of the ocean floor. It is in the Marianas near Guam and one near my district in Tonga.

Mr. GUDES. On the civil side, I believe this is correct. We don't have submersibles that would go that deep. I think the Japanese do. But Ocean Exploration and National Undersea Research Program are programs that are not just within the US EEZ. They are also looking at international areas. There is actually a mission going on now in the Galapagos area off of South America taking a look at some seafloor spreading vents, as the Chairman was talking about. And I must say that for me, I am a major advocate of NOAA playing its role and the United States playing its role in ocean exploration.

I was down at the Aquarius habitat, undersea habitat in the Keys where men and women work undersea. It is part of the NURP program we were talking about, and I am absolutely supportive of the comments that have been made here today.

Mr. FALEOMAVAEGA. We had a joint hearing sometime last year, and one of the things I came to understand and we got this 900-pound gorilla, It is called the U.S. Naval Research Laboratory that sits somewhere on the West Coast and probably have some here on the East Coast. And a lot of times when we do the research in deal-

ing with the oceans, marine life, all of a sudden, it says classified. It is security. Something of this nature. How extensive is NOAA's efforts to make sure that information and knowledge or data that we get is for public information that is not going to compromise our national security? When we talk to the Navy, they don't say much about it.

Mr. GUDES. Well, we wouldn't compromise national security, but we are an agency that works very much in an unclassified format. If you turn to our web site, NOAA.gov, you will see how much we try to get our information out to the public, schools and kids. We work through ocean partnership, research, leadership and on a day-to-day basis with the U.S. Navy. Your staff on the Committee here came down to the Monitor Marine Sanctuary in North Carolina. Great example of U.S. Navy and NOAA working together to recover parts of the USS Monitor which sank off of Cape Hatteras in about 1863 or 1862, and part of the marine sanctuary. The Navy brought in their salvage divers and a saturation environment and really a successful effort. We do work very closely with NAVOCEANO and Bay St. Louis, and I think it is a great example of what can be done when Federal agencies work together.

Mr. FALEOMAVAEGA. Would you say we are not as advanced as Japan and other nations as far as ocean exploration is concerned?

Mr. GUDES. I don't know the answer to that. I think on the civil side, one of the positive events that happened in the last few years was this Commission on Ocean Exploration—President's Commission on Ocean Exploration and taking a look at what we needed to do. Certainly in NOAA I think it woke us up to do more, and I think that in terms of submersibles it is probably significant that most of the submersibles we are using were built in the 1960's.

I was out on Pisces 4 with the University of Hawaii and went to 1,200 feet off of Hawaii to do an exploration mission. And many of these submersibles are 30 years old. Now they have been renovated, but the country really hasn't been investing in technology. The Aquarius habitat that I talked about again I think is probably 20-year-old technology and it is something we are taking a look a look at internally within our NURP program, ocean exploration program.

[Information submitted for the record follows:]

Question for Scott Gudes from Rep. Faleomavaega

Question: Would you say we are not as advanced as Japan and other nations as far as ocean exploration is concerned?

Answer: While the U.S. is not as advanced as other nations, we are making good progress in ocean exploration-related efforts.

"Discovering Earth's Final Frontier: A U.S. Strategy for Ocean Exploration," written in 2000 by the President's Panel on Ocean Exploration, described some of the issues facing ocean exploration. The Report described some of the challenges facing U.S. ocean exploration efforts compared to other nations. For example:

- Japan, France, and Russia have submersibles that are newer than U.S. vessels and which can also dive to deeper depths.
- Japan is the only nation with a full ocean-depth remotely operated vehicle (ROV) that can reach the deepest depths of the ocean.
- Our premier deep diving submersible, Alvin was built in 1964. Although it is regularly overhauled and completely safe, its maximum depth of 4,500 meters is shallower than that of several foreign submersibles.
- Ireland has mapped a larger percentage of its Exclusive Economic Zone than the U.S.

The U.S. has been making progress in improving its ocean exploration efforts. In fiscal year 2001, we initiated a new program in Ocean Exploration in NOAA with an appropriation of $4 million. The Administration requested an increase in fiscal year 2002 to $14 million, which Congress enacted. The Office of Ocean Exploration, in cooperation with its many partners, has been working to address the recommendations of the President's Panel. For example, the Panel recommended that "The Program should include a coordinated effort to improve and promote ocean science education." One product that addresses this goal is the Ocean Exploration website, which presently attracts over 1.5 million hits per month from people of all backgrounds. The Office also develops lesson plans that teachers use in the classroom to promote a better understanding and appreciation of ocean science. The Office of Ocean Exploration is working presently with other partners from across government, industry, and academia to address the other recommendations found in "Discovering Earth's Final Frontier: A U.S. Strategy for Ocean Exploration."

Mr. FALEOMAVAEGA. Do you think we need to increase the authorization for deep sea research like the submersibles? If you're saying we are 30 years behind, that means we are really behind. I remember the Cook Islands government had to solicit the expertise of a Norwegian research group to find out that there is approximately a little over $200 billion worth of manganese nodules in the Cook Islands and not one American firm or no corporate ingenuity—I thought we were a high tech country, but apparently we are not. And I am wanting to know that maybe we are not focusing properly on these kinds of priorities that we ought to look at.

Mr. GUDES. The House Ocean Caucus has been very much an advocate of ocean research and education. I agree with all your comments. Every time one of these missions comes back, going back to the Chairman's comment, they find some new life form, some type of squid, coral or octopus we have not seen. When we go to other planets looking for life forms, on this planet we know there is a lot of life forms that we haven't found yet and I think it is exciting. Our budget actually provides for in NOAA about 30 some odd million, what I would call this package of programs, which is submersibles. I would include in that the ocean exploration line which is 14 million, the national undersea research line, which is 13; The JASON which is about getting out work—Bob Ballard's work and others. The vents program off of the West Coast; the sustainable seas expeditions, which is under our ocean service with Sylvia Earle and National Geographic. You put all that package together, they are doing similar type of work, which is about exploration and discovery.

The last point I would like to make, what I said about education, part and parcel, big part of these programs is getting this information out to schools, out to kids, getting the youth of the country to take part in these missions and to follow these missions and create explorers of the future. I think that is absolutely critical.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman, for your patience, and Mr. Gudes, for your patience. I say here we are and we are ready to go to Mars and we can't even get under the depths of the ocean to find out what is down there. It is amazing.

Mr. GILCHREST. I would agree with your comments and I think all of us on this Committee would prefer to quadruple the budget to NOAA for all its responsibilities.

Mr. Gudes, I would like to ask just 2 brief questions. One is in this bottom-up review, is NOAA evaluating the value of manned submersibles versus unmanned submersibles and where—likely I would guess you are going to come up with some combination of the 2, but where the emphasis will be on over the next number of years?

Mr. GUDES. To answer your question, no, I can say that as the Chairman—and there wasn't—that that wasn't addressed in the bottom-up review.

Mr. GILCHREST. Is that an ongoing question for NOAA?

Mr. GUDES. Yes. I had the great opportunity to sit with Dr. Robert Ballard and Dr. Sylvia Earle who are on two sides of the spectrum to solicit a debate on this issue a few years ago and I think it is sort of a bit like our space program. You can do a lot of things remotely very well. ROVs, AUVs are a big part of the equation, but there is something about capturing the imagination and getting people actually into the issue of discovery that happens with submersibles. It is really quite exciting. And, you know, we run a space station in NOAA along with the University of North Carolina-Wilmington. It is called the Aquarius. It is 3 miles off of Key Largo. It is in 60-something feet and people live and work.

Going back to the Congressman, we have NASA astronauts doing missions this summer to train in the Aquarius to really get the first space station work. And on next Monday I will be at the Kennedy Space Center taking part in the Link symposium to talk about NASA and NOAA working together using space exploration and robotics and technology and ocean exploration. So it is an exciting area, and I do not know where it comes up. I think both are part of the equation.

Mr. FALEOMAVAEGA. Would the Chairman yield? I just wanted to ask Mr. Gudes, am I correct to presume that the Navy does have the most modern up-to-date submersibles now in service?

Mr. GUDES. I would like to get back to you on that with one of our experts like Craig McLean, the head of Ocean Exploration, to give you a better assessment. There was a national undersea civil side assessment done a few years ago which I can provide the Subcommittee. I don't know in the unclassified world in the Navy how that compares.

[Information submitted for the record follows:]

Question for Scott Gudes from Rep. Faleomavaega

Question: Mr. Gudes, am I correct to presume that the Navy does have the most modern up-to-date submersibles now in service?

Answer:

- The Navy operates submersibles that can be used for undersea research. These include the nuclear powered NR–1 and the USS Dolphin (AGSS 555) a diesel-electric submarine. Their maximum operating depths are 2,375 feet (724 meters) and 3,000 feet (915 meters), respectively. These submersibles are used for both civilian and military research activities.
- The deepest diving research submersible owned by the Navy, and operated by WHOI, is the DSV Alvin that has a depth capability of 14,765 feet (4,500 meters) and conducts approximately 100 dives/year on mostly non-military related projects. Studies are underway to extend the Alvin depth to 21,325 feet (6,500 meters). The Navy retired the DSV Turtle and DSV Sea Cliff several years ago.
- While these submersibles were originally launched decades ago, they have been overhauled and retrofitted many times with up-to-date equipment and devices

for conducting undersea operations. France, Japan, and Russia operate submersibles that have a deeper depth capability than Alvin, and their deep sea research capability, other than for depth, approaches that of the Navy deep submergence vehicles.

Mr. GILCHREST. The other question—and I appreciate that response and certainly, given the budget constraints, the most effective use of those dollars for manned and unmanned submersibles, maybe the unmanned would be the data gathered for better understanding of the currents and the various aspects of the ecosystems for the purpose of understanding the fisheries and the pure exploration for the wonder and the vision that humans can supply would be the manned submersibles.

The other question, Scott, is a plan for the U.S. portion of global ocean observing system. We would like to move forward with that, but we really don't want to move forward unattached to your ideas. So if you could give us some idea when your plan would be vetted so that we can incorporate it into our legislation, we would really appreciate it.

Mr. GUDES. I think that is a good tie-together, Mr. Chairman, as you talk about the ecosystems. It isn't just about the submersible work we talked about. It is about the overall ocean observing systems, really understanding the whole ecosystem. And I probably should have focused on that as much as I did about actually looking at ROVs and submersibles. We are in the process of generating—both looking at coastal-observing systems, ocean-observing systems, global ocean-observing systems. It is an interagency effort. A draft of the plan should be out by mid-June and is scheduled, I am told, to be by the end of this summer. It will lay out a preliminary architecture of what a system would look like. I believe this goes back to the science advisor to provide to—I know a bit about it. It is really talking about the things we need to measure, the type of measurements we need to get both in the coastal regime as well as the deep oceans, and there is a difference in the products and uses and the type of technologies and some sense of how dense those observing systems should be. And that is, I think, an excellent effort.

Mr. GILCHREST. And then synthesize all the data.

Mr. GUDES. Data is in all of our programs, I think. Whether we are talking satellite systems, NOAA has come to realize you got to do end-to-end planning, that getting that data, understanding how you are going to use it and store it and get it out to the users is absolutely critical, has to be on the front end.

Mr. GILCHREST. Thank you very much. Did you have a follow-up question, Mr. Underwood?

Mr. UNDERWOOD. Thank you, Mr. Chairman. Just on the question—on the issue raised by the Chairman on the global ocean-observing system implementation plan and the integrated coastal ocean observation system. Of course, it goes without saying that I am hoping that the islands of the Pacific is given adequate attention in that effort.

Mr. GUDES. Absolutely, Congressman. Absolutely, we take our responsibilities in our programs in the Western Pacific very seriously.

I should have mentioned earlier, this is normally looked upon as a Science Committee issue, but I talk sometimes here about satellites. We are actually going to be activating and moving one of our geostationary satellites to the west to cover Guam and Japan because there are some issues with Japanese GMS satellite coverage. It is what we call our GOES-9 satellite, and we are going to be working with the Japanese building a GOES receiver in Alaska. So we will actually be moving to help them provide that coverage, because usually in Guam and Japan and East Asia, it would be the Japanese user system.

But we absolutely do take that very seriously in all of our programs.

Mr. UNDERWOOD. And when you do then, maybe you can talk to the house into adapting its BlackBerry system so I can access the BlackBerry in Guam, too, because, you know, I feel like the whole House is discriminating against me, because everyone else can access their BlackBerry in their home district.

I have just one more point—

Mr. GILCHREST. We don't have a BlackBerry system on the Eastern Shore of Maryland. My BlackBerry has never been turned on. It sits on my desk upstairs, and it doesn't work over there on the Eastern Shore.

Mr. UNDERWOOD. Just last on the—this is out of scope of the Subcommittee, but on the National Weather Service, on the planes going into hurricanes, you know, it is my sincere hope that those planes go into typhoons once in a while. We get 60 to 70 storms per year on the other side of the dateline, and almost all of them pass in or around Guam, the Northern Marianas or the Federated States.

Mr. GUDES. Yes, sir. We are always looking at—actually, that is one of the things I do in my job as Deputy Under Secretary, fleet allocation; and I can tell you there are always more demands on the two P-3s we have in G-4 than—but I was here when you were talking to the Admiral, and I understand that issue very well of the Western Pacific, and I will continue to look into that, sir.

Mr. UNDERWOOD. Thank you.

Mr. GILCHREST. Thank you, Mr. Underwood.

And we will probably put into one of these undersea research programs a line about how to use that research and expiration to eliminate the brown tree snake in Guam. There must be some connection there with that.

Mr. GUDES. Drown them.

Mr. GILCHREST. OK. Encourage those typhoons to hit Guam more often. You can strike that for the record. Whoever is typing that down, though, it is not a good thing to say.

We appreciate your ongoing effort, Mr. Gudes, and we look forward to working with you over the next couple of weeks, and perhaps when the draft is ready, we can take a look at it and model some of our language after your draft plans. But we look forward to working with you.

Mr. GUDES. Us, too, Mr. Chairman. And let me just thank this Subcommittee again for your leadership and your interest in our programs; and on behalf of the country, we and—all of our NOAA employees, we really do appreciate it. Thank you.

Mr. GILCHREST. Good luck. Thank you.

We will now go back to the—we are on Panel III: Mr. Mitchell Ellis, Chief of the Branch, Wildlife Resources, National Wildlife Refuge System; and Mr. Frank Dokter, President, Walter's Camp, Inc.

Mr. Ellis, is anybody here from BLM that would like to sit up at the table?

Mr. ELLIS. Yes, there is actually.

Mr. GILCHREST. Gentlemen, thank you. We appreciate you traveling across the continent to visit with us today.

STATEMENT OF MITCHELL R. ELLIS, CHIEF OF THE BRANCH OF WILDLIFE RESOURCES, NATIONAL WILDLIFE REFUGE SYSTEM, U.S. FISH AND WILDLIFE SERVICE

Mr. GILCHREST. And, Mr. Ellis, welcome. You begin.

Mr. ELLIS. Thank you. Mr. Chairman and members of the Subcommittee, I am Mitchell Ellis, Chief of the Branch of Wildlife Resources for the National Wildlife Refuge System. I appreciate the opportunity to testify today in support of H.R. 3937, which will revoke a small portion of Public Land Order 3442—let me start over.

I appreciate the opportunity to testify today in support of H.R. 3937, which will revoke a small portion of the original Public Land Order 3442, dated August 21, 1964. This Public Land Order withdrew approximately 16,600 acres of public domain lands along the Colorado River in California and Arizona for the creation of Cibola National Wildlife Refuge. However, the withdrawal erroneously included a small area of approximately 140 acres in Imperial County at the southern boundary of the California portion of the refuge.

Prior to 1964, this property fell under the jurisdiction of the Bureau of Land Management, and beginning in 1962, the BLM had issued a permit for public recreation concession on the lands now in question. Because the U.S. Fish and Wildlife Service and the BLM failed to effectively address this mistake in legal descriptions on the ground, the BLM continued to renew the original permit, and the recreational concession has continued unbroken to the present time, although the BLM lease did expire in April of this year.

The concession and location are commonly known as Walter's Camp, and it consists of a recreational vehicle park, a small marina, a store; and the BLM estimates that Walter's Camp receives about 11,000 visitors per year.

The National Wildlife Refuge System Administration Act requires that all uses of refuge lands be compatible with the purposes for which the refuge was established. Section 4 (a) of the Act and section 204 (j) of the Federal Land Policy and Management Act both prohibit the Secretary of the Interior from revoking withdrawals of land from National Wildlife Refuges. For this reason, congressional action is required to remove these lands from the refuge system.

Given the fact that the concession is not directly related to wildlife, it is highly unlikely that the service could find it to be compatible with refuge purposes. Absent legislative action, we would most likely be forced to evict the concessionary should these lands re-

main in the refuge. The Department has been exploring alternatives to address this issue since the error was discovered in 1999.

Since the inclusion of these lands in the Public Land Order was certainly a mistake, due to the prior existence of a concession, we believe the most equitable solution is removal of the lands from the refuge. There are no threatened or endangered species inhabiting the 140 acres, and the area in question is, at best, marginal wildlife habitat. Removal of the 140 acres of land from the refuge would allow for the continuation of the recreational concession, while still affording more than adequate protection for the nearest significant wildlife habitat feature, Three Fingers Lake.

We believe that withdrawal of these lands will benefit all parties involved—the concessionary, the service, the BLM and, ultimately, the public. For this reason, we support the bill and urge prompt action on enactment of H.R. 3937.

Mr. Chairman, that concludes my statement. I would be happy to answer any questions you might have.

Mr. GILCHREST. Thank you, Mr. Ellis.

[The prepared statement of Mr. Ellis follows:]

Statement of Mitch Ellis, Chief, Branch of Wildlife Resources, National Wildlife Refuge System, Fish and Wildlife Service, U.S. Department of the Interior

Mr. Chairman and Members of the Subcommittee, I am Mitch Ellis, Chief of the Branch of Wildlife Resources, National Wildlife Refuge System. I appreciate the opportunity to testify today in support of H.R. 3937, which will revoke a small portion of Public Land Order 3442, dated August 21, 1964. This Public Land Order withdrew approximately 16,600 acres of public domain lands along the Colorado River in California and Arizona for the Cibola National Wildlife Refuge. The withdrawal erroneously included a small area of approximately 140 acres in Imperial County at the southern boundary of the California portion of refuge.

Prior to 1964, this property fell under the jurisdiction of the Bureau of Land Management (BLM) and, beginning in 1962, the BLM issued a permit for a public recreation concession on the lands now in question. Because neither the U.S. Fish and Wildlife Service (Service) nor the BLM recognized the mistake in legal descriptions on the ground, the BLM continued to renew the original permit and the recreational concession use has continued, unbroken, to the present time, although the BLM lease did expire in April 2002. The concession and location are commonly know as "Walter's Camp," which consists of a recreational vehicle park, a small marina, and a store, and the BLM estimates that Walter's Camp receives 11,000 visitors per year.

The National Wildlife Refuge System Administration Act (Act) requires that all uses of refuge lands be compatible with the purpose for which the refuge was established. Section 4(a) of the Act and section 204(j) of the Federal Land Policy and Management Act both prohibit the Secretary of the Interior from revoking withdrawals of land within National Wildlife Refuges. For this reason, congressional action is required to remove these lands from the Refuge System.

Given the fact that the concession is not directly related to wildlife, it is highly unlikely that the Service could find it to be compatible with refuge purposes. Absent legislative action, we will most likely be forced to evict the concessionaire should these lands remain in the refuge. The Department has been exploring alternatives to addressing this issue since the error was discovered in 1999.

Since the inclusion of these lands in the Public Land Order was certainly a mistake, due to the prior existence of the concession, we believe the most equitable solution is removal of the lands from the refuge. There are no listed species inhabiting the 140 acres and the area in question is, at best, marginal wildlife habitat. Removal of the 140 acres of land from the refuge would free-up the area necessary for the continuation of the recreational concession, while still affording more than adequate protection for the nearest significant wildlife habitat feature, Three Fingers Lake.

We believe that withdrawal of these lands will benefit all parties involved—the concessionaire, the Service, the BLM and, ultimately, the public. For this reason, we support the bill and urge prompt action on enactment of H.R.3937.

Mr. Chairman, this concludes my statement and I am happy to answer any questions you might have.

Mr. GILCHREST. Mr. Dokter.

STATEMENT OF FRANK DOKTER, PRESIDENT, WALTERS CAMP, INC.

Mr. DOKTER. Thank you, Mr. Chairman, and I am kind of awed by all of this. This is my first time in Washington, D.C. so I am just going to make this statement, and I will probably just read it, because I am a little bit nervous.

Mr. GILCHREST. That is fine, Mr. Dokter. You are doing very well for your first time here.

Mr. DOKTER. Mr. Chairman and members of the Committee, thank you for holding this hearing on this very important matter and please allow me to introduce myself. My name is Frank Dokter, and I represent Walter's Camp. It is a small mom-and-pop campground and RV park, owned and operated by my family, and we are located on the California side of the Colorado River. And although Walter's Camp has been here since the early 1920's and operated as a business since 1962, my family began operating this business in 1978; and we operate on a BLM concession which we have—I left a copy for you for your review.

I would just kind of like to tell you a little bit about what we do. We offer a safe and fun atmosphere for people of all ages, and each is welcome to enjoy hunting and fishing and camping and rock-hounding and bird-watching, canoeing and boating. It is all on the Colorado River. It is an excellent place to raise kids, and we do a lot of fun stuff, and all of that while we enjoy some of the most beautiful scenery God ever created. It is just a beautiful place.

We provide all services, including backup for our local law enforcement; and when needed, the U.S. Marines are kind enough to provide us with the personnel and the helicopter for evacuation of injured persons or something like that. And it is really great to be able to work with the Marines on those situations. And due to our remote location, we are the only source of food and fuel and drink 40 miles upriver, about 40 miles downriver. So we are kind of out in the toolies.

Although it has been hard work to bring Walter's Camp where it is today, my family and I have had many rewards, including watching many small children grow up into fine young people. And I have seen the satisfaction in families that can—the satisfaction that can only be gained from experiencing some of America's great outdoors and wild places. And the personal relationships that I have developed over the years are invaluable. I have more godchildren than I have children, and these families have kind of grown up with me over the years that I have been there.

Walter's Camp was first authorized in 1962, but in 1964, the Public Land Order that—3442 that we discussed for the Cibola Wildlife Refuge, that happened. It was like 16,000 acres. And the problem is that when they did that, they accidentally included this Walter's Camp property into that refuge, and the area was not rec-

ognized at the time by the BLM or the Fish and Wildlife Service; and therefore, the BLM continued to renew my concession contract.

And this land was thought to have been withdrawn from the refuge many years ago and the former refuge manager even placed a fence around the refuge boundary and physically excluded Walter's Camp. However, the problem only came to light in recent months, and now the BLM cannot continue to renew my permit to operate until the matter is corrected.

Both the BLM and the Fish and Wildlife Service agree that Walter's Camp was erroneously included in the refuge, but say a legislative fix is needed to enable my family to continue renewing our permit and to remain in business.

Several months ago, I asked help from Congressman Duncan Hunter, and after hearing about my situation, he agreed to pass—help pass this bill correcting Public Land Order 3442 by withdrawing the 140 acres from Walter's Camp—withdrawing the 140 acres of Walter's Camp from the public Cibola National Wildlife Refuge.

And from what I understand, the Fish and Wildlife Service and BLM says that Walter's Camp has little or no habitat or wildlife value, and I would like to call to your attention, there are 78 private residences that border this property, and there are development plans for a 60 to 80 more of the same such residences, and some of those are now in the construction stages in Imperial Valley. They are right next to Walter's Camp.

And, Mr. Chairman, we provide many services that will be lost without the passage of H.R. 3937. Local residents and government agencies need these services, and all agree that we do not harm any of the wildlife habitat, and we are great stewards of this land that we operate on; and we would like to continue doing so—or doing what we have done for many, many years, and that is introducing many families to outdoor life.

And now I would like to take this opportunity to thank Congressman Duncan Hunter for all of his time and energy and work. I appreciate him introducing this bill that we all need so very much.

And finally, Mr. Chairman, thank you for having this hearing, and thanks to the Committee for all of your attention. And I hope that when all is said and done, you can all come and go fishing or hunting with me.

[The prepared statement of Mr. Dokter follows:]

Statement of Frank Dokter, President, Walter's Camp, Inc.

Mr. Chairman and Members of the Committee, thank you for holding this hearing on this important matter. Please allow me to introduce myself. My name is Frank Dokter. I represent Walter's Camp, Inc., a small "mom and pop" campground and r.v. park owned and operated by my family on the California side of the Colorado River. Although Walter's Camp has been here since the early 1920's, and operated as a business since 1962, my family began operating the business in 1978. I operate on B.L.M. concession contract CAAZCA 6637, which I have included a copy of for your review.

We offer a safe and fun atmosphere for people of all ages. All are welcome to enjoy fishing, hunting, water-skiing, rock-hounding, hiking, birdwatching, canoeing and boating, all while enjoying some of the most beautiful scenery God ever created. We provide all services, including back-up for law enforcement. When needed, the U.S. Marines are kind enough to provide rescue personnel and a helicopter. Due to our remote location, we are the only source of fuel, food, and drink for more than 40 miles up river or down river.

Although it has been hard work to bring Walter's Camp to where it is today, my family and I have had many rewards, including watching many small children grow into fine young people over the years. I have seen the satisfaction in families that can only be gained from experiencing some of America's great wild places. The personal relationships I have developed over the years have been invaluable. Believe it or not, I now have more God children than I have children.

Walter's Camp was first authorized in 1962, but in 1964 Public Land Order 3442 established the Cibola National Wildlife Refuge by withdrawing more than 16,000 acres along the Colorado River. The problem is that when they did that they accidentally included Walter's Camp in the Refuge. The error was not recognized at that time by the B.L.M. or the Fish and Wildlife Service, and therefore, the B.L.M. continued to renew my concession contract. This land was thought to have been withdrawn from the Refuge many years ago, and the former refuge manager even placed a fence around the refuge boundary about 13 years ago, physically excluding Walter's Camp from the Refuge.

However, the problem only came to light in recent months, and now the B.L.M. cannot continue to renew my permit to operate until the matter is corrected. Both the B.L.M. and Fish and Wildlife Service agree that Walter's Camp was erroneously included in the Refuge, but say a legislative fix is needed to enable my family to continue renewing our permit and remain in business.

Several months ago, I asked for helping from my Congressman, Duncan Hunter. After hearing about my situation, he agreed to help pass a bill, correcting Public Land Order 3442 by withdrawing the 140.32 acre Walter's' Camp from the Cibola National Wildlife Refuge.

From what I understand, the Fish and Wildlife Service and B.L.M. says that Walter's Camp has little or no habitat or wildlife value. There are 78 private residences bordering this property with development plans for 60 to 80 more, some of which are now in construction stages. Mr. Chairman, we provide many services that will be lost without passage of H.R. 3937. Local residents and government agencies need these services, and all agree we do not harm any wildlife or habitat. We are great stewards of what land we operate on, and would like to continue doing what we have done for many years, introducing many families to outdoor life.

I would like to take this time to thank Congressman Duncan Hunter for all his time, energy and work. I appreciate him introducing this bill that we all need very much.

Finally, thank you again for having this hearing Mr. Chairman, and thanks to the Committee members for your attention. I hope when all is said and done with this, you can all find time to come visit Walter's Camp when you get a chance.

[An attachment to Mr. Dokter's statement follows:]

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Yuma Field Office
2555 East Gila Ridge Road
Yuma, AZ 85365-2240
http://yuma.az.blm.gov

In reply refer to:

CAAZCA 6637 (050) April 16, 2002

CERTIFIED MAIL - RETURN RECEIPT REQUESTED, 7000 1670 0011 0195 9715

DECISION

Mr. Frank Dokter
Walter's Camp Incorporated
P.O. Box 31
Palo Verde, CA 92266

Concession Contract Extended for One Year

Effective April 15, 1980, the Bureau of Land Management and Walter's Camp Incorporated entered into a Concession Contract (CAAZCA 6637) under the provisions of Section 10 of the Act of Congress of August 4, 1939, 53 Stat. 1187, 1196, as amended. The Contract was modified on August 10, 1982, to include additional acreage.

Under Article 2, Term of Contract, the term of this concession contract was for a period of 20 years ending on April 14, 2000. The Contract provides for an extension for an additional period of years. Based on this provision, this Concession Contract is hereby extended for one year beginning April 15, 2002, and ending April 14, 2003. This Contract may be extended past the April 14, 2003, ending date if it is deemed necessary.

All Articles of this Concession Contract shall continue to apply during this one-year extension.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4, and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2804.1 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Mr. GILCHREST. Thank you, Mr. Dokter. We will take a ride on the canoe down the Colorado River and buy a sandwich at your spot.

Mr. DOKTER. Great.

Mr. GILCHREST. The gentleman from BLM, is there any comment you would like to make while you are here?

What is your name, sir?

Mr. LARSON. Lee Larson, I am here in our Washington office, working concessions and permits for BLM.

We just wanted to say that we are in support of the bill, and we have had a good relationship with Mr. Dokter; and that is why we

have had a long-term lease with him and look forward to—if passage of this, we would be able to give him another long-term lease.

Mr. GILCHREST. Was there any specific reason that when the fence was put up, the fence excluded—the fence around the wildlife refuge excluded this camp, Mr. Dokter's camp?

Mr. ELLIS. Well, Mr. Chairman, the record is a little fuzzy on that matter. There were some—

Mr. GILCHREST. Was it an understanding that that was actually BLM land as opposed to part of the Fish and Wildlife Refuge?

Mr. ELLIS. For all of those years, it was actually thought that the boundary was north of Walter's Camp, and so that was probably why the fence was put there.

Mr. GILCHREST. And the need for the legislation is that Fish and Wildlife can't issue the type of permit on their land that BLM can issue on their land? That is the fundamental issue here?

Mr. ELLIS. That is correct. Our regulations wouldn't allow us to find that type of a concession compatible with the purposes for that particular—

Mr. GILCHREST. OK.

Mr. ELLIS. Our compatibility standards are not only based against the mission of the refuge system, but also the individual purposes for each refuge. And so looking at Cibola's purpose statement—it is strictly for wildlife—it would be very difficult to pass a compatibility test; and we feel it would be best all around to simply transfer the land back.

Mr. GILCHREST. How long has this area been—there is about 17,000 aches in the wildlife refuge?

Mr. ELLIS. The refuge was established in 1964.

Mr. GILCHREST. And prior to that, was it BLM land?

Mr. ELLIS. Yes, it was, although portions of the area along the Colorado were withdrawn for reclamation purposes by the Bureau of Reclamation for the Water Storage Act in that area.

Mr. GILCHREST. I see. How much land in that vicinity is BLM land?

Mr. ELLIS. I would have to defer to my colleague here.

Mr. LARSON. Just the acreages that we had the leases on, that is all that really came back to BLM. Basically, the Bureau of Reclamation gave up their leases that were already occupied, to us, and we have been managing those leases—

Mr. GILCHREST. So other than Mr. Dokter's camp—or Walter's Camp, BLM doesn't have—or own much other land out there?

Mr. LARSON. No, not in that area. Basically, anything that—through a withdraw program that the Bureau of Land Management has, if the purpose of the withdrawal is no longer needed, then through the withdrawal program, that comes back to BLM.

Mr. GILCHREST. I see.

Mr. LARSON. Comes back to the public domain.

Mr. GILCHREST. Who takes title of the property once the transfer takes place?

Mr. ELLIS. Title of the property, of course, will remain in the United States of America, but will be administered by the Bureau of Land Management.

Mr. GILCHREST. I see. Thank you very much.

Mr. Underwood.

Mr. UNDERWOOD. Thank you, Mr. Chairman. You asked most of the questions I was going to ask, but—

Mr. GILCHREST. I am sorry.

Mr. UNDERWOOD. That is OK.

Mr. Dokter, how long has your family been there?

Mr. DOKTER. We have been there since early 1978.

Mr. UNDERWOOD. Early 1978?

Mr. DOKTER. Yes, sir.

Mr. UNDERWOOD. And how many people visit the camp on an annual basis?

Mr. DOKTER. Well, I guess it depends on who you are talking to, but we will go with 11- to 20,000. It is kind of hard to say, because sometimes we have some of the schools, Boy Scouts of America and that, that come in in busloads. So it is kind of hard to count heads.

You know, they put little counters out there on the road sometimes, and so, you know, I wouldn't butt heads with anybody as to the total amount, but I would say anywhere from 11- to 30,000 a year.

Mr. UNDERWOOD. And how much would you say you have—your family has invested in terms of the area? What have you—

Mr. DOKTER. Actually, I have invested my lifetime there.

Mr. UNDERWOOD. Well, I know.

Mr. DOKTER. Probably upwards of a million dollars.

Mr. UNDERWOOD. Maybe this is a question, Mr. Larson, for BLM. Is this kind of an unusual arrangement, or is this fairly typical for BLM?

Mr. LARSON. Well, I wouldn't want to say it was unusual. We don't want to say that we made too many errors with the survey, things of legal descriptions, but—so unusual. But basically this bill has an opportunity to make it right and get it back the way it ought to be and the way it should have been.

Mr. UNDERWOOD. And I certainly appreciate that sentiment.

Now, if the bill passes, the property is still owned by the government. Do you undergo periodic reviews as to how this property is going to be utilized? Is Mr. Dokter going to have—you know, he has invested his lifetime in it. Is he just going to use that as leverage?

Mr. LARSON. Yes. What happens is that when a lease is up, a process begins at least a year ahead of that time period to renew that lease and to see if the conditions have changed and see if there is expansion needed or whatever, those kinds of things; and the need for these things are continually addressed through our land use planning process.

Mr. UNDERWOOD. And how long is the current lease for?

Mr. LARSON. The current one that they had was 20 years, and we have just been giving 1-year extensions until this gets resolved.

Mr. UNDERWOOD. So it is a 1-year lease?

Mr. LARSON. It is on a 1-year lease, yes.

Mr. UNDERWOOD. And what are the conditions on it? What would Mr. Dokter have to do to lose that lease?

Mr. LARSON. To lose it?

Mr. UNDERWOOD. Yeah.

Mr. LARSON. Basically, there is a—

Mr. UNDERWOOD. Not that he would do anything to lose it. I am just asking in a hypothetical way.

Mr. LARSON. As a contract, there are a number of stipulations that he has to conform to that have to do with taking care of the land and public health and safety, those kinds of things.

If some of those kinds of trust things are broken, then we would have to seriously consider whether or not we want to renew that and let it go to someone else. And usually the flagrant situations involve something to do with hazards. It is safety and public health and those kinds of things.

Mr. UNDERWOOD. Mr. Ellis, the access road to the camp area, does that go through Fish and Wildlife or BLM, and is there any thought as to how that would be altered by this legislation?

Mr. ELLIS. The access road, it will continue to go across refuge property; however, we don't anticipate that being a problem. We actually use that access road to reach the Three Fingers area, which is part of the refuge. We have regulations in place that prohibit off-roading, and have been fairly successful in enforcing those. So I don't think the road would be a problem.

Mr. UNDERWOOD. Do people—Mr. Dokter, do people like to go off-roading in the area?

Mr. DOKTER. Yes, sir. Actually, you know, because there is a declining portion of our country that you can do that anymore, there is a big call for it, yes, there is. But not in that area. There are specific roads that you can take, and they are pretty much outlined by either BLM or Fish and Wildlife Service. And for the most part, people that do come out there conform to those things. They are not—you know, we don't get a whole lot of renegades out there.

Mr. UNDERWOOD. I see. Now, about what is the total acreage that the camp currently utilizes?

Mr. DOKTER. We occupy about 34 acres right now. And there is a need for expansion.

Mr. UNDERWOOD. So the bill calls for 140 acres. Is that correct? Am I correct in that?

Mr. LARSON. That is correct.

Mr. UNDERWOOD. So that is to cover anticipated growth?

Mr. DOKTER. We haven't discussed that with the Office of the BLM yet. That would be a portion of it that we would like to use.

Mr. UNDERWOOD. I see. OK. Thank you very much.

Thank you.

Mr. GILCHREST. Thank you, Mr. Underwood, Mr. Dokter, Mr. Ellis and Mr. Larson—especially Mr. Dokter.

Well, good luck with your careers with the Federal Government, Mr. Ellis and Mr. Larson—

Mr. LARSON. Mr. Chairman, I just wanted to make one thing clear. Before, when you asked me about, did we have any other lands around there, I was speaking of the withdrawals of a reclamation. But you probably already know that BLM does have a lot of land in that area. Just so you know, it is not like an isolated parcel; it would be joined by BLM land.

Mr. GILCHREST. And BLM land in that area surrounds the refuge?

Mr. LARSON. That's correct, yes. All around the area there is—

Mr. GILCHREST. Do you have an estimate as to the number of acres in that—

Mr. LARSON. No, I don't, but it is something we can get for you if you need it.

Mr. GILCHREST. A thousand, 500?

Mr. LARSON. Probably more.

Mr. GILCHREST. More. So Walter's Camp is not about to be marginalized by Wal-Marts?

Mr. LARSON. No, absolutely not.

Mr. GILCHREST. Great. All right.

Thank you all, gentlemen, very much. And I think Mr. Hunter is going to take Mr. Dokter out for dinner tonight, I would hope.

Mr. DOKTER. Boy. I would like that.

Actually, I did enjoy lunch with Mr. Hunter, and I appreciate that.

Mr. GILCHREST. Oh, that is great. Enjoy your stay in Washington, sir. You did a nice job in your testimony.

Thank you all very much. The hearing is adjourned.

[Whereupon, at 3:23 p.m., the Subcommittee was adjourned.]

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