

**Testimony of Matthew J. Strickler,  
Deputy Assistant Secretary for Fish and Wildlife and Parks,  
Department of the Interior,  
Before the House Committee on Natural Resources,  
Subcommittee on Water, Wildlife, and Fisheries**

**On**

**H.R. 5490, Bolstering Ecosystems Against Coastal Harm Act; and H.R. 2437, To revise the boundaries of a unit of the John H. Chafee Coastal Barrier Resources System in Topsail, North Carolina, and for other purposes**

**September 28, 2023**

**Introduction**

Good morning, Chairman Bentz, Ranking Member Huffman, and Members of the Subcommittee. I am Matthew J. Strickler, Deputy Assistant Secretary for Fish and Wildlife and Parks within the Department of the Interior (Department). I appreciate the opportunity to testify today on two bills related to the John H. Chafee Coastal Barrier Resources System (CBRS or System).

The U.S. Fish and Wildlife Service's (Service) mission is working with others to conserve, protect, and enhance fish, wildlife, plants, and their habitats for the continuing benefit of the American people. Congress' stated objectives in the bipartisan enactment of the Coastal Barrier Resources Act (CBRA or Act) in 1982 were to save lives; save taxpayer dollars; and conserve coastal barrier habitat by restricting new federal expenditures and financial assistance, as such expenditures encourage development in these sensitive and dynamic areas. Coastal barriers and the associated wetlands provide essential spawning, nursery, nesting, and feeding areas for fish and wildlife, and also serve to protect inland coastal communities from erosion and coastal storms and support American jobs in the fishing, recreation and outdoor tourism industries. I am proud of our work in administering CBRA to achieve its objectives. These objectives align with our mission and have been supported by both Republican and Democratic administrations alike over the last four decades.

When President Reagan signed CBRA into law, he characterized it as a program that meets a national problem with less federal involvement, not more.<sup>1</sup> The law leverages the free market to achieve its goals. The law does not prohibit or regulate development, but reduces federally funded incentives for new development in hurricane- and erosion-prone areas, where building puts people in harm's way and may otherwise not be economical. Recent studies have shown that CBRA has been highly successful in achieving its objectives. The law is estimated to have saved over \$9 billion in federal disaster aid and is projected to save billions more into the future as climate change exacerbates existing hazards along our coasts.<sup>2</sup> Urban development rates within the CBRS are about 75 percent lower than those outside of the CBRS, with density levels similar to parks and wildlife refuges.<sup>3</sup> Parcels within the CBRS are significantly less likely to be armored with hardened structures such as seawalls.<sup>4</sup> These reductions in development and shoreline armoring result in better habitat and more resilient beaches.

The bills under consideration today seek to reauthorize CBRA and modify the boundaries of the CBRS. We offer the following background information along with our views on the two bills. We look forward to working with the Subcommittee as you consider these revisions to the law and the maps.

### **Overview of the CBRS and the Service's Map Modernization Efforts**

With the passage of CBRA (Pub. L. 97-348) in 1982, Congress designated privately-owned areas along the Atlantic and Gulf of Mexico coasts within the CBRS. Most new federal expenditures and financial assistance, including federal flood insurance, are prohibited in designated areas. In 1990, Congress reauthorized CBRA (Pub. L. 101-591) and expanded the CBRS to include both additional private lands as well as areas held for conservation and recreation. The CBRS now encompasses 870 geographic units spanning about 3.5 million acres along the Atlantic, Gulf of Mexico, Great Lakes, U.S. Virgin Islands, and Puerto Rico coasts. The law contains exceptions for certain activities and allows pre-existing structures added in 1982 and 1990 to maintain their federal flood insurance until such time that they are substantially improved or damaged. The Service is responsible for administering CBRA, which includes maintaining and updating the official maps of the CBRS, making recommendations to Congress for changes to the boundaries, and consulting with federal agencies that propose to spend funds within the CBRS under the exceptions. Congress plays an important role in the implementation of CBRA by considering and adopting the Service's recommended map revisions into law.

The complete set of maps depicting the CBRS was last comprehensively revised in 1990 using now antiquated manual cartographic technologies and base maps. The 1990s-era maps are imprecise, difficult to use, and in some cases contain errors affecting property owners and project proponents. Congress recognized the challenges associated with the maps, and in the 2000 reauthorization of the Act (Pub. L. 106-514) directed the Service to conduct a Digital Mapping Pilot Project (pilot project). At that time, Congress also codified the development criteria that the Service must consider when evaluating whether additions to or removals from the CBRS are appropriate. The pilot project was transmitted to Congress in 2016.

In 2006, Congress reauthorized CBRA (Pub. L. 109-226) and directed the Service to modernize all the CBRS maps and recommend qualifying additions. Since then, throughout several Administrations, the Service has worked in a bipartisan manner with Congress to make significant improvements to the maps through a transparent "comprehensive map modernization" process that utilizes 21<sup>st</sup> century mapping technology, includes public input, and is underpinned by the statutory development criteria and objective mapping protocols. In 2013, the Service was provided Hurricane Sandy Supplemental funding to comprehensively modernize the maps of the CBRS along the Mid-Atlantic and New England coasts. Maps for all CBRS areas in the following nine states are included in this project: New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia, covering 16 percent of the total existing acreage of the CBRS. The Service transmitted these 176 final recommended maps to Congress on April 5, 2022, as part of our *Report to Congress: John H. Chafee Coastal Barrier Resources System Hurricane Sandy Remapping Project*.

To date, including the Hurricane Sandy maps, the Service has produced comprehensively revised maps for more than 30 percent of the CBRS acreage. Congress has adopted a subset of these maps, covering 9 percent of the CBRS (including most of the maps produced under the 2016 pilot project), through the Strengthening Coastal Communities Act of 2018 (Pub. L. 115-358) and other technical correction legislation. The Service has also digitized (but not comprehensively revised) the remaining CBRS maps through the statutorily directed 5-year review that accounts for natural changes affecting coastal barriers in the CBRS such as erosion and accretion. There remains much work to do to comprehensively revise the CBRS maps. However, the collaboration between Congress and the Service, and the involvement of the public, has helped bring the maps into the modern age, making them more accurate and user-friendly and ensuring the long-term integrity of the CBRS.

### **H.R. 5490, Bolstering Ecosystems Against Coastal Harm Act**

The Bolstering Ecosystems Against Coastal Harm Act (BEACH Act) would reauthorize CBRA and adopt comprehensively revised maps prepared by the Service for more than 450 CBRS units, including those maps prepared through the Hurricane Sandy Remapping Project and other technical correction reviews. This action would correct past mapping errors, including removing hundreds of private properties from the CBRS that, according to the Service's objective review, should not have been included in the CBRS. Adopting these maps would also add areas to the CBRS, reducing development pressure in coastal barrier habitats. This, in turn, would serve to conserve natural storm buffers and maintain habitat for many at-risk species of fish and wildlife. The bill would also require the Secretary of the Interior (Secretary) to establish a disclosure requirement for real estate transactions, require all affected agencies to revise or issue regulations and guidance as necessary to ensure compliance with the updated Act, and make many other minor and technical clarifications to the law. The Administration supports H.R. 5490 with some recommended changes, as outlined below, and looks forward to working with the Subcommittee to clarify a provision related to Otherwise Protected Areas (OPAs).

#### ***Title I – Coastal Barrier Resources Act amendments***

The Administration supports the reauthorization of CBRA and the expansion of the CBRS, which will help to reduce future losses by keeping people and infrastructure out of harm's way, while also creating climate-resilient landscapes to conserve habitat for fish and wildlife. While the BEACH Act takes important steps, in light of the ever-increasing federal costs to supporting coastal development, the Administration recommends additional amendments to: (1) revise the definition of a "coastal barrier" to include areas that are and will be vulnerable to coastal hazards, such as flooding, storm surge, wind, erosion, and sea level rise; (2) assess the application of CBRA to certain high hazard coastal areas along the coasts through a pilot project; and (3) allow for adequate funding for the Service to fully carry out its mandates under CBRA. The Service would also welcome the opportunity to work with the Subcommittee and sponsor on certain additional aspects of the legislation, including definitions.

Rising sea levels are exacerbating existing vulnerabilities, exposing more coastal areas to chronic erosion, nuisance flooding, and higher storm surges. This will cause emergency response and recovery costs to skyrocket over the coming decades. Tropical storms are being supercharged by

record-high ocean temperatures caused by climate change. Hurricanes Harvey, Irma, and Maria all made landfall in the U.S. as category four hurricanes within a 4-week span in 2017. By the end of that year, the unprecedented hurricane season had resulted in more than \$383 billion in damage.<sup>5</sup> Additional destructive storms have caused hundreds of billions in damage since. In a 2019 report on climate resilience, the Government Accountability Office (GAO) stated that “enhancing climate resilience means taking actions to reduce potential future losses by planning and preparing for potential climate hazards....”<sup>6</sup> We recommend that the Subcommittee consider making further updates to the law to ensure consideration of the increasing coastal hazards associated with climate change and reduce U.S. taxpayers’ financial exposure to these hazards. Taxpayers should not be on the hook to provide federal financial incentives to unwisely build in risky areas.

To position the law to address current and future conditions, the Administration recommends that CBRA be amended to enable the Service to conduct a pilot project, in consultation with the Corps of Engineers, the National Oceanic and Atmospheric Administration, and State coastal zone management agencies, to examine application of the free market CBRA approach to certain high hazard coastal areas that are not currently a part of the CBRS. The purpose of this project is to better address coastal hazards that are increasing, such as sea level rise and storm surge. In the pilot project, the Service would examine including within the CBRS certain vulnerable coastal areas, including coastal mainland areas, and submit to Congress proposed definitions and criteria and a subset of draft maps delineating those areas. This pilot project could lead to future Congressional action to comprehensively assess and identify such areas and add them to the CBRS under certain conditions. This could be a key step for the nation to enhance coastal resilience for the longer term.

The Administration supports Section 103 of the bill, which would require the Secretary, in consultation with the Secretary of Housing and Urban Development, to issue regulations requiring the owner or lessor of real property in communities affected by CBRA to disclose the fact that the property is in a community affected by CBRA. Such a disclosure requirement will significantly increase awareness of CBRA at the time of real estate transactions. A CBRS designation can limit the availability of federal flood insurance and other federal subsidies. When prospective buyers are not aware of a property’s inclusion in the CBRS, they are unable to make informed decisions.

Additionally, the Administration supports the provision in Section 104 of the bill that grandfathers existing insurable structures in areas newly added to the System by this and future bills, allowing those existing structures to maintain access to federal programs. This provision (which is broader than the grandfathering policy for structures added to the CBRS in the past) will allow the approximately 90 privately-owned structures on the ground now in the recommended additions to retain their eligibility for a variety of federal programs such as flood insurance and disaster assistance. This provision also accounts for the fact that there may be structures currently under construction within the areas recommended for addition to the CBRS by grandfathering any structure completed within one year of enactment of this bill (when the restrictions on new federal funding and financial assistance go into effect).

However, the Administration has significant concerns regarding part of Section 104 of the bill

that, as currently written, exempts OPAs from all prohibitions on federal expenditures and financial assistance, which would include flood insurance. We note that OPAs do in many cases contain private inholdings and other private lands. Current law prohibits new federal flood insurance for any structure within an OPA that is not used in a manner consistent with the purpose for which the area is protected. For example, private residences built within an OPA after the unit's designation are not eligible for flood insurance, but park-related structures (e.g., a visitor center) are eligible. We look forward to working with the Subcommittee on technical changes to the bill to maintain existing flood insurance restrictions within OPAs, as well as the exemption for structures used in a manner consistent with the purpose for which the area is protected.

Finally, the Administration suggests that the authorization level in Section 106 be increased to \$5,000,000. The increased authorization level will allow the Service to increase its capacity to maintain and update the maps, improve public awareness of CBRA, engage in consultation with other federal agencies and update implementing regulations to align with the BEACH Act, and conduct a pilot project to better address increasing coastal hazards.

## ***Title II – Changes to John H. Chafee Coastal Barrier Resources System maps***

The BEACH Act would adopt all maps developed through the Hurricane Sandy Remapping Project, as well as revised maps for certain CBRS units in Florida, Louisiana, South Carolina, and North Carolina. Congressional adoption of these maps, which were produced by the Service, will help enhance coastal resilience by providing more accurate and accessible CBRS data for planning coastal infrastructure projects, habitat conservation efforts, and flood risk mitigation measures. Adoption of the revised maps will also correct decades-old mapping errors affecting more than 950 homes and other structures, and will also add hundreds of thousands of acres of relatively undeveloped areas that qualify for inclusion within the CBRS, consistent with Congressional direction in Pub. L. 109-226.

It is important to note that the expansion of the CBRS will not prohibit or regulate new development; rather, it will send appropriate price signals to potential developers to convey the risk associated with building on dynamic coastal barriers and ensure that the federal taxpayer does not underwrite risky development. Additionally, to ensure that existing homeowners are not adversely affected, Section 104 of Title I of the bill, discussed above, would establish a grandfathering provision for existing insurable structures in any areas added to the CBRS by this or future bills.

The Administration supports the adoption of these maps through this bill. However, we note that the maps were produced between 2016 and 2020, using the best available data and aerial imagery at the time. Because development conditions on the ground are continually changing and coastal barriers are dynamic landforms, the Service recently conducted a review of the maps referenced in Title II and found that some minor and technical updates (none of which are new additions) are warranted to certain maps before they are adopted into law. We look forward to working with the Subcommittee on relevant updates.

We also note that the Service has prepared revised maps for eight units in Alabama and North

Carolina, transmitted to Congress in 2015 and 2016 respectively, that are not included in the draft bill. These maps would correct mapping errors affecting property owners or add eligible areas to the CBRS. The Administration recommends that Congress adopt all of the final recommended maps that have been completed and transmitted to Congress since 2015.

**H.R. 2437, To revise the boundaries of a unit of the John H. Chafee Coastal Barrier Resources System in Topsail, North Carolina, and for other purposes**

Unit L06 of the CBRS is in Onslow County, North Carolina, and includes much of the Town of North Topsail Beach. H.R. 2437 would require the Secretary of the Interior to prepare, within 30 days of enactment, a revised map for Unit L06 that removes from the CBRS certain areas serviced by infrastructure located along North Carolina Highway 210 and New River Inlet Road in 1982. The bill would also require that the Service consider these roads to meet the statutory infrastructure criteria used to evaluate changes to the CBRS boundaries. The designation of this unit has been thoroughly reviewed by the Service and Congress in the past. Congress has examined and affirmed the boundaries of Unit L06 through the adoption of revised maps in 1990 and, applying current technology, in 2018. The Service does not recommend any further substantial changes to the boundary, as they would be inconsistent with the objective mapping criteria that the Service equitably applies for any recommended map revisions. For these reasons, as explained in more detail below, the Administration opposes H.R. 2437.

It appears that H.R. 2437 intends to remove much of the existing development within Unit L06 from the CBRS. Nearly all of this development occurred after the passage of CBRA, meaning various federal subsidies, including federal flood insurance, are not available within the unit. Property owners pursued this development without federal subsidies. We note that as written, it is not clear exactly which areas would be removed from the CBRS. For example, there are several developed areas within the unit that were not serviced by these roads at the time of designation (many homes are located along secondary roads that were not on the ground in 1982).

The Department developed the original CBRS maps as directed by Congress to identify qualifying relatively undeveloped coastal barrier areas in 1982 following a years-long process involving reviews of aerial photography, on-the-ground inspections, several public information sessions, and two comment periods. When Congress first included Unit L06 within the CBRS with the enactment of CBRA, there were approximately 35 structures and a main road on the ground. We note that when L06 was first mapped, the Department was guided by CBRS designation criteria published in the *Federal Register* on August 16, 1982, which stated that “the presence on a coastal barrier of a single road...plus associated electric transmission and water and sewer lines in this highway corridor does not constitute the necessary full complement of infrastructure necessary to support development.”

After L06 was designated by CBRA in 1982, in 1983, developers and landowners filed a lawsuit against the Department and the Federal Emergency Management Agency over the designation of Unit L06. The District Court decided in favor of the Federal Government in 1984; it found that Congress’ designation including the area within the CBRS was rationally related to the goals of the CBRA. The case was appealed, and the lower court’s decision was upheld in 1985.

As part of a CBRA reauthorization effort, all the CBRS units, including Unit L06, were reviewed again by the Department in the mid-1980s. Part of that review included public comment periods held in 1985 and 1987. Congress then reaffirmed and expanded Unit L06 in 1990 when it reauthorized CBRA. Construction continued in the area without federal financial assistance in accordance with the free-market principles of the Act. The unit currently contains approximately 700 structures, about 95 percent of which were built since the area was designated. Today, more than four decades after its initial designation, Unit L06 is one of the most developed units in the System, and CBRA continues to shield the American taxpayers from subsidizing construction on dynamic and low-lying barrier islands as Congress intended when it enacted CBRA.

The Service comprehensively reviewed this area in response to requests received over the years from private property owners, local officials, and others who sought significant removals from Unit L06. We prepared revised maps for Unit L06 as part of the pilot project, which underwent public review in 2009. Our review found that, although there were some structures on the ground and a main trunk line of infrastructure that ran along the length of the unit in 1982, the area still met the CBRA criteria for an undeveloped coastal barrier when it was included within the CBRS. This review was summarized in our 2014 testimony before the Subcommittee on Fisheries, Wildlife, Oceans, and Insular Affairs on H.R. 187, and is also described on pages E-8 and E-9 of Appendix E of our 2016 *Final Report to Congress: John H. Chafee Coastal Barrier Resources System Digital Mapping Pilot Project*. The Service's comprehensive review was the basis for revised Unit L06 maps (two maps) that were part of the pilot project that was finalized and transmitted to Congress in 2016. These two maps were then adopted by Congress via the Strengthening Coastal Communities Act of 2018 (Pub. L. 115-358) and signed into law by President Trump on December 21, 2018. These maps made appropriate technical corrections to address mapping errors (removing about 78 structures from the CBRS) and added approximately 170 qualifying acres to the CBRS (mostly wetlands).

CBRA's legislative history states that "it is in the intent of this legislation that those who choose to develop within the CBRS after enactment do so at their own risk. Recommending changes to such units for this purpose would obviously not be consistent with the intent of this legislation" (House Report 97-841 Part 1). We note that any significant removal from Unit L06 could serve to incentivize further development and redevelopment, putting more people in harm's way and costing the federal taxpayer millions in future federal flood insurance and disaster assistance payouts.

The Service does support the adoption of a revised map that we produced dated April 30, 2021, which is included in Title II of H.R. 5490. The map included in H.R. 5490 would correct one minor and technical error in the map for Unit L06, removing about 2.5 acres and two homes from the CBRS if adopted by Congress. We discovered this error in 2020 after being asked to review the mapping of a specific property. This error was primarily the result of challenges in georeferencing the original CBRS maps, combined with the quality of aerial imagery available to the Service in the early 2000s, when the boundary for Unit L06 was first digitized from the 1990 paper maps. We have determined that no further changes to the boundaries of Unit L06 are warranted.

## **Conclusion**

The Service appreciates our long partnership with the Subcommittee in administering CBRA. Through our collaboration, we have saved the taxpayers billions of dollars, modernized the maps of the CBRS and made them more accessible to the public, maintained the integrity of the CBRS, and advanced the conservation of coastal habitat. The health of our coastal ecosystems is central to the continued existence of many species of fish and wildlife, and the Service is committed to conserving these important resources for the continuing benefit of the American people. We look forward to discussing these views with the Subcommittee and the bills' sponsors.



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<sup>1</sup> Ronald Reagan, “Statement on Signing the Coastal Barrier Resources Act,” October 18, 1982, The Public Papers of President Ronald W. Reagan, Ronald Reagan Presidential Library, accessed August 29, 2023, <https://www.reaganlibrary.gov/archives/speech/statement-signing-coastal-barrier-resources-act>.

<sup>2</sup> Andrew S. Coburn and John C. Whitehead, “An Analysis of Federal Expenditures Related to the Coastal Barrier Resources Act (CBRA) of 1982,” *Journal of Coastal Research* 35, no. 6 (November 2019): 1358–1361, accessed August 29, 2023, <https://doi.org/10.2112/JCOASTRES-D-18-00114.1>.

<sup>3</sup> Jordan Branham et al., “Removing federal subsidies from high-hazard coastal areas slows development,” *Frontiers in Ecology and the Environment* 20, no. 9 (June 21, 2022): 500–506, accessed August 29, 2023, <https://doi.org/10.1002/fee.2532>.

Kyle Onda et al., “Does Removal of Federal Subsidies Discourage Urban Development? An Evaluation of the US Coastal Barrier Resources Act,” *PLOS ONE* 15, no. 6 (June 2020): e0233888, accessed August 29, 2023, <https://doi.org/10.1371/journal.pone.0233888>.

<sup>4</sup> Jordan Branham et al., “How does the removal of federal subsidies affect investment in coastal protection infrastructure?,” *Land Use Policy* 102 (March 2021): 105245, <https://doi.org/10.1016/j.landusepol.2020.105245>.

<sup>5</sup> “U.S. Billion-Dollar Weather and Climate Disasters,” National Oceanic and Atmospheric Administration (NOAA), National Centers for Environmental Information (NCEI), 2023, accessed August 29, 2023, <https://www.ncei.noaa.gov/access/billions>, DOI: <https://www.doi.org/10.25921/stkw-7w73>.

<sup>6</sup> Government Accountability Office (GAO), *Climate Resilience: A Strategic Investment Approach for High-Priority Projects Could Help Target Federal Resources*, GAO-20-127 (Washington, D.C.: U.S. Government Printing Office, 2019), 3, accessed August 29, 2023, <https://www.gao.gov/products/gao-20-127>.