



COMMONWEALTH OF VIRGINIA

HOUSE OF DELEGATES

RICHMOND

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April 25, 2016

Deborah A. Darden
Superintendent
Assateague Island National Seashore
7206 National Seashore Lane
Berlin, Maryland 21811

Dear Ms. Darden,

I would like to open my response to the Draft General Management Plan/Environmental Impact Statement (GMP) regarding Assateague Island National Seashore by thanking the National Park Service for their commitment to keeping a public beach open with ample parking for visitors. It is vital to the economy of the Town of Chincoteague and Accomack County for seaside access. I do have concerns with many parts of this plan and I thank you for allowing me the opportunity to address them during the open comment period.

The GMP is written primarily for the Maryland part of Assateague Island. The Maryland side of Assateague Island is wholly controlled by the Park Service and is focused on access to the Island by people. Overnight camping, access to the Bay, and seaside beaches are priorities for Maryland. This is not the case on the Virginia portion of Assateague Island. The Park Service only controls one mile of beach access and the rest of the Island is controlled by U.S. Fish and Wildlife. Historically, U.S. Fish and Wildlife only controlled to the high water mark because the wildlife which they protected could not nest below that line of delineation. The Park Service controls the water in front of public beaches which makes sense since this is where people have swimming access. No one is debating the water off the one mile of swimming beach.

The concept that the National Park Service and the U.S. Fish and Wildlife are both under the Interior Department umbrella, allowing their jurisdictional authority to be traded back and forth, is very

disconcerting to me. This is a broad expansion of Federal authority that was feared and addressed in every document signed by the State of Virginia and the U.S. Government. The fear of Federal overreach was addressed in the 1965 Act which states "That nothing in this Act shall limit or interfere with the authority of the states to permit or to regulate shell fishing in any waters included in the national seashore...". The Act did not include other types of fishing because in that day oystering was the best option for watermen. The intent was to leave Virginia in control of the surrounding areas and have U.S. Fish and Wildlife control the Island. This control of the surrounding area by Virginia has been slowly eroding as the Federal Government claims authority over more and more activity as now they claim jurisdiction over water in a half mile circle around the Island.

In Virginia the water belongs to the Commonwealth. It is a constitutional right to have navigational access to the waters of the Commonwealth. The bottom ground has been surveyed and leased to the people of the Commonwealth for over 100 years.

Some of the following concerns are not in the GMP but show a pattern of slow creep of Federal overreach.

- Charter boats are being required to purchase yearly permits to use the water around your "park". I believe this is wrong and is a practice of extortion. They don't anchor nor launch from any federal facilities and only "cruise" around on open water. The highland is controlled by U.S. Fish and Wildlife but they are required to get a yearly Park Service permit.
- The National Park Service imposed a prohibition of personal watercraft around your "Park". In Virginia, personal watercraft has as much of a right to use the water as a kayaker. Even though they may be loud and obnoxious they should still have the "right" to use the water. I think this is a similar situation as the snowmobile ban in the parks out west that was defeated in court.
- The next practice of concern that is in the GMP is horseshoe crab harvest. This harvest of horseshoe crabs off the bottom ground has been occurring on Chincoteague for decades. The harvest is federally regulated by the Atlantic States Marine Fisheries Committee. A quota is given to participating States. In Virginia the Virginia Marine Resource Commission controls the catching by licenses and strict quotas are followed. This harvest happens off Virginia bottom ground as horseshoe crabs do not swim. Harvesting of horseshoe crabs started in the 80s and was not mentioned in the 1965 agreement as they had not begun harvesting them.
- Watch houses and concern for water quality is again a State issue. The Virginia Health Department began a shellfish sanitation division in 1920 which performs over 24,000 water samples a year and monitors pollutant levels in Virginia water. Watch houses were included within the Code of Virginia pursuant to §28.1-117 until 1975 and were encouraged to help protect the valuable oyster production within the Commonwealth.
- Duck blinds are again a State issue as they are anchored to Virginia bottom. Virginia Game and Inland Fisheries issues hunting licenses and regulations that control the duck blinds. Many of these locations have been handed down from generation to generation.
- Shellfish and the harvest of shellfish on leased bottom has been occurring before Colonel Baylor surveyed the productive oyster grounds in Virginia for the use by the public. Areas not outlined

in Baylor ground were then leased to the people of Virginia so they could invest in shell and start propagating shellfish. This survey was completed in 1894. The shellfish beds and control of the bottom are specifically exempted from control by the Federal Government in an agreement signed between the Commonwealth of Virginia and the U.S. Government. I find it ludicrous Virginia needs to get a permit to do something that we already have the authority to do.

In conclusion, the main question is how the National Park Service (whose main focus is on public access) and the U.S. Fish and Wildlife (whose main focus is on wildlife protection) interchange jurisdiction to whichever agency has the most authority. Water column jurisdiction makes sense when people have access for their safety. The perplexing situation to me is when the high ground is controlled by U.S. Fish and Wildlife and I cannot anchor to nor walk across it. How can the adjacent water column need this water jurisdiction by the Park Service for the protection of the people?

I thank you for the opportunity to provide comments on the GMP. Please do not hesitate to contact me with any questions or comments you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob S. Bloxom, Jr.", written in a cursive style.

Robert S. Bloxom, Jr.

Cc: Senator Mark R. Warner
Senator Timothy Kaine
Congressman Scott Rigel
Congressman Rob Wittman
Senator Lynwood W. Lewis, Jr.
John Bull, Commissioner, Virginia Marine Resource Commission
Virginia Health Department
Town of Chincoteague, Robert Ritter
Accomack County Board of Supervisor Chair, Ron S. Wolff
Virginia Department of Game and Inland Fisheries
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