



United States Department of the Interior

NATIONAL PARK SERVICE
Cape Cod National Seashore
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IN REPLY REFER TO:
L3035 xH30

December 6, 2011

Rich Delaney, Chairman
Cape Cod National Seashore Advisory Commission
99 Marconi Site Road
Wellfleet, MA 02667

Dear Rich and Advisory Commission Members:

Thank you all for spending a considerable amount of time focusing on the Chatham North Beach Island cottages and listening to all parties on the topic. I understand your empathy for the Special Use Permit holders and Chatham citizens who care very much about the cottages and the barrier beach.

However, as the property owner, we are focused on the part of your second paragraph where you state that you understand that our previous decisions have been based on "...logic and reasoning ...to be proactive for all the relevant risk and safety factors, budgetary considerations and natural resource protection responsibilities..." The evaluation of risk, safety, budget, staff time, and compliance under National Park Service requirements, along with the federal contracting process, are major decision-making factors well beyond those that a private property owner must consider.

On November 22, 2011 we were notified by the Keeper of the National Register that the cottages are not eligible individually or collectively for the National Register of Historic Places. Therefore, I wanted to respond to the recommendations made at the November 14 meeting, considering the absence of National Register findings.

Our staff observations from the August field trip first identified that two of the cottages owned by the NPS as well as the Crowell Shed were in jeopardy. Every visit since that time has supported and expanded that assessment. The loss of the Crowell Shed during the last weekend of October, and the ongoing GIS mapping clearly identifies that dramatic shoreline change will continue to impact the remaining barrier beach and the cottages.

There was lengthy discussion about the definition of 'emergency' at the November 14 Commission meeting. The last-minute approach outlined in your recommendation might be possible for a private property owner. However, from my perspective, 'emergency' includes a realistic understanding of a timeline which considers the ability of a federal agency to quickly respond, especially with the type of science-based information we have at this time. Our definition of emergency takes into consideration the time needed for current occupants to be given adequate notice to vacate with their belongings; adequate time for contracting and compliance requirements; recognition of winter weather conditions; recognition of restrictions during bird nesting season; and recognition of unanticipated changes on the ground that impact cost and logistics. These are the same considerations we had to consider when we removed two cottages north of the breach in 2007.

The concept of a bond and shared liability/responsibility as you recommend was suggested by others in the in the past and I responded with an October 4, 2011 letter to the Chatham Board of Selectmen Chair. I was intrigued with the concept but after review with NPS management staff and the Regional Solicitor, I concluded these are not options we can pursue. Arriving at such an arrangement for future liability would be fraught with difficulties even if the potential cost could be properly calculated. The fundamental issue with sharing liability with others is that federal managers cannot abdicate their responsibility for managing government property or decision-making related to government property. Furthermore, I would be derelict in my duties as the federal government property manager if I knowingly allow its property to be destroyed in a storm, knowing the potential of injury to persons or property. It is likely that allowing any of these cottages to be swept away could pose a direct threat to navigation in Chatham Harbor.

There is also the issue of obligating future government funds through such an agreement that is contrary to the federal Antideficiency Act. The Act prohibits me from making obligations to pay before funds have been appropriated. This is especially true as we look at challenging future budget scenarios. The NPS has the funds available at this time, but there is no guarantee that such funds will be available in future years, nor do we have the ability to reserve these available funds for future years.

Finally, the idea of current private individuals contributing to a bond is problematic. The families who have occupied the NPS cottages have done so through a year-to-year Special Use Permit, which is a temporary instrument with no assurance it will be extended and certainly cannot be planned on for the future. Therefore, such a bond concept is not feasible.

Since I have been at the national seashore, this is the first substantial disagreement between myself and the Advisory Commission. I hope I have clearly outlined the NPS position and please understand this represents consultations with senior Regional Office staff, respected scientists, experienced federal facility managers familiar with barrier beach resources, and our Cape Cod National Seashore senior staff. I hope this will not affect our long-standing positive relationship in the future.

We have notified the SUP holders and Chatham Town officials of our plans to proceed with the demolition of the five cottages and removal of Crowell Shed material with a contractor. The current SUPs will be honored through their original term of the end of this calendar year. We

will proceed with our contracting and compliance requirements; we will mitigate impacts to the remaining barrier beach and possible impacts to private property to the best of our ability; and we will notify town officials and the Commission on our progress.

Sincerely,

A handwritten signature in black ink, appearing to read "George E. Price, Jr.", written in a cursive style.

George E. Price, Jr.
Superintendent

cc:

North Beach SUP Holders
Jill Goldsmith, Town Manager
Florence Seldin, Chair, Chatham Board of Selectmen
U.S. Senator John Kerry
U.S. Senator Scott Brown
U.S. Representative William Keating
State Senator Daniel Wolf
State Representative Sarah Peake