

DESCRIPTION OF ENVIRONMENT

II. Description of the Environment

A. Legislation

A national seashore on Fire Island was established by an act of Congress on September 11, 1964, "for the purpose of conserving and preserving for the use of future generations certain relatively unspoiled and undeveloped beaches, dunes, and other natural features within Suffolk County, New York, which possess high values to the Nation as examples of unspoiled areas of great natural beauty in close proximity to large concentrations of urban population" (Public Law 88-587, 78 Stat. 928; see the appendix). The legislation also allows traditional recreational activities to be provided at environmentally compatible areas of the seashore.

The boundaries of the national seashore, as defined in section 1(b) of the enabling legislation, include the area from the easterly boundary of Robert Moses State Park eastward to Moriches Inlet, various nearby islands in adjacent bays, and the waters surrounding this area to distances of 1,000 feet in the Atlantic Ocean and up to 4,000 feet in Great South Bay and Moriches Bay. Section 2(a) authorizes the Secretary of the Interior to acquire by purchase, donation, transfer, exchange, or otherwise, the lands, waters, and other property, and improvements thereon and any interest therein, within the boundaries of the seashore. The act further provides for land exchange between the federal government and other interests within the boundaries of the seashore.

In addition to the lands that were included within the original legislated boundary, Congress authorized in 1965 inclusion of the 612-acre William Floyd Estate, and historic mainland property across Moriches Bay from the eastern end of Fire Island (Public Law 89-244, 79 Stat. 967; see the appendix).

According to section 2(e) of the 1964 act, the Secretary may acquire, without the consent of the owners, lands necessary for public access to the beach, but he may not acquire without consent other lands where compliance with a duly adopted, valid zoning ordinance that is satisfactory to the Secretary has been demonstrated. The Secretary is authorized by section 3(b) to "issue regulations, which may be amended from time to time, specifying standards that are consistent with the purposes of this Act for zoning ordinances which must meet his approval." Such standards may prohibit certain new commercial or industrial uses and promote the protection and development of land within the national seashore by means of acreage, frontage, and setback requirements. Section 3(d) states that such regulations must be incorporated into

provisions of local zoning ordinances, which will not be approved by the Secretary if they contain any provision that he considers adverse to the protection and development of the area comprising the national seashore. These provisions give the federal government considerable authority to regulate land use and development on lands within the boundaries of the seashore that are not federally owned.

Section 2(e) specifically authorizes the Secretary to acquire property by condemnation in an approximately 8-mile area from the easterly boundary of Davis Park to the westerly boundary of Smith Point County Park. Owners of property in this zone on July 1, 1963, were given the option of a life tenancy or up to 25-year tenancy in lieu of vacating the property after selling it to the federal government. This zone and the Sunken Forest area are afforded special protection by sections 7(a) and 7(b) from the incursion of roads and ecologically incompatible uses.

The role of the Corps of Engineers in environmental manipulation is stipulated in section 8(a): "The authority of the Chief of Engineers, Department of the Army, to undertake or contribute to shore erosion control or beach protection measures on lands within Fire Island National Seashore shall be exercised in accordance with a plan that is mutually acceptable to the Secretary of the Army and the Secretary of the Interior and that is consistent with the purpose of this act."

The act and the history of administrative policy for recreational areas support the fact that the National Park Service's land acquisition policy must first be directed to the conservation and preservation of natural, undeveloped areas.

Concern and controversy has grown yearly since the establishment of the national seashore. The primary arguments center around interpretation of the legislation as it applies to recreational use of federal areas and to federal control of private development in the 17 exempted communities. In the past, local governments have been reluctant to actively enforce zoning regulations within the exempted communities. In fact, only two of the four local governments have submitted zoning ordinances to the Secretary of the Interior for approval, and only one has been approved. Local and federal actions concerning zoning are awaiting adoption of the general management plan.