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October 20, 2024

Melissa Trenchik
Superintendent
Cumberland Island National Seashore
101 Wheeler Street
St. Marys, GA 31558

Re: 2024 Cumberland Island National Seashore Land Transfer

Dear Superintendent Trenchik,

Wild Cumberland appreciates the opportunity to comment on the agency's **2024 proposed Cumberland Island National Seashore Land Transfer, which the agency states is warranted:** *"By exchanging property with private landowners, the NPS seeks to relocate private interests to other areas where it is more appropriate and less impactful on visitors."*

Unfortunately, Wild Cumberland finds the 2024 proposed plan to be inadequate for public evaluation.

In these comments, Wild Cumberland will attempt to address "the most useful types of public comments" for this "pre-NEPA" process, as defined by your agency:

1. Alternative approaches & ideas addressing the purpose and need for the project
2. The range of environmental issues that need to be considered
3. Other potential projects or actions that might affect or be affected by this project
4. Approval and disapproval about the concept of the proposed exchanges
5. Information on how you use the Seashore and how a land exchange might affect that use

Background/Context

If we are to respect the original Congressional intent of Cumberland Island National Seashore and its Wilderness designation, **every parcel of land on the island would have a plan in place to eventually convert to federal ownership** and the island would become an increasingly wilder, more ecologically-valuable resource for future



generations of Georgia. **By prioritizing the inholders' desires over public interests and process, the NPS has abdicated its responsibility to future generations.**

Putting off acquisitions until threats are imminent, and treating each problem individually when it arises, facilitates the ability for influential landowners and individual members of Congress to influence park policy. This is precisely what's happening at Cumberland Island National Seashore.

In parks established after July 1959, the agency's policy was to acquire all private lands. Generally, most acquisitions on Cumberland Island were completed to the disadvantage of landowners – unless you had the clout to hire a lawyer who could negotiate with the Department of Interior.

The agency previously utilized condemnation, the power of eminent domain, and lowball offers against less powerful landowners in order to acquire priority parcels. *The agency retains the power to exercise eminent domain, even if it's no longer "preferred" agency policy.*

When we re-examine the Congressional testimony that preceded the establishment of Cumberland Island National Seashore in 1972, it is crystal clear: its establishment was a compromise — one that permanently protected one of America's most biologically diverse and important places from private interests and potential development.

"Except for certain portions of the seashore deemed to be especially adaptable for recreational uses, particularly swimming, boating, fishing, hiking, horseback riding, and other recreational activities of similar nature, the seashore shall be permanently preserved in its primitive state, and no development of the project or plan for the convenience of visitors shall be undertaken which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing..." (Public Law 92-536, Oct. 23, 1972)

Any & every decision for the Seashore should be founded in this.

There is a historical and documented necessity to "manage the island as a whole entity rather than by individual blocks. The island is one major interrelated ecosystem; actions occurring in one part affect other portions of the island." (1994 Land Protection Plan)



The proposed 2024 **Cumberland Island National Seashore Land Transfer is insufficient and inadequate for proper public evaluation and would violate a Congressional commitment to a vision for the American people.**

The proposed plan:

- Omits how many acres will be *lost*. It only specifies the number of acres transferring *into* NPS ownership.
- Does not reflect any valuation estimates.
- Lacks any identification or delineation of “Potential Wilderness” boundaries.
 - NPS policy has been “to treat potential wilderness in exactly the same manner as wilderness.” *Wilderness Watch & Pub. Emps. for Env’t Resp. v. Mainella*, 375 F.3d 1085, 1088 (11th Cir. 2004). See also, *High Point, LLLP v. Nat’l Park Serv.*, 850 F.3d 1185, 1199–200 (11th Cir. 2017) citing 1200 H.R. Rep. No. 97-383, at 4-5; S. Rep. No. 97-531, at 3: “the House and Senate reports accompanying the designating bill expressed Congress’s desire that ‘[t]o the extent it can legally do so, the National Park Service is expected to manage the potential wilderness areas as wilderness, according to the provisions of the Wilderness Act of 1964.’”
- Lacks any image reflecting the cumulative changes in ownership and use, which ultimately creates a nearly 3-mile corridor of private use and potential development.
- Does not identify existing retained right (federally-owned) parcels vs fee simple parcels. Omits any details relating to potential changes in limitations and/or “retained right” agreements.
- Lacks **any** specificity related to the agreements or purposes of the potential conservation easements. *This is irreconcilable given that a fundamental reason listed for the proposed transfer is “preventing or limiting private development on or near significant cultural and natural resources.”*
- Does not reflect all parcels and tracts of land in appropriate context for public decision-making.
 - For example, the Nature Conservancy held a 173-acre parcel in trust for conveyance to the NPS for more than 20 years; in 2023, Sen. John Ossoff and Rep. Buddy Carter announced \$8.7 million was available for its intended acquisition by the National Park Service.
 - This parcel has not, to our knowledge, transferred into federal ownership - but should nonetheless be clearly identified for context in the proposed Land Exchange Plan. The omission of detail



related to this parcel, its intent, or how much of it, if any, is included in (or affected by) the proposed plan seems deliberate.

- This particular tract of Potential Wilderness has no known threats; however, a list of nonconforming uses has not been produced by the agency, and the agency has made no attempt to convert it to Wilderness.
- Also omits the relevant environmental, topographical, biological, and hydrological features of the respective sites and their current designations [e.g., potential wilderness, Wilderness, or critical habitat as well as current local and park zoning].
- Lacks any reference, or adherence, to the **1994 Land Protection Plan, the 1984 General Management Plan, and/or the 2012 Former Reserved Property Management Plan.**
 - The 1994 Land Protection Plan recognizes that “Existing privately-owned lands, as they pass from one generation to the next, have the potential for incompatible development. There is no assurance that the existing land uses and preservation ethics would continue (over time)”.
 - The LPP further states, “In the short run, some private ownership and traditional uses are consistent with seashore purposes as long as adequate protection is provided for natural and cultural resources, the established wilderness and visitor enjoyment. However, in the long run, to provide full public use of the island, provide adequate protection for natural and cultural resources, and fulfill the purposes of the seashore as defined by the legislation, full fee acquisition is desirable and necessary in most cases”.

Why isn't the NPS focused on the expiration of retained rights and returning CUIS to a "primitive, undeveloped" condition, as intended? *The proposed land exchange will allow more, and likely unrestricted, development.* The stated purpose of CUIS is "to maintain **the primitive, undeveloped character** of one of the largest and most ecologically diverse barrier islands on the Atlantic coast, while preserving scenic, scientific, and historical values and providing outstanding opportunities for outdoor recreation and solitude."

WILDERNESS

Cumberland Island was *further* protected in 1982, when nearly two-thirds of the island was designated as federally-protected Wilderness.



The NPS has clearly prioritized its (limited) capacity and financial resources over **more than five years to orchestrate exchanges of our public lands behind closed doors.** For 42 years, the agency has sidestepped its responsibility for the implementation of a Wilderness Management Plan. In fact, the need or possibility for any of the proposed exchanges may have been eliminated if a Wilderness Management Plan had been completed in a timely and responsible fashion for Cumberland Island National Seashore.

- A *Draft* Wilderness Management Plan was previously drafted under coordination of an official FACA but not implemented. Subsequently, Wilderness boundaries were adjusted without public input (2004), and the agency has previously refused to provide a Wilderness legal boundary map since its 2004 boundary adjustment.
- CUIS' own **2014 Foundation Document** identifies a wilderness plan as a "high" priority.
- The agency is unable to produce a list of nonconforming uses for public consideration.
- The agency has not alluded to potential and cumulative impacts to neighboring Wilderness and Potential Wilderness, including noise, light, vehicular traffic, impacts to water quality, and **more**.
 - This is critical in a small, linear park unit with one primary road, which bisects a Wilderness area.
 - Frequently, the agency does not assess its own projects' impacts to Wilderness, even if the project is immediately adjacent to the designated boundary.
 - *Most recently this year, noise, traffic, and other impacts from weekly maintenance to the main road were completely dismissed as potential impacts for an upcoming 4-month bank restabilization project.*
- NPS has not provided any clarification as to how specific language in the 2004 Wilderness Boundary Adjustment Act affects access to utility rights and service as applicable to the proposed exchanges.

The NPS has abdicated its responsibilities to protect and manage the Wilderness areas of Cumberland Island National Seashore. **Wild Cumberland believes that no public lands should be considered for exchange until a Wilderness Management Plan for Cumberland Island National Seashore is approved and implemented.** Only then could any potential exchanges be properly evaluated for impacts to Wilderness.

Zoning



Congress has authority to enact laws protecting natural resources within a national park, including laws that restrict uses on private property. Under the U.S. Constitution's Supremacy Clause, these laws *preempt* conflicting county zoning laws.

Furthermore, Appeals Court decisions from multiple circuits have affirmed: *"The primary inquiry in determining the applicability of Park laws to a given area must therefore be whether that area is within the statutory boundaries of the Park, not whether [the Park Service] holds title to the land in question."*

The agency's own 2006 NPS Management Policies details zoning *within* park boundaries as follows:

"Acquisition of fee-simple interests is a critically important and effective land protection method for lands within park unit boundaries. The Service may employ, as appropriate, a broad strategy to protect land and resources, including innovative techniques; partnerships; participation in the planning and decision-making processes of other federal agencies; and vigilance at the regional and local levels of government where nonfederal land use decisions are generally made."

No zoning is provided in the Proposed Land Exchange for public consideration.

According to your agency's press release, *"By exchanging property with private landowners, the NPS seeks to relocate private interests to other areas where it is more appropriate and less impactful on visitors."*

The Proposed Land Exchanges have been positioned and/or sanctioned as a "solution" to potentially circumvent possible rezoning — **yet the County never issued a ruling on the hardship variance that would allow additional development.**

The potential rezoning of the LUMAR-owned parcel (identified in Exchange #4) into a 10-parcel subdivision (and thus rezoning of all fee simple lands within the Seashore's boundary) was effectively "tabled" by the Camden County Planning Commission in order to allow NPS management an opportunity to "work it out."

Unless the County made an exception, rezoning would require paving the Main Rd/Grand Ave. That, in and of itself, would be in violation of federal law: **the main road is listed on the National Register of Historic Places and its character cannot be altered.**



The NPS is proposing to convey an additional unknown number of acres into private, fee-simple ownership, despite the agency's Congressional obligations in 1972 and 1982. **The agency has made it clear that all of the remaining fee simple land tracts within the boundaries of the Seashore will remain subject to local zoning. This plan creates more of them and will only lead to additional subdivision and exploitation.** After all, this exchange is happening because one family cannot develop a subdivision where they want to, which County zoning has prevented.

It appears the agency is choosing to move existing problems to new locations on the island and have positioned this to the public as an acceptable compromise. Yet, a compromise was reached in 1972 when the Seashore was established by Congress. As long as the agency adheres to that legislation and its subsequent Wilderness designation, the Seashore will remain protected from private interests and potential development.

Giving away federally owned properties — some previously acquired by the agency by threat of condemnation and eminent domain — in order to facilitate these contrived “management goals” for the agency undermines the very Congressional intent of the Seashore and further perpetuates public distrust of the federal government.

Other potential projects or actions that might affect, or be affected by, this project:

- The agency has not disclosed to the public how these exchanges or any park plans may be affected by, or tied to, recent changes in policy, such as housing/lease agreements, public/private partnerships, etc.
- More permanent residents will result in significantly more vehicular use of the island road, which bisects the barrier island's entire Wilderness area.
- Use of septic systems or any water resource impacts have not been evaluated.
- It will also increase use and authorization of beach driving in critical habitat, which is managed/authorized by the state of Georgia. More beach driving permits are issued on Cumberland Island than any other island in the state.
- Any data or results from recent funded coastline erosion studies and/or Coastal Resiliency or Climate Change plans for the Seashore are not available for public evaluation. *Several of the parcels proposed for private ownership are located within one narrow strip of the island.*



- The status of the agency's former proposed Visitor Use Management Plan (VUMP), which also proposed significant changes to the categories, types, and number of visitors, is still not available to the public.

NEPA compliance being completed after the funding has been awarded for the bulk of its planning process, as in this case, is merely an administrative procedure and not an authentic evaluation process, as lawfully intended. Yet, it is vital to determine the potential environmental impacts of the land exchanges on the state and character of the Wilderness Area; federally designated or proposed critical habitat for loggerhead sea turtles, piping plovers, Rufa red knots, West Indian and Antillean manatees (USFWS is currently proposing to expand their critical habitat, 50 CFR Part 17), and North Atlantic right whales; and other federally protected species that utilize Cumberland and the surrounding waters as habitat, such as gopher tortoises, red cockaded woodpeckers, Kemp's Ridley and green sea turtles, Atlantic and Shortnose sturgeon, giant manta rays, and smalltooth sawfish.

To ensure environmental impacts are thoughtfully considered and mitigated where applicable, **a full EIS is warranted**.

Comments specific to each of the proposed exchanges presented by the agency are as follows:

Proposed Exchange 1

The 10-acre tract *already designated as Potential Wilderness* was always intended to convert to federal ownership, clearly reflected in its very naming convention: "Nancy Copp Wilderness Trust".

- The NPS proposes to give away an NPS-owned property with water, a dock, utility lines and access roads. **This property would be located between two other proposed exchanges that also put adjacent property into private ownership.**
- The parcel is bordered by Potential Wilderness. No acreage is provided; no easements or restriction details provided.
 - Note: The (presumed) property owner owns an additional parcel of fee simple land further South and within the boundary of the Seashore. We cannot imagine that the Trust would allow home construction based on its name "*Wilderness Trust*." The agency will give away land they *can* build on instead, to the detriment of the Seashore.



Proposed Exchange 2

- The agency proposes to acquire two parcels, north of and adjacent to Stafford. *There are inconsistencies in the map as compared to tax records, so we cannot determine which parcels are being exchanged.*
 - *Several properties here are publicly-owned but inhabited by a retained right. The agency confirmed the proposed plan does **not** provide public access to Stafford Chimneys, which the NPS has refurbished in recent years.*
- Public and agency easements were previously developed to secure public access. *Has that changed?*
 - The NPS had a perpetual and assignable easement for passage for the use by its officials, employees, agents, and invitees, including the general public, on, over, across, and in the following property: *“an easement of passage 50 feet in width lying between two parallel lines, the westerly easement line begin a line 50 feet west of and parallel to the mean high water line of the Atlantic Ocean and the easterly easement line being the low mean high water mark of the Atlantic Ocean.”*
- The agency proposes to give away a property of undisclosed size with water access, a dock, utility lines, and access roads. The parcel is bordered by Potential Wilderness.

Proposed Exchange 3

- The agency has proposed to acquire property East of Grand Ave., directly across from the privately-owned commercial operation known as Greyfield Inn. This area, which may be delineated as Critical Habitat for multiple species, could be acquired *on that basis without warranting a land exchange.*
- The area the agency proposed to give away in exchange is bordered by/adjacent to Potential Wilderness.
- Commonly known as “Davisville,” the buildings in this area currently serve as NPS staff housing with at least four separate residences, though it should have been managed with its adjoining Potential Wilderness designation in mind. *How will the agency address the issue of staff housing? This swap is likely to facilitate further private (or agency) exploitation of the island as rental property(ies).*

Proposed Exchange 4

It is important to remember that the National Park Foundation started buying land from willing sellers prior to the establishment of the seashore in an effort to stop subdivision



developments. These purchases were held in trust until the seashore was authorized and funds appropriated for land acquisition.

- **The family sold its property to the Trust for Public Land in 1982 (\$9.6 M) and the property was subsequently transferred to NPS ownership.** Unbelievably, the agency proposes to give it *back* to the very same family it was already purchased from.
 - For nearly a half century, the Candler family has occupied the property with the understanding that *it would convert to full government ownership after a specified period of time* (known as a “retained right” agreement). The parcel includes part of a hotel complex and numerous other buildings, including modern structures.
- This would provide exclusive access and extend impacts to federally-designated Wilderness and critical habitat, while providing private owners with what is *undoubtedly one of the most private and desirable homesteads remaining on the entire East Coast.*
- From the maps provided, it is unclear if the LUMAR dock currently being challenged in court would be acquired and utilized by the NPS or remain under fee simple ownership. It is also unclear who would own and operate an air strip and hangar, which currently remain operational under a retained right agreement.
- Public and agency easements were previously developed to secure public access. *Has that changed?*

Wild Cumberland recommends the following alternative approaches:

1. Immediate **development and implementation of a Wilderness Management Plan** before *any* land use changes are considered. The Management Plan may or may not include boundary adjustments.
2. **A full Environmental Impact Statement is necessary for public consideration.** This should include a complete analysis of alternatives, as well as the direct, indirect, and reasonably foreseeable impacts so that the public can properly assess the proposed land exchanges.
3. Acquisition of any remaining inholdings, with **no land exchanges considered.** This may warrant the Department of Interior’s use of condemnation and/or imminent domain (*authorized in 2006 NPS Management Policies, CUIS’ 1984 General Management Plan, and CUIS’ 1994 Land Protection Plan*).
4. The agency should affirm for Camden County that **NO increase of development density** will be accepted.
5. **Termination of any retained right agreements** by the parties involved in these “land exchanges”.



If the agency is renegotiating deals with *certain* families, *every* fee simple & retained right landholder should receive an opportunity to do so. History repeats itself: the proposed plan, again, **only provides provisions for the Seashore's most privileged families.**

In Summary

There is every reason to believe that what the agency has presented to the public are, in effect, “done deals”. The proposed plan is a corruption of the Seashore’s intended purpose and seems to indicate that the NPS is more focused on appeasing its fee simple residents than fulfilling its Congressional purpose for future generations of Americans.

The agency’s choice to deviate from Congressional intent with the proposed plan provides a direct pipeline for significant development and exploitation. To present the proposed plan as an acceptable remedy or improvement is an insult to the American people, detrimental to our future, and disrespectful to the generations who have sacrificed for a larger vision.

Wild Cumberland urges the National Park Service to reassess how the Proposed Land Exchanges align with the agency’s **1916 Organic Act**, established to “*conserve the scenery and the natural and historic objects [of park units] and . . . provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations,*” and, should the agency insist on moving forward, a full EIS would be warranted.

Thank you for the opportunity to comment. Wild Cumberland looks forward to working with the National Park Service on an **alternative solution that aligns with the Congressional intent for Cumberland Island National Seashore.**

Sincerely,

Jessica Howell-Edwards



Executive Director
Wild Cumberland

cc:

The Office of Sen. Raphael Warnock
The Office of Sen. Jon Ossoff
Mark Foust, NPS Regional Director