

NEW YORK STATE ASSEMBLY

ASSEMBLY STANDING COMMITTEE ASSEMBLY STANDING
COMMITTEE ON ENVIRONMENTAL CONSERVATION

PUBLIC HEARING

On the Preservation of Plum Island as Open Space

Farmingville, Long Island
Brookhaven Town Hall Auditorium
1 Independence Hill
Farmingville, New York

September 28, 2015

[11:00 a.m. - 3:42 p.m.]

Committee on Environmental Conservation 9-28-2015

ASSEMBLY MEMBERS PRESENT:

ASSEMBLY MEMBER STEVE ENGLEBRIGHT
Chair, Assembly Chairman Committee on Environmental
Conservation

ASSEMBLY MEMBER ANTHONY PALUMBO

ASSEMBLY MEMBER FRED THIELE

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2 (The public hearing commenced at [11:00
3 a.m.]

4 ASSEMBLY MEMBER STEVE ENGLEBRIGHT,
5 CHAIR, ASSEMBLY STANDING COMMITTEE ON
6 ENVIRONMENTAL CONSERVATION: I'm going to ask the
7 three elected officials who are here today to
8 come to the front and begin to prepare to offer
9 their testimony. These include Al Krupski, the
10 county legislator from the North Fork. Ed
11 Romaine, and we're in Ed's house today. This is
12 Brookhaven Town Hall and he is the supervisor of
13 Brookhaven. Thank you by the way Mr. Supervisor
14 for your cooperation in providing us with this
15 forum, much appreciated. And Scott A. Russell,
16 the supervisor of the Town of Southold. So if
17 you guys can come up and on this side of the
18 podium I'm joined with my colleague from the
19 North Fork, which includes Plum Island, which is
20 the subject of this hearing today, Tony Palumbo
21 and I'm going to offer a couple of comments in a
22 moment but I first want to defer to my colleague
23 and also mention that Assemblyman, Fred Thiele,
24 from the first assembly district is, we

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2 understand making his way here and will join us
3 shortly, but first Anthony Palumbo from the
4 second assembly district. If you have any
5 comments or greetings this is a good time.

6 ASSEMBLY MEMBER ANTHONY PALUMBO: I just
7 want to say thank you, thanks for having me Steve
8 and this is obviously of growing concern with the
9 proposed sale of Plum Island so we certainly are
10 very interested in your comments and of course,
11 working with Ed, Al and Scott Russell, with these
12 three folks who are kind enough to offer some
13 testimony. I think we can hopefully work on some
14 sort of a comprehensive plan. I know Congressman
15 Zeldin does have a representative here and he's
16 been very active on this issue and he is quite
17 concerned as well. So I look forward to hearing
18 some suggestions from you folks because I think
19 we all know where we want this and we want it to
20 stay and remain in its current state, but as also
21 is a member of the Environmental Conservation
22 Committee, I thank the chairman for allowing me
23 to be here and we look forward to making some
24 progress here. Thank you, again.

2 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you,
3 I have a couple of thoughts I just want to offer
4 as we're prepared to receive testimony. First I
5 want to thank you all for being here. This is a
6 very, very important issue and Plum Island is
7 important in and of itself as an ecological and
8 historical treasure that bestrides two nationally
9 designated estuarine sanctuaries, the Long Island
10 Sound and the Peconic Bay. So it's all about
11 location with real estate and this particular
12 piece of real estate, the location, location,
13 location admonishing has great meaning. It is at
14 the gateway to our greatest city and to what we,
15 who are in government here know to be our
16 greatest state, but in a larger sense there is
17 also a context. The island, Plum Island is part
18 of a glacial archipelago of eastern Long Island
19 that has found focus as it is important for the
20 biodiversity of the state. This area includes
21 the greatest biodiversity to be found in all of
22 the state and it is historically significant.
23 The island has many vestiges of the military
24 history of our nation going back to the

2 revolutionary war. To order it sold as if it's a
3 piece of meat is something that I was very
4 disappointed to learn about that our
5 distinguished colleagues did some years ago in
6 Washington. Nevertheless, that does not preclude
7 the reality that the state has a great interest
8 and we're going to learn more about that today
9 and the particular issues that I want to focus on
10 is first of all to give a sense of context. Plum
11 Island is yes, an important singular island and
12 to itself, but it's part of an ecosystem. An
13 eco-system that the state has already recognized
14 as being important in law, and when I was a
15 county legislature and Al you'll be our first
16 speaker in just a moment, but when I was in the
17 body you now serve in I was there with Mr.
18 Romaine and we worked together on putting
19 together a piece of legislation that became law
20 called the Pine Barons Maritime Reserve Act. And
21 the Pine Barons is the upland's portion, we're
22 all aware of its ecological important, but that
23 act made it clear that the state understood that
24 the entire estuary included all of the islands

2 and all of the Peconic Bay, and that the Peconic
3 Bay is the wet portion of a wet to dry coastal
4 ecosystem; the dry portion being the Pine Barons.
5 It's all tied together, it's all something that
6 we have invested great amounts of public interest
7 and money to try to protect and the state itself
8 just across from Plum Island has Orient State
9 Park and just to the south Montauk State Park.
10 As well as all of the investments made by other
11 levels of government. I'm hoping that Senator
12 Ken LaValle will be able to join us here today as
13 we prepare I just want to express my appreciation
14 to Supervisor Russell who I had the privilege of
15 joining along with the senator last week to tour
16 the island, and I just want to publically express
17 my appreciation for your knowledge and your
18 passion for protecting this part of your
19 beautiful town, and we're here to explore ways
20 that the state might be able to assist in that as
21 well. And so with that being said I wish that
22 instead of offering law to sell Plum Island that
23 they had realized that if they can make a Gateway
24 National Park that includes that part of San

2 Francisco and part of New Jersey that they surely
3 could have taken a perspective that this part of
4 the gateway to our nation is also a national and
5 had edited as the Plum Island unit of the Gateway
6 National Park, but they didn't do that, they
7 decided to sell it. And so here we are to
8 explore the implications of that very
9 questionable decision and to explore ways that we
10 might be able to remediate from that awkward
11 position that we now find ourselves in. The
12 timeframe for such a sale between five and seven
13 years so we have a little time, let's use it well
14 and as we go forward here today let me just say
15 it's important for our audio purposes to have
16 each speaker identify themselves and the position
17 they hold as they begin their testimony. We're
18 going to begin with Al Krupski and
19 [unintelligible] [00:08:43] the forum is yours.

20 MR. AL KRUPSKI: Thank you and Mr.
21 Englebright I really appreciate this and joined
22 with, you know, Mr. Palumbo here. This is, when
23 we were informed that Congress --

24 ASSEMBLY MEMBER ENGLEBRIGHT: If you

2 could just --

3 MR. KRUPSKI: Oh, sorry.

4 ASSEMBLY MEMBER ENGLEBRIGHT: For the
5 purposes of the record if you could identify,
6 very good.

7 MR. KRUPSKI: Al Krupski, Legislator
8 District 1.

9 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you.

10 MR. KRUPSKI: And the district goes from
11 Fisher's Island all the way to waiting river down
12 into half of Center and half of East Moriches.

13 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you.

14 MR. KRUPSKI: All of the Southold and
15 all of Riverhead Town. Plum Island is an
16 important of Southold Town and there was a
17 wonderful book written last year and I have a
18 copy of it, and the book outlines the history,
19 the centuries of people using the island and how
20 it's impacted the culture and history of the east
21 coast and as well as Southold Town, but, on a
22 much broader area when you have foreign powers,
23 you know, landing there and the war of 1812 and
24 then all the military installations and how it

2 was such a big presence during World War I and
3 World War II for security reasons. Growing up in
4 Southold you always kind, it was, in my lifetime
5 it was always a federal facility. It was always
6 a place that you, you know, there was no contact
7 with. We knew friends and neighbors who worked
8 there, so you kind of had a sense of security of
9 what was going on there. It wasn't, there was no
10 anxiety over it, but it was what it was and they
11 did, they conduct animal disease research there.
12 Most people don't understand because we have a
13 very in this country, a very safe food supply, I
14 think a lot of people take that for granted but
15 there's a great deal that goes in to keeping that
16 food supply safe and certainly the work that
17 they've done on Plum Island is very, it was very
18 important to that. And I know there was some
19 anxiety years ago when I was on town board in
20 Southold, and the Supervisor Russell called a
21 meeting with the administrators and the
22 scientists of Plum Island at a public forum to
23 explain to the public exactly what went on the
24 island. So this was part of, this has been part

2 of Southold's culture. I'm so happy to see a lot
3 of people here today that have, that have really
4 joined the chorus of people who would like to see
5 the island kept in its present form. If you had
6 had this meeting today in Poquatuck Hall in
7 Orient you would have had a lot more people. It
8 would have been I'm sure a packed house. There's
9 a great deal of interest locally about this.
10 It's very important, you know, not only as an
11 island and the land use and the Supervisor
12 Russell I'm sure will talk more about what the
13 town has done as far as the zoning goes, which
14 was, was the best stab that the town could take
15 at defining its future, but also the concern was
16 the navigation, it's so important around the
17 island on both sides of it and that any use of
18 the island if it was going to shut down or effect
19 that navigation was of really serious concern.
20 So from my end as Suffolk County legislator I'm
21 asking my colleagues to sign an all 18 letter to
22 support the preservation of and to prevent the
23 sale to a private entity of Plum Island. I'm
24 sure they will agree how important that is but to

2 see a really broad consensus of people behind us
3 is very encouraging. So thank you for doing this
4 today.

5 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you
6 very much for your advocacy, we look forward to
7 seeing the communication that you're in
8 preparation with now as well as continued
9 involvement going forward. It's, it's important
10 again to offer context. The north fork and the
11 south fork are part of the same mega ecosystem
12 that includes the Pine Barons, and all of our
13 investments at the county level into protecting
14 that mega ecosystem is something that you
15 obviously are focused on and that's much
16 appreciated. Let's go to the next speaker,
17 Supervisor Romaine, you'll be next and I want to
18 give Scott Russell of this panel the final word.
19 Mr. Romaine.

20 MR. EDWARD P. ROMAINE: Well, thank you
21 for allowing me to speak today. I particularly
22 want to thank the chairman for focusing in on
23 this critical issue. He has always been in the
24 forefront of protecting our environment and

2 ensuring that Long Island remains a good place to
3 live, and Plum Island may not be in his district,
4 I know it's Tony Palumbo's district, but it is
5 critical and I had the honor of serving as the
6 first district legislature for many years before
7 Mr. Krupski and speaking out on this issue
8 constantly to protect Plum Island. Do I think
9 the federal government is making a mistake? I
10 think it's making a huge mistake in selling this.
11 This should be a preserve. Let me talk a little
12 about Plum Island, I made some notes. Plum
13 Island is an 843-acre site that is historically
14 and ecologically critical with a history, the
15 lighthouse is on the National Register landmark.
16 Fort Terry a fortification that was built during
17 the Spanish-American War; its remains still are
18 on that island. This is an island that as you,
19 Mr. Chairman has clearly pointed out are between
20 two national estuaries, the Long Island Sound,
21 Peconic Bay. The island contains the largest
22 cold water site for seals in New England, I don't
23 think people realize that and if they have any
24 doubt venture further a little east to Great Gull

2 and Little Gull Island and you'll see all the
3 seals there. I had the honor of taking that
4 trip. The island has 218 different bird species
5 that have been documented, which represents
6 almost a quarter of all bird species found in
7 North America. I don't think people are aware of
8 that. It's federally listed, you have endangered
9 species such as the Roseate Tern and the Piping
10 Plover. There are a dozen of rare plants and
11 species that are found on this island and occur
12 along with the 50 acre fresh water lake and
13 wetlands that form the southwestern corner of
14 this island. The waters around the island
15 support a robust population breeding of sea
16 birds, fish, sea turtles and marine mammals. I
17 cannot believe that the general service
18 administration has put this up for sale for the
19 highest bidder. I know our local congressman,
20 our two United States senators and Senator
21 Blumenthal from Connecticut are posing the sale.
22 I hope that they are successful. If they are
23 successful what should be done. This should be a
24 national wildlife refuge, there is no question.

2 Mr. Chairman, you have supported this and I am
3 100% behind you in that support. Preserving Plum
4 Island is in concert with our efforts to clean up
5 Long Island Sound, which I strongly support and
6 will protect and preserve important remaining
7 natural resources that we see on Long Island
8 Sound. Thank you for your efforts. Thank you
9 Assemblyman Palumbo for your efforts. Whatever I
10 can do as supervisor of this town and someone
11 whose heart certainly resides with the east end,
12 I will support any efforts to preserve this
13 island, it should be developed. Thank you again.

14 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you
15 very much. I know we'll probably have a couple
16 of questions, let's finish the panel and then we
17 may be able to ask a couple of questions if
18 that's okay, Tony?

19 ASSEMBLY MEMBER ANTHONY PALUMBO: Of
20 course, you're the boss.

21 ASSEMBLY MEMBER ENGLEBRIGHT: Supervisor
22 Scott Russell from the Town of Southold who I
23 again want to express appreciation for your
24 hospitality and your guidance as we toured Plum

2 Island last week. The forum is yours.

3 MR. SCOTT R. RUSSELL: Thank you. Scott
4 Russell, Supervisor for Southold Town. Just to
5 give you a little bit of a historical
6 perspective. Several years ago there was a
7 discussion that the federal government needed to
8 site a biofore [phonetic] what they called an end
9 bath facility. It's a substantial facility to
10 explore not just diseases that would be
11 transmitted from animal to animal but to humans
12 as well. Plum Island was one of the sites that
13 were being evaluated. Ultimately the decision
14 was to locate in Manhattan, Kansas. The General
15 Services Administration was tasked by the federal
16 government to do an EIS of Plum Island and also
17 to prep it for sale. They had actually come out
18 with several proposals that was subject to many
19 public hearings. It called for the construction
20 of a very large condominium community, a lot of
21 focus on residential uses. Southold Town
22 actually, and I will say at the urging also with
23 Legislator Krupski who was a town board member at
24 the time, said we need to action and we need to

2 exercise our zoning authority and zone Plum
3 Island. Ultimately, Southold created two zoning
4 categories, brand new to Southold Town, none of
5 our zoning would have been applicable to the
6 island, it wouldn't have been appropriate. We
7 created a, what we called the Plum Island
8 research district which is about 175 acres and it
9 largely incorporates that foot print of the, of
10 the research facility and its supporting
11 structures. We then created a, and that was 175
12 acres of bulk schedule, which means it has to be
13 that size or less. We then created about a 600
14 acre Plum Island Conservation District. The Plum
15 Island Conservation District would require at
16 least 600 acres of the island, stay in its
17 natural state. We made a small provision to
18 allow for some accessory use as a solar
19 photovoltaic in support as an accessory use,
20 forgive me, in support of the accessory use to
21 the zoning, which I'll talk about for the Plum
22 Island research district. Generally speaking it
23 precludes no residential uses, no other uses of
24 any kind. What Southold town envisioned was

2 ultimately it becoming, it's a de facto preserve
3 now, we'd like to see it, remain that way and
4 possibly creating some sort of limited public
5 access but responsible access after a management
6 plan is completed and given it to trusted hands
7 to ensure that.

8 The research district itself, one of the
9 goals Southold had was the island is a good
10 producer of jobs in Southold Town, I think at
11 last count there's about 400 jobs there, 200
12 located on eastern Long Island. A substantial
13 employer for Southold Town the research facility
14 itself is of international importance. Southold
15 very much wants to see it stay as a research
16 facility. If that's not possible we'd like to
17 see it stay in that type of use consistent with
18 that research facility. The zoning reflects that
19 the existing use was something within that field
20 can continue. It also allows for the 175 acres
21 to be used as what we would call an alternative
22 and renewable energy almost like an incubation
23 site. It has all the, all of the, the
24 alternatives, the alternative energy are there.

2 Obviously, photovoltaic rays are researched for
3 wind technology although we de-emphasize that in
4 the zoning because we wanted to include that
5 after we had gathered what we called best
6 management practices from the National Audubon
7 because it is a huge migratory bird route. We've
8 actually with the zoning have tried to say, look,
9 we need, we need to keep this an island. We need
10 the, the employment. We actually also wanted to
11 recognize the zoning the three principle
12 components; one as I mentioned it's a research
13 facility of international importance. Secondly,
14 is the ecosystem, as I mentioned it's, we've
15 viewed it the other day, it's a pristine island
16 with wonderful natural assets and an ecosystem.
17 We also wanted to recognize and I'm glad that's
18 being discussed is the historic importance of the
19 island. It has assets of historical national
20 importance, we'd like to see that stay. Perhaps
21 that portion be designated on the National
22 Register of Historic Places. Ultimately, we
23 would oppose the sale. I do not think a private
24 party would meet our goals. I do not think a

2 private party will find any viability in the
3 purchase of the island. However, it's important
4 to remember although Southold has ultimate zoning
5 authority, mindsets change, goals change, town
6 board's change. So we think it's very important
7 that this be a policy and an effort that is borne
8 not just by Southold Town but it's undertaken by
9 New York State and hopefully, friends if we can
10 bend the ear of people in Washington, D.C. I
11 want to thank you very much for holding this, I
12 think it's very critical that we join these
13 forces and we fight this ill-advised sale of the
14 Island and we do everything we can to keep it the
15 way it is. Thank you.

16 ASSEMBLY MEMBER ENGLEBRIGHT:

17 Supervisor, than you very much. Tony, do you
18 have any questions or thoughts?

19 ASSEMBLY MEMBER PALUMBO: Thank you,
20 Chairman, just a few. There were mostly answered
21 by the testimony you gentleman have given.
22 Supervisor Russell, you said there are about 200
23 jobs that are, you said they're on the east end
24 are those just New York or the balance from

2 Connecticut, there's about 400 total?

3 MR. RUSSELL: There's about 400, about
4 200 of them take a ferry to New London each day
5 and about 200 are located right on the east end,
6 Riverhead, Southold and I believe a few from the
7 South Fork.

8 ASSEMBLY MEMBER PALUMBO: Okay and thank
9 you. And regarding the local town code have you
10 had, has there been any investigation regarding
11 preemption if, if that you would otherwise be
12 preempted if in fact there was some existing uses
13 that would have some sort of an effect even
14 though, of course, the sale would likely go to a
15 private party and then you would you have total
16 control, it wouldn't be federal property anymore.
17 Is there any, any concern regarding any residual
18 effects of its previous use for animal research?

19 MR. RUSSELL: If the previous use goes
20 to a new party and that use is consistent with
21 its current uses that would protect the jobs and
22 that would be consistent with our zoning goals.
23 Regarding the issue of preemption I would submit
24 that it's probably the other way around.

2 Southold is a designated a local waterfront
3 revitalization plan that's given to us under
4 state and federal law. I would submit, although
5 I'm not an attorney that New York State probably
6 has some authority there as well because it has a
7 coastal management plan.

8 ASSEMBLY MEMBER PALUMBO: Great, just
9 wanted to make sure it was comprehensive. Thank
10 you again, Supervisor. Yes, yes, sure,
11 Legislature Krupski.

12 MR. KRUPSKI: Just, just to add to the
13 zoning, zoning component one of the, one of the
14 things that we considered when we, when we
15 considered the zoning, how to zone it and why to
16 zone it was that, if it's not zoned and it's for
17 sale, you know, Southold was going to be faced
18 with a whole array of possible land uses for it
19 and it would be really difficult to fend a lot of
20 these things off. I mean, it would be, it would,
21 I don't think it would ever end. If we zoned it
22 upon sale, before the sale then at least people
23 have a pre-conceived notion of what their
24 possibilities would be under Southold Town's

2 laws. So they, so the people who are interested
3 in a lot of other schemes for the island would be
4 hopefully dissuaded and say well, we're going to
5 find, we're going to find a different location
6 for these things. So we kind of wanted to steer
7 the land use through zoning.

8 ASSEMBLY MEMBER PALUMBO: Sure and that
9 was a smart move I think because ultimately you'd
10 be, you'd have bids for millions and millions of
11 dollars and hundreds of condominiums and
12 waterfront property and so forth, which would
13 have really, really been in contravention to its
14 existing use, but I do certainly appreciate that,
15 thank you.

16 MR. RUSSELL: Assembly Member, if I
17 could just add one thing. The one thing that I
18 think has to be done as a minimum is a complete
19 comprehensive cleanup of anything that might
20 threaten the water table or the natural
21 environment and we, that has been used as a lab
22 that has had top security. They've had patrols
23 as you know out in Plum Garden in case a deer
24 escapes from Plum Island, they shoot it because

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2 they don't it getting to the mainland. So
3 obviously, there has been some experiments
4 undertaken at Plum Island that would raise
5 questions, which I think the New York State
6 Department of Environmental Conservation should
7 be deeply involved in any plan to cleanup before
8 it's even offered for sale and I think that's a
9 critical component that I did not mention that I
10 want to stress.

11 ASSEMBLY MEMBER PALUMBO: Well, said,
12 thank you, supervisor.

13 ASSEMBLY MEMBER ENGLEBRIGHT: You've
14 kind of anticipated some of the direction of my
15 questioning, what can the state do. By the way,
16 the deer are intercepted on their way into the
17 island --

18 MR. RUSSELL: Right.

19 ASSEMBLY MEMBER ENGLEBRIGHT: -- as well
20 as those that get there on their out for the very
21 reasons that you correctly point out, Mr.
22 Supervisor, but the research going on there
23 affects animals that have hoofs, so deer are not
24 welcome either coming or going for research

2 purposes. They are a hazard should they escape
3 with disease it would be a poten-, potential
4 calamity so they don't even let them come onto
5 the island. As we look at the potential role of
6 the state here, I just wonder if anybody has
7 contemplated the possibility of putting together
8 a regional park that would include a partnership
9 park. I mentioned the Gateway National Park,
10 which include the Sandy Hook unit in New Jersey.
11 There's a San Francisco Bay unit, Jamaica Bay
12 unit, clearly what has happened is that they took
13 the largest park in New York City, which was
14 Jamaica Bay Wildlife Sanctuary and made it part
15 of a national park. We have significant public
16 assets in Southold Town and East Hampton,
17 Riverhead, Brookhaven that are part of this
18 ecosystem, what, what about the possibility of
19 repurposing some of the buildings on Plum Island
20 as a regional, perhaps even a new national park
21 that would draw tourists as well as potentially
22 provide a place within again, some repurposed
23 buildings from the old military uses as well as
24 the current animal disease research, as an

2 academic and research center again, that would be
3 cooperative, a cooperative park and paralleling
4 that potentially a cooperative research center on
5 a portion of the island where some of the
6 buildings might be repurposed. Is that something
7 that is a thought that would find favor with you
8 or?

9 MR. RUSSELL: Yes, when we created the
10 Plum Island research district zoning, we had
11 provided and accommodated for some sort of
12 research facility, some sort of educational
13 facility. We're very mindful of the fact that we
14 have some wonderful universities to the north and
15 right to the south on the South Fork and that
16 would make an excellent partnership to pursue
17 some sort of research uses that are consistent
18 with the zoning.

19 ASSEMBLY MEMBER ENGLEBRIGHT: I know
20 with interest that Cinatel Avow [phonetic] chairs
21 the higher education committee and he has a great
22 depth of knowledge about the way universities
23 function in our state and beyond, but I hope he's
24 going to be able to join us a little later but

2 the idea --

3 MR. ROMAINE: I would to add to that --

4 ASSEMBLY MEMBER ENGLEBRIGHT: Is not a
5 new one apparently in Southold, you've already
6 conceptualized some of this. Mr. Romaine,

7 MR. ROMAINE: That the state might
8 consider, the state university system, a marine
9 research center considering that we are an island
10 and we're surrounded by water. That that might
11 be a joint venture possibly with the State of
12 Connecticut for a state university system funded
13 by both states to do marine research and work
14 that is so vital to preserving not only the
15 sound, Peconic Bay, our oceans which are in
16 peril. It might be something worthy that the
17 state can step up to and look at, particularly
18 with our sister state Connecticut.

19 ASSEMBLY MEMBER ENGLEBRIGHT:

20 Interesting. Mr. Krupski.

21 MR. KRUPSKI: One of the point
22 concerning access on the south west side of the
23 island there's a, and you were there, the docking
24 facility there and you left from Orient Point and

2 that part of the federal land in Orient should be
3 always linked to the island because that provides
4 really good access, an access point but with
5 that, if that were to be sold separately we would
6 be completely cut off, you know, access wise from
7 the island. You know, there's a well maintained
8 slip there, there's a small office there. You
9 need to make sure those two components are kept
10 together.

11 ASSEMBLY MEMBER ENGLEBRIGHT: I note
12 with interest speaking of that Plum Gut passage
13 that one side of it is a state park, would you be
14 open to discussions with the State of New York
15 for potentially expanding Orient Point State Park
16 to include a Plum Island unit?

17 MR. KRUPSKI: I would, I would think
18 that would be certainly something that would be
19 very worthy for discussion, but like I stressed
20 earlier any type of use as a park should really,
21 because of the delicate nature and the unique
22 nature of the island should probably have a very
23 comprehensive management plan and provide like I
24 said for limited responsible public access.

2 ASSEMBLY MEMBER ENGLEBRIGHT: Well,
3 there's precedent for that and speaking of the
4 state's role there is a state coastal management
5 program, we're going to hear from the New York
6 State Department of Environmental Conservation
7 shortly. I'm going to be asking them about
8 whether future uses that may be proposed should a
9 sale occur whether those uses would be subject to
10 a consistency review pursuant to the coastal
11 management program but I note with interest that
12 one of our testifiers, two, I think of our
13 testifiers later are former employees of the New
14 York State Department of State, several of the
15 state agencies I just mentioned three; DEC,
16 Department of State, and state parks, at least
17 three of them have a potential role here and I
18 just wonder if you gentlemen would be available
19 if working with Assemblyman Palumbo, Cinatal Avow
20 and Assemblyman Thiele and others if we try to
21 put a think tank together that included access to
22 the thought processes within those agencies if
23 you or officers would be willing to participate.

24 MR. KRUPSKI: Just on other thing I

2 should probably go back and revisit the
3 conservation district. Actually, the code
4 provides for passive recreational uses, it does
5 not provide for active recreational uses. Hair
6 brained ideas like golf courses that we might
7 have been reading about it, simply aren't
8 permitted on the facility based on our current
9 zoning.

10 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you
11 for that clarification. Tony?

12 ASSEMBLY MEMBER PALUMBO: Thank you very
13 much.

14 ASSEMBLY MEMBER ENGLEBRIGHT: Gentleman,
15 thank you so very much, appreciate your
16 testimony. Our next panel is entirely one
17 person, Kevin Dowling, the legislative assistant
18 to Congressman Lee Zeldin is Kevin Dowling here?
19 You're the whole panel. While you're making your
20 way to the microphone, I'd just like to add this
21 perspective, those of you who did not have an
22 opportunity to testify and would like to submit
23 written testimony you should submit your
24 testimony via e-mail or mail to the address

2 provided on the hearing notice as soon as you
3 can, but please no later than one week from today
4 and if you able to do that we will add your
5 thoughts to the written record. Thank you very
6 much and Mr. Dowling representing Congressman Lee
7 Zeldin, welcome. The forum is yours.

8 MR. KEVIN DOWLING: Thank you, Mr.
9 Englebright, thank you Mr. Palumbo. Kevin
10 Dowling, office of Congressman Lee Zeldin. I
11 handle all the transportation and environmental
12 related policy work in the Washington office, but
13 I also come up to Long Island quite a bit to
14 address the issues here in the field and I have a
15 personal connection to the Plum Island issue
16 because my mother's family is all from Southold,
17 New York. So I grew up with my late grandfather
18 being in the Coast Guard Auxiliary and telling us
19 scary stories about Plum Island as we would sale
20 by. HR-1887 is the bill we currently have
21 introduced in the house of representatives. It's
22 based off Mr. Bishop's previous work on the Plum
23 Island issue, he was a big fighter on this issue
24 as well and flagged this right out of the gate as

2 an important bipartisan priority that we would
3 take up from our predecessor. The current law
4 that we, or the current bill that we have for the
5 house repeals appropriation laws from 2009 and
6 2012 that mandate the sale of the island
7 following the determination that the
8 [unintelligible] [00:37:00] facilities operations
9 will be moved to a site at Manhattan, Kansas.
10 That determination has already been made but like
11 has been said there's still several years down
12 the line before the GSA, the general, which is
13 the leasing and real estate agent of the federal
14 government could open up a docket for a sale.
15 The money has already been appropriated
16 separately for Manhattan, Kansas, which is good
17 news because, so the GSA is operating under
18 current law that mandates the sale but they're
19 also operating under several false assumptions.
20 Number one, they're evaluation of the island is
21 completely false. I don't know the exact numbers
22 but their value, the evaluation is up high when
23 following the Southold Town's zoning, zoning
24 determinations and in addition the mitigation

2 costs, the true value of the island is going to a
3 lot lower and the idea that the federal
4 government could value the island without
5 considering the mitigation costs after they have
6 done all kinds of complex research that would
7 require massive mitigation. The idea that some
8 bureaucrat in Washington thinks that whoever the
9 future owner of the island would have to pay for
10 that is pretty crazy in my opinion. And so any,
11 number one preventing the sale but number two
12 making sure that the right people are responsible
13 for the mitigation costs. So the bill we have
14 right now is in Homeland Security Committee and
15 is a concurrent senate effort led by Blumenthal,
16 Schumer and Gillibrand. On the house side the
17 bill is currently with the committee on Homeland
18 Security and we have 11 bipartisan cosponsors.
19 This includes the entire long island delegation
20 so King Rice Israel, we have Chris Gibson from
21 upstate New York who's a real leader on
22 conservation issues and then we have Dan Donovan
23 from Staten Island. We also have the entire
24 Connecticut delegation, all five members. So

2 it's a real bipartisan effort and across state
3 lines and we're trying with the help of some of
4 the stake holders who are here today to raise
5 awareness throughout the region, just as how the
6 town of Brookhaven would have a concern with
7 preserving this island, just how our neighbor in
8 Staten Island have expressed their concern in
9 preserving this island. If you care about bird
10 conservation in Vermont or New Hampshire or
11 Massachusetts you should care about the
12 preservation of Plum Island. If you care about
13 the Long Island Sound ecosystem at large, which
14 goes all the way up I think to the Canadian
15 border if you follow the water shed, you should
16 care about the preservation of Plum Island. If
17 you care about envi-, you know, carbon issues
18 with carbon, this is a carbon sink. So there's a
19 broad spectrum of stake holders who are concerned
20 with this and with the help of the nonprofits who
21 are involved we're trying to raise awareness in
22 Massachusetts in the New England region as well,
23 get as much support as we can.

24 Congressman Zeldin's prerogative is

2 preserving this island for education, research
3 and conservation. We visited the island in
4 March, I was with the congressman and we saw the
5 untouched ecosystem first hand, in addition, we
6 saw these world class laboratory facilities. The
7 discussion before was about, you know,
8 universities coming in or world class, you know,
9 world class research continuing obviously after
10 the cleanup, the necessary cleanup. The State
11 University of New York, Cornell Cooperative
12 Extension, Yale, Harvard, these are all, the
13 Peconic Land Trust, these are all world class
14 institutions that are in the region. I am
15 personally biased to my ala mater the State
16 University of New York College of Environmental
17 Science and Forestry, which has field stations in
18 the Adirondacks, a few of them. So the concept
19 of some sort of field station for an outside
20 university that's hours away from the home
21 university is not unprecedented within the SUNY
22 systems. The congressman stands firm for local
23 control. The Town of Southold, which has
24 jurisdiction over this island as we said before,

2 has made it clear that no private development
3 will be permitted on the island, sale or no sale.
4 The wishes of the local community should never be
5 steam rolled by bureaucrats in Washington or by
6 private developers and their army of lawyers and
7 lobbyist, so that's why it's important to get out
8 in front of this now. These facilities, this
9 world class laboratory facilities, which have
10 made an impression contribution to national
11 security and food security have received a
12 significant tax payer investment and that is
13 still ongoing even as they are building the
14 foundation in Manhattan, Kansas, they are still
15 investing Piratic because DHS's prerogative is to
16 have a seamless transition and with the work
17 that's going on there it makes sense they have to
18 have a seamless transition. You don't think
19 about the security of the pig and cow supply, God
20 forbid, until you have to, and we see in Europe
21 where things like swine flu have really caused a
22 lot of problems, but we have a very strong system
23 here. So the work needs to be seamless, but that
24 it also means that taxpayer money is being

2 invested into these laboratory facilities until
3 the day they leave and that's an investment we
4 would want to recoup for other research purposes
5 and you know, preserving it for future research
6 and education.

7 As we spearhead the effort to save this
8 island on the federal level we look to all of you
9 at the state and local level to show leadership
10 regarding the future of the island. All options
11 must be on the table and that includes transfer
12 to the state or county for conservation purposes.
13 So sale, yes we want to prevent the sale, but if
14 it was some sort of sale expressly for
15 conservation purposes to the state or county or a
16 private trust, a nonprofit trust that would be a
17 good endgame option to preserve the island. A
18 strong template for our work is Governor's
19 Island, New York, a major preservation success
20 story in our state's recent history. The
21 preservation of this historic island was two-
22 fold, first President Clinton used monument
23 making power to designate the historic fort
24 section of the island as a national monument,

2 which could be done through executive order and
3 has a strong history through our state of Teddy
4 Roosevelt being the original president to
5 initiate that monument making power. Then the
6 Coast Guard sold the rest of the island to the
7 City of New York for \$1.00, which in turn placed,
8 so NYC in turn placed the land into a nonprofit
9 trust chartered by the city, and if you go online
10 and do some research it's really interesting.
11 They have all kinds of cultural, research,
12 education and preservation events going on at
13 Governor's Island, New York. It's managed by a
14 private, nonprofit trust that was chartered by
15 the city. So it's a strong possible template for
16 what we could at Plum Island.

17 I talked about the World Class Education
18 and Conservation institutions in our region, they
19 need to weigh in and they already have about the
20 options and the interests and then the other
21 thing I'll just say is most importantly in the
22 house of representatives and in the senate we
23 have the power of the purse. And there's certain
24 perks being represented in the majority also with

2 the power of purse. The appropriations bills for
3 the General Services Administration, for the
4 Department of Homeland Security are going to come
5 up and that will be an opportunity similar to
6 efforts done by our predecessor to put these
7 agencies on notice that the local community finds
8 the sale, potential sale of this island
9 unacceptable. So we will use the power of the
10 purse as necessary, and with that I'll take any
11 questions from either of you.

12 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you
13 very much, Tony.

14 ASSEMBLY MEMBER PALUMBO: That was very
15 thorough, well done. Can you explain to me in a
16 little bit more detail, you mentioned about
17 Governor's Island, when was the transferred?

18 MR. DOWLING: So the executive order or
19 the monument making executive order from Clinton
20 came at the very end as is tradition with
21 presidents and we'll see it for better or for
22 worse with this president using monument making
23 power at the end of your term to designate
24 national parks and national monuments. So it

2 must have been late 2000 or even early 2001 right
3 before -- I can get you sir the details and I'll
4 put it in my written testimony. It was right at
5 the end of the Clinton administration so that was
6 the first step and then the rest of the island
7 that's not the historical fort was then sold. So
8 it was a two-fold process.

9 ASSEMBLY MEMBER PALUMBO: You're sure,
10 and then that was sold, you said to New York City
11 for a \$1.00 [unintelligible] [00:44:50]

12 MR. DOWLING: For a \$1.00 with Daniel
13 Patrick Moynihan also on, I think, towards the
14 end of his term or his career in the senate being
15 instrumental in leading that effort to have the
16 Coast Guard and this is before the Coast Guard
17 became part of DHS, before DHS existed, the Coast
18 Guard sold it to the city for \$1.00, I believe
19 under congressional mandate.

20 ASSEMBLY MEMBER PALUMBO: And the
21 transportation is subsidized as well by the city?

22 MR. DOWLING: Yes, I believe there's a
23 city ferry that goes back and forth.

24 ASSEMBLY MEMBER PALUMBO: Okay, great,

2 thank you.

3 ASSEMBLY MEMBER ENGLEBRIGHT: I also
4 just want to you say your testimony was very
5 focused and very coherent so thank you for your
6 thoughtful presentation and thanks to Congressman
7 Zeldin who I had the privilege to serve with at
8 the state level as well, for sending you. I'm
9 fascinated with the template of Governor's Island
10 that you point out and wonder if you might be
11 able to provide my office with some additional
12 information with that model in mind. In
13 regarding the value of the island I find it
14 interesting that you referred to the expectation
15 that this was going to be some large windfall for
16 the federal government, but in fact it comes with
17 many liabilities including some of those agencies
18 that might facilitate the sale of the island
19 would have to run a gauntlet of concerns during
20 the budge process and we have between five and
21 seven more budgets for you to queue up to sharpen
22 their focus on what the implications might be and
23 reading between the lines and to see that you're
24 ready to use a hammer if necessary to get their

2 attention. I hope it doesn't come to that but
3 I'm pleased that you're thinking in that
4 direction because sometimes you have to draw a
5 line in the sand and it sounds as if you're
6 willing to do that and have already begun to do
7 so.

8 I'm intrigued with the possibility of
9 transferring to New York State the nearest piece
10 of property to the island is a state park and a
11 county park, two properties that are immediately
12 across from the island, they're both county and
13 state park land. So if this property wasn't
14 already in the public domain it's one that we
15 would be seeking to acquire and so it seems
16 inappropriate to see the looming specter of a
17 sale of the property on the open market as if
18 this is going to matter to the federal budget.
19 And indeed makes me wonder whether or not there's
20 any consistency in the thought process because we
21 have two federally designated estuaries that
22 surround the eastern part of the island of Long
23 Island and Plum Island stands at the nexus of
24 those two. How is that logical, how did that

2 happen, I'm mystified as to how we ended up with
3 the policy that we now have, and I wonder if you
4 could speak to that, were you, were you around at
5 the time that this was done or did this precede
6 you?

7 MR. DOWLING: This preceded obviously
8 Congressman Zeldin's being in the house and I
9 think sometimes with these appropriations bills
10 they just get, you know, omnibus as we say in
11 Washington, piled together and I think if you
12 look at both these laws they were stand-alone
13 regular order appropriations bills, they were
14 consolidated ones, thousands of pages long and
15 that's where the mischief can happen, but I also
16 know that Mr. Bishop fought hard, fought the good
17 fight as best he could to try to defund this
18 effort by the GSA and by the DHS, but I think one
19 of the issues is that it wasn't one of these a
20 thousand page appropriations bills. When you do
21 regular order appropriations theoretically each
22 agency gets the proper amount of scrutiny but one
23 of the frustrating things this year was that
24 GSA's appropriations bill did not come up stand

2 alone because we did, I think the house did six
3 appropriations bills this summer, one of them was
4 not the bill that would cover GSA, and when that
5 comes up again we, on both sides house and senate
6 will be ready with language as necessary to make
7 sure that we prevent the sale and prevent the
8 sale or prevent the GSA from taking action before
9 we can legislatively repeal all the sale language
10 and delay or block the sale completely.

11 ASSEMBLY MEMBER ENGLEBRIGHT: I should
12 also mention that there are three properties that
13 are closest to the island I mentioned two of them
14 are park land, the third one is Graco Island,
15 that belongs to the American Museum of Natural
16 History and is a bird sanctuary. Those are the
17 three nearest properties, how the federal
18 government ended up deciding that an island
19 surrounded by park land and wildlife sanctuaries
20 owned by a major museum should be sold, is a
21 mystery, but it is what it is and we have to deal
22 with it and it sounds as if you're ready to weigh
23 in. Would you be willing if we are able to bring
24 some conversation following this hearing, would

2 you be willing to bring your office into explore
3 legislative solutions that might involve transfer
4 of the property or sale to the state for some
5 reasonable sum like a \$1.00 or something.

6 MR. DOWLING: Yeah, well absolutely. I
7 mean, I think the important thing is the end game
8 being preservation for conservation, recreation
9 and education. Whatever means, whatever way we
10 get there's a million options, not a million but
11 there's a lot of options on the table and we
12 should explore all of them and that's why it's
13 good to have collaboration with state and local
14 government as well because I think at the federal
15 level what we're hearing is they don't want to
16 see -- the bureaucracy doesn't want to let go of
17 this island without a clear plan in place and
18 that's why it's important to formulate that plan
19 now.

20 ASSEMBLY MEMBER ENGLEBRIGHT: Well, we
21 appreciate your thoughts and your testimony here
22 today. I just want to point out the individual
23 sitting behind me will, will be in touch with
24 your office. My counsel, Steven Liss [phonetic]

2 and Michele Malott [phonetic] from the speaker's
3 programming counsel. My chief of staff, Maria
4 Weisenberg is also here, Maria Hoffman is also
5 here. We thank you very much for taking the
6 time, please give our best to the Congressman.

7 MR. DOWLING: Yes, thank you very much.

8 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you.
9 Kathleen Moser, Assistant Commissioner of Natural
10 Resources, New York State Department of
11 Environmental Conservation, welcome.

12 MS. KATHLEEN MOSER: So thank you
13 Assemblyman Englebright and Palumbo for inviting
14 DEC to be here today. As you said my name is
15 Kathy Moser, I'm Assistant Commissioner for
16 Natural Resources at New York State Department of
17 Environmental Conservation. Acting Commissioner
18 Grossman regrets he couldn't be here today and I
19 am accompanied by Assistant Commissioner Julie
20 Tye [phonetic], Julie is responsible for
21 legislative affairs for DEC. As everybody knows
22 Plum Island is an 843 acre island, the western
23 side of the island is relatively developed. The
24 eastern side is relatively undeveloped. Governor

2 Cuomo has come out and stated that he is
3 committed to ensuring that Plum Island is handled
4 and cleaned up prior to any transfer of that
5 property to another entity other than the federal
6 government. The remainder of the island is
7 relatively undeveloped and contains substantial
8 and unique natural resources. This portion,
9 which is as we've mentioned earlier has been
10 rezoned by the Town of Southold as a conservation
11 district. It' a sanctuary for wildlife and
12 native plants. Plum Island's unique situation on
13 the Long Island Sound with limited development
14 and human interference has fostered a rich
15 habitat protecting and supporting a variety of
16 important and diverse flora fauna and natural
17 communities.

18 As you may know in May of 2012 the New
19 York Natural Heritage program issued a report
20 about the biodiverse and ecological potential of
21 Plum Island. Among its findings 25 distinct
22 natural community types exist on Plum Island
23 including four that are significant for our
24 state, Maritime Dunes, Maritime beaches, Maritime

2 bluff and the rocky intertidal area. Over 400
3 species of flora have been documented including
4 16 rare plants, over 200 bird species including
5 57 of greatest conservation need and of course
6 the Piping Plover's we all know is federally
7 listed an endangered species nest on the island.
8 Previous speakers have talked about its
9 importance on the flyaway, as a haul out or a
10 terrestrial habitat for seals, we believe there
11 are eel grass meadows off Plum Island that
12 supports forging sea turtles and on and on, and
13 we at DEC had commissioned the New York State
14 Natural Heritage Program to do a four season
15 biological inventory of the island. The Heritage
16 Program is in the process of doing that right
17 now. We expect their report in spring of 2016
18 and this would, unlike the 2012 report that the
19 Heritage Program did this 2016 report will be
20 based on field visits. They're out there every
21 single month and I think it will really give us a
22 base of biological information that guides
23 whatever happens to the island in the long run.

24 The Plum Gull Island complex has you've

2 mentioned earlier comprises of Plum Gull and
3 Little Gull Islands has several important
4 ecological designations. It's an augural
5 stewardship area by the Long Island Sound study,
6 a critical natural resource area named by the
7 U.S. Fish and Wildlife Service. A significant
8 coastal fish and wildlife habitat declared by New
9 York State and in 2006 the Long Island Sound
10 policy committee, which DEC is a member of
11 adopted a resolution calling for the restoration,
12 conservation and permanent protection of Plum
13 Island. In 2013, EPA opined that conserving the
14 undeveloped portion of the island would offer the
15 best opportunity to preserve its ecological
16 resources. The developed portion of Plum Island
17 contain numerous regulated features including a
18 medical waste incinerator, solid waste landfills,
19 an active major spoils storage facility and
20 buildings in areas known to be contaminated.
21 There's also a possibility of ground water
22 contamination. In addition to the landfills
23 laboratory medical waste has been managed on the
24 island and the area have been impacted by waste

2 from the island's use in the past as military
3 installation. DEC is working closely with
4 Homeland Security and the General Services
5 Administration to ensure that when the facility
6 is closed the area is properly cleaned up and
7 remediated.

8 I also wanted to mention that DEC
9 negotiated a consent order and an environmental
10 benefit project with Homeland Security and we are
11 in the process of recording a conservation
12 easement on 144 acres of the shoreline and the
13 wetlands on Plum Island. That has not yet been
14 recorded. We're working with Suffolk County on
15 some additional maps, but that is in the public
16 record that general, the Homeland Security has
17 agreed to that environment benefit project. We
18 also, as you mentioned previously we work closely
19 with State Historic Preservation office and the
20 Office of Park, Parks, Recreation and Historic
21 Preservation to ensure that the two historic
22 sites on Plum Island receive their appropriate
23 designation and preservation. In our written
24 testimony we include a letter from Governor Cuomo

2 sent in 2013 to Homeland Security and the General
3 Services Administration, calling on them to enter
4 into the consent order requiring the agencies to
5 present a comprehensive environmental cleanup of
6 the island. Governor Cuomo also expressed the
7 need to fully protect both the natural and
8 economic resources of the island. Redevelopment
9 of the facilities and the area of Plum Island,
10 which is already in use is keeping with the
11 Governor's commitment to supporting New York's
12 economy as is the preservation of over 600 acres
13 of land in Long Island Sound important to the
14 biodiversity of New York's ecology and rich
15 history of open space preservation.

16 This hearing and DEC's natural resource
17 inventory are very timely. Based ongoing
18 communication between DEC and the GSA, it does
19 not appear that Plum Island will be put up for
20 auction until sometime after 2020. DEC looks
21 forward to working with Suffolk County, the Town
22 of Southold and the state legislature in helping
23 guide the future use of this rich natural
24 resource. On behalf of acting Commissioner

2 Grossman, thank you for inviting me and I'd be
3 happy to answer any questions you have.

4 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you
5 very much. Assemblyman from the second district?

6 ASSEMBLY MEMBER PALUMBO: I'm going to
7 defer any questions to the geologist in the
8 group, so that's you chairman.

9 ASSEMBLY MEMBER ENGLEBRIGHT: Okay,
10 thank you, Tony.

11 MS. MOSER: I'm in trouble, I'm a
12 forester, so.

13 ASSEMBLY MEMBER ENGLEBRIGHT: I have a
14 number of questions.

15 MS. MOSER: Okay.

16 ASSEMBLY MEMBER ENGLEBRIGHT: But first
17 let me just say thank you for your thoughtful
18 presentation. You have a preview from a few
19 minutes ago as to what one of my questions is and
20 it is related to the consistency review pursuant
21 to the New York State Coastal management program,
22 is it DEC's expectation that the future uses, any
23 future uses of Plum Island would be subject to
24 such a consistency review?

2 MS. MOSER: That's my understanding. We
3 contacted the Department of State approximately
4 two years ago and asked them when their review of
5 coastal consistency would occur and so we're in
6 communication with Department of State on that
7 aspect of their involvement in the Plum Island
8 disposition.

9 ASSEMBLY MEMBER ENGLEBRIGHT: In a 2010
10 letter to the General Services Administration the
11 United States Fish and Wildlife Service urged
12 that the island be considered for uses a wildlife
13 sanctuary and refuge, would the DEC support such
14 future use and has the DEC engaged in any
15 conversations regarding such potential future
16 use?

17 MS. MOSER: We have, so I know that the
18 U.S. Fish and Wildlife director, regional
19 director, Wendy Webber has submitted written
20 testimony. DEC and the U.S. Fish and Wildlife
21 Service are in regular contact on this issue.
22 Ms. Webber went out to the island approximately
23 two weeks ago so we have discussed, you know,
24 whether or not the disposition of the island made

2 sense from a U.S. Fish and Wildlife, wildlife
3 refuge, a national park, state ownership, so we
4 have been having those discussions amongst the
5 various federal and state agencies.

6 ASSEMBLY MEMBER ENGLEBRIGHT: Have any
7 of those discussions resulted in anything that we
8 might regard as a partnership between U.S. Fish
9 and Wildlife and the DEC regarding this property
10 and a further question is there precedent
11 anywhere else in the state for such a partnership
12 or cooperative endeavor?

13 MS. MOSER: Well, I think we're all
14 looking at the different aspects both at the
15 federal legislation and what happens at that
16 level, if that legislation remains the same or is
17 changed, and then there's a number of groups that
18 you will be hearing from after me that we're also
19 talking about, you know, what the disposition of
20 the island is and what makes sense from the
21 protection of natural resource standpoint.

22 ASSEMBLY MEMBER ENGLEBRIGHT: Would the
23 2013 Environmental Impact Statement prepared by
24 General Services Administration and the

2 Department of Homeland Security fulfill the
3 requirements of SECRA or would additional
4 environmental impact studies be necessary once
5 the future uses are determined?

6 MS. MOSER: I think somebody else up
7 here said that they weren't an attorney and
8 neither am I. DEC did comment on the draft
9 environmental impact statement and we submitted
10 those comments to the General Services
11 Administration. I can't comment on whether or
12 not the final EIS that they did met all the
13 requirements of SECRA.

14 ASSEMBLY MEMBER ENGLEBRIGHT: So it's
15 still an open question, okay. You mentioned an
16 environmental benefit project, it's the first
17 I've heard of it, it sounds like a step in the
18 right direction. How is it, just talk a little
19 bit more about that project, I have some
20 questions about how it might relate to the larger
21 issue of protecting the whole island. It sounds
22 like you have a piece of the island that they're
23 ready to work with you on and I'm just wondering
24 how that's able to be done.

2 MS. MOSER: So our division of
3 environmental remediation worked with the
4 Department of Homeland Security on the following
5 of regulations on regulated medical waste. So
6 instead of asking the federal government to pay a
7 fine, we entered into a consent agreement with
8 Department of Homeland Security so that they
9 donated the conservation easement on 144 acres,
10 and they worked, we worked with both our division
11 of fish and wildlife, marine resources as well as
12 the New York Natural Heritage program, to
13 identify what we thought were the important, the
14 most important biological resources on the
15 island, which we thought were the fresh water
16 wetlands and some of the southern coastline where
17 we believe there are nesting Piping Plover's and
18 possibly sea turtles. And so we entered into an
19 agreement with the federal government so that
20 instead of paying the fine they did an
21 environmental benefit project, which put the
22 conservation easement on these 144 acres of the
23 island.

24 ASSEMBLY MEMBER ENGLEBRIGHT: When was

2 this done?

3 MS. MOSER: I think it was 2013, but the
4 deed hasn't been filed yet because of some
5 mapping issues. So we're working with Suffolk
6 County to provide the appropriate maps and we're
7 hoping -- our general counsel's office is
8 following up with Suffolk County to make sure
9 that that conservation easement is recorded with
10 the county on the deed of the property.

11 ASSEMBLY MEMBER ENGLEBRIGHT: Is this is
12 a file that we might be able to have a copy of?

13 MS. MOSER: Oh sure, it's a public
14 record so we'll make sure to get that to your
15 office within a week of this hearing.

16 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you.
17 My main concern that we don't end up with a
18 situation in the future where this well
19 intentioned environmental benefit project is
20 pointed at by a developer and, oh we've taken
21 care of the environment, it's all done, and all
22 the other acres of the island are now, it's okay
23 to do what we want to do. I'd hate to see this
24 used against the preservation of the whole

2 island, which is in fact, I'm wondering how we
3 can actually arrive at a point where the
4 instruction of congress to sell the whole island
5 can be mitigated and parceled into 144 acre
6 parcel. I guess it would be a 700 acre parcel.
7 They say don't look a gift horse in the mouth, so
8 I'm not going to pursue it too far, but I am
9 curious and certainly we'd like to take a good
10 look at that and I do have a caution regarding
11 having this used against us by someone who has
12 intentions to do something rather intensive to
13 the other parts of the island. The parcel is
14 listed in the state open space plan, I wonder if
15 you could describe the process for the
16 development of the plan and what the implication
17 is of a, of a parcel that's on the open space
18 plan relative to what might happen should this go
19 to auction or be sold and what the implications
20 are for the state acquiring it for some amount
21 that we may be able to identify or that your
22 agency might help agree, work out an agreement.
23 We heard from representative from the congressman
24 of the area who indicated that a similar process

2 may have already been modeled for us in the
3 Governor's Island transfer near to Manhattan and
4 I'm sort of asking all these questions and asking
5 you if you can respond by giving us your thoughts
6 in this open space plan and acquisition
7 implications of process policy area.

8 MS. MOSER: Right, so as you know to use
9 the environmental protection fund open space
10 account to buy land, the property, the region has
11 to be included in the open space plan. DEC
12 updates an open space plan every few years. In
13 each part of the state we have a citizen's
14 advisory group so in 2013 and 2014 we pulled
15 together the group for Long Island. We asked the
16 citizen members, they're both named by both DEC
17 and Office of Parks Recreation and Historic
18 Preservation, to review the list so Plum Island
19 obviously is on that open space list. Now just
20 because a property is on the open space list
21 doesn't it preclude it from being developed, it
22 has to be on that list to be purchased by the
23 State of New York. So as you know we have I
24 think last year there was \$20 million in the open

2 space account that's divided between DEC and
3 Parks and we use that UPF funds to buy land every
4 year. So certainly Plum Island if, you know, if
5 the legislature told us, if the governor told us
6 that, you know, New York State wanted to buy the
7 island that money, the UPF open space money would
8 certainly be able to be used to purchase Plum
9 Island.

10 ASSEMBLY MEMBER ENGLEBRIGHT: We've
11 heard a number of the local representatives,
12 supervisors, county representatives indicate that
13 they will be willing to explore the possible role
14 of the state in the larger sense, it may not just
15 be your agency but would your agency be willing
16 to have some conversations with some of the
17 testifiers and entities from this hearing?

18 MS. MOSER: Absolutely, I mean, that's
19 one of the reasons why we wanted to do the four
20 seasons biologic inventory so that everybody
21 knows it's not just DEC's information, we'll be
22 sharing that information publically about the
23 resources on the island. So we'd be happy to be
24 part of any task force or study group that you

2 put together.

3 ASSEMBLY MEMBER ENGLEBRIGHT: Much
4 appreciated. Are you an ecologist by training?

5 MS. MOSER: I have an undergraduate
6 degree in botany and a master's in forestry so
7 I've spent my entire career working on
8 biodiversity issues.

9 ASSEMBLY MEMBER ENGLEBRIGHT: It shows,
10 you're pretty articulate in this area. I'm
11 remembering from my studies that there is an
12 island effect in terms of carrying, species
13 carrying capacity, in which the number of species
14 that an island can carry the largest island being
15 a continent that the number of species that can
16 exist increases proportional to the size of the
17 land mass. Within that context we have an island
18 that with a 144 acres protected if that's all
19 that is protected, we're going to lose species.
20 Would you agree with that?

21 MS. MOSER: Well, there's so --

22 ASSEMBLY MEMBER ENGLEBRIGHT: If the
23 rest is adversely developed.

24 MS. MOSER: Correct, because you have

2 over 25 natural communities on the island, so if
3 any of those natural communities is destroyed
4 than the species that are dependent on that
5 habitat would have to leave the island and I
6 think it's going to be really interesting to see
7 the results of the heritage inventory because
8 before we started the hearing, you know, my
9 numbers are already old from three years ago, it
10 turns out that Audubon New York who will be
11 testifying after me is finding and I don't want
12 to steal their thunder but over 200 species,
13 which is more than has been recorded in the past.
14 I think the other, so there's, I think they're
15 going to find more species using the island. Of
16 concern to me is early reports about invasive
17 species on the island that Supervisor Romaine
18 mentioned the fresh water lake, well the fresh
19 water lake is starting to be filled in by
20 invasive species. And so, you know, as we look
21 for --

22 ASSEMBLY MEMBER ENGLEBRIGHT: Yeah, we
23 saw some of that on the --

24 MS. MOSER: When you were visiting, yes.

2 ASSEMBLY MEMBER ENGLEBRIGHT: Yes.

3 MS. MOSER: And the vines growing over,
4 this time of year you can really see those
5 invasive's taking over. So that will be
6 something to consider in the future if you want
7 to protect those 25 natural communities. You
8 know, we'll have to do some active management of
9 the invasive species there as well.

10 ASSEMBLY MEMBER ENGLEBRIGHT: I'm
11 remembering the island effecting call the
12 McArthur Wilson Principal of Island Biogeography
13 in which a number of species is directly
14 proportional to the size of the island. I don't
15 think we want to see the species diminished and I
16 don't think your agency does either, but your
17 good intentions should be applauded but it's not
18 a complete project until we save the whole
19 island, if the goal is to protect the biological
20 diversity and this is the number one biological
21 hotspot, the Peconic, Pine Barons ecosystem is
22 the, the number one biological hotspot for the
23 entire state of New York. So this has to be a
24 priority for your agency. Hold the applause,

2 thank you. We thank you very much, Mr. Palumbo?

3 ASSEMBLY MEMBER PALUMBO: Yes, sir,
4 thank you. If I may just follow up briefly and
5 by the way I'm the lawyer in the group so I
6 didn't learn about island effect in college, but
7 I just noticed from the Governor's letter from
8 September 2013 that there was some
9 acknowledgement in the, final environmental
10 impact study that there may have been some
11 possible contamination and DEC brought this to
12 the attention of the GSA, and that there was
13 essentially no response from them regarding any
14 review they may have done regarding. And we had
15 some discussion before regarding the evaluation
16 and so forth that I'm sure cleanup costs were not
17 considered when they valued as this beautiful
18 pristine waterfront property right for
19 development, which of course, is not necessarily
20 the case. Has there been any response since
21 governor's inquiry that you know of regarding any
22 follow up or any sort of environmental impact or
23 remediation studies that the federal government
24 has done?

2 MS. MOSER: Right, so our division of
3 environmental remediation works very closely with
4 the Department of Homeland Security. They have
5 been out there numerous times looking at the
6 landfill sites. The Homeland Security has agreed
7 to do some ground water studies as well right
8 now. So there is good coordination between DEC
9 and the federal government on those, the
10 landfills, the medical waste, the ground water
11 contamination study. So those are still ongoing.

12 ASSEMBLY MEMBER PALUMBO: Great.

13 MS. MOSER: But there's, there's
14 constant meetings between the state and federal
15 government on those pollution issues.

16 ASSEMBLY MEMBER PALUMBO: Very good,
17 thank you, and thank you for your testimony.

18 MS. MOSER: Alright, thank you.

19 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you
20 very much. Our next testifier Amy Folk, co-
21 author of the publication "A History of Plum
22 Island." As you're preparing I just want to
23 point out that I had the privilege and I think a
24 number of the people in the audience had the

2 privilege of hearing you speak on the history of
3 Plum Island at the Talk at Neighborhood House
4 Friday last. I was a brilliant presentation and
5 we're delighted that you're here today, so the
6 forum is yours.

7 MS. AMY FOLK: Thank you. The pressure
8 now, uh oh.

9 ASSEMBLY MEMBER ENGLEBRIGHT: No, no
10 pressure. Just state your name and your
11 affiliation once again, please.

12 MS. FOLK: Sure, my name is Amy Folk,
13 I'm an historian and a manager of historic
14 collections for the three historical societies.

15 ASSEMBLY MEMBER ENGLEBRIGHT: Just pull
16 the mike a little closer, thank you.

17 MS. FOLK: Okay, my name is Amy Folk.
18 I'm an historian and manager of historic
19 collections for three historical societies on the
20 North Folk. The Southold Historical Society, the
21 Oysters Ponds Historical Society and the Suffolk
22 County Historical Society. I live and work in
23 Southold Town and in 2012 Ruth Ann Bramson
24 [phonetic], Jeff Fleming and myself realized that

2 no one had ever published a serious and credible
3 history of Plum Island and we decided to
4 collaborate on researching and writing a complete
5 history of the island beginning with its creation
6 up to the present day. Our work is published in
7 a book called "A World Onto Itself, The History
8 of Plum Island, New York", which was put out by
9 Southold Historical Society. Geologists tell us
10 that Long Island was created --

11 ASSEMBLY MEMBER ENGLEBRIGHT: If you
12 could just pull the mike closer to you --

13 MS. FOLK: Yeah, I've got a quiet voice.
14 Geologists tell --

15 ASSEMBLY MEMBER ENGLEBRIGHT: Put it
16 even closer and --

17 MS. FOLK: Oh no

18 ASSEMBLY MEMBER ENGLEBRIGHT: Yeah,
19 yeah.

20 MS. FOLK: Okay.

21 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you,
22 you're good now.

23 MS. FOLK: Alright, geologist tell us
24 that Long Island was created during the ice age

2 and the south shore of the island extended 50
3 miles south from where it currently is and Long
4 Island Sound was a large fresh water lake. As
5 the ice melted into the waters of the lake it
6 flooded the eastern shoreline and connected the
7 lake with the ocean forming a chain of islands
8 that stretch from Orient up to Connecticut and
9 the Road Island border. Other than appearing in
10 very early explorer maps one of the first
11 mentions of Plum Island in the historic record
12 was during the Pequot wars in the 1630's when the
13 English planned to send troops to destroy the
14 Native American crops grown there by the
15 Pequot's of Connecticut, who dominated most of
16 the eastern Long Island tribes. As the European
17 settlers began to spread across the northeast,
18 Plum Island was claimed by three different
19 groups. The earliest claim was May 1648 when
20 three representatives of the Colony of New Haven
21 purchased the island as part of a land deal with
22 the sachem of the Corcha [phonetic] tribe. The
23 second claim was in 1659 when Yodank [phonetic]
24 of the Montequets [phonetic] tribe gave the

2 island to Samuel Willis, a magistrate of the
3 general court in Hartford, Connecticut. Since
4 Yodank outranked the sachem of the Corcha tribes,
5 Willis' claim took precedent over the New Haven
6 claim. The third claim was made by Southold Town
7 in 1665 when William Wells, a local respected
8 magistrate recorded his claim in the town records
9 to the island without the agreement or knowledge
10 of other Southold officials. New York and
11 Connecticut also battled about who controlled the
12 island until the King's Courts decided that the
13 Connecticut border ended at the shoreline. And
14 eventually while the island fell under New York
15 Colony and Southold Town jurisdiction, Willis'
16 ownership was upheld over the two claims. The
17 island was uninhabited until around 1700 when the
18 BB's and Skelenger families purchased and moved
19 to the western half of the island. The island
20 was divided among a few families who were mostly
21 related. Family members subdivided the island as
22 the land passed down through the generations and
23 eventually plots here and there were sold to
24 others from both New York and Connecticut.

2 During the American revolution the British
3 inhabited and surrounded the east end of the
4 island and the shoreline of Connecticut. Their
5 ships controlled Long Island Sound and Peconic
6 Bay. Plum Island was set up as a naval resupply
7 depo. Thirty-two years later during the war
8 1812, the British reoccupied Long Island Sound
9 and pretty much bottled up New York and the
10 Connecticut shoreline. Plum Island again served
11 as a resupply spot for the ships and the British
12 counsel and his family who were stationed in New
13 London moved there to escape charges of
14 espionage. The Americans irritated with the vice
15 counsel's actions during the war went to the
16 island and arrested him causing a bit of an
17 international incident.

18 Plum Island went through a long list of
19 owners and by 1835 the island was mostly
20 reconsolidated into the hands of two owners. The
21 Gerome family owned the western half of the
22 island and the Clark family eventually owned the
23 eastern half. In the 1880's the hotel business
24 was booming on Long Island and businessman

2 looking to cash in were buying up the land along
3 the shorelines to build huge resorts. Plum
4 Island was no exception. Abraham Hewitt, a
5 former mayor of New York City and the son-in-law
6 of inventor Peter Cooper, with a small group of
7 investors acquired the land and Hewitt soon
8 became the sole owner but never got a chance to
9 building anything. He ended up the selling the
10 island to the U.S. government, the eastern end in
11 1898 and the western end in 1901. As part of a
12 chain of forts across the Long Island Sound to
13 protect New York City during the Spanish-American
14 War, Fort Terry was established on Plum Island in
15 1898. The island when the soldiers and
16 construction workers arrived was a vast treeless
17 plain. Fort Terry was built in two parts. First
18 the eastern end of the island was developed as a
19 fort and then the military planners realizing
20 they needed the whole island and went back to
21 Abraham Hewitt to buy the rest. Mostly complete
22 by 1913 Fort Terry was unlike most forts that
23 came before it. The place was designed to be
24 fort hiding in plain sight. The gun and

2 placements were created to remain hidden below
3 the horizons until they were fired and the
4 overall site plan was created to look like a
5 village from a distance. In 1914 one of the most
6 significant but mostly forgotten events in
7 military policy happened on Plum Island. The
8 commander of the fort, Major Benjamin Coler
9 [phonetic] was accused of sexually harassing some
10 of the men under his command. The trial, which
11 lasted several months pulled in witnesses from
12 all over the country and was kept top secret
13 because of its controversial nature. The major
14 was convicted of the charges and the military
15 based that, used that decision to base its
16 policies shortly thereafter to exclude
17 homosexuals from serving in the military. As you
18 all know, the battles of the first world war
19 never came to the shores of the United States and
20 Fort Terry and the other forts designed to
21 protect our shorelines became training camps for
22 men going overseas.

23 In the summer of 1916, Fort Terry played
24 host to a specialized summer camp for boys ages

2 15 to 18. The nation realizing sooner or later
3 the U.S. was going to be involved in unrest over
4 in Europe, for a brief time it became popular for
5 citizens to prepare for war. Men and boys across
6 the nation signed up for a non-commitment
7 military training in hopes that if they were
8 drafted they could qualify for officer status
9 rather than being an enlisted man. These camps
10 known as the Plattsburg camps were located across
11 the nation and Fort Terry hosted a camp for boys
12 called Camp Washington. From July 6 to August
13 10, over a thousand boys came to Fort Terry to
14 learn how to drill, shoot guns and get basic
15 military training. Like World War I, the second
16 world war also never came to the shores of the
17 U.S. and Fort Terry, which was now considered
18 antiquated was briefly used to train men for
19 overseas service and then was mostly stripped of
20 its armaments. After the war the fort was moth
21 balled as the government considered selling the
22 property and the army came in and raised the
23 majority of the buildings that made up the fort.
24 In addition to the fort, the island also has a

2 lighthouse. The waters around Plum Island are a
3 dangerous place. The waters from Long Island
4 Sound rush past the island each time the tide
5 changed and the rocks that surround the island
6 have caused a number of shipwrecks. If you check
7 historic newspapers you'll see ships ran aground
8 or sunk on a regular basis as well as a number of
9 dead bodies washing up on the shoreline. Because
10 of the number of shipwrecks and the dangerous
11 maritime conditions of the area, Plum Island
12 lighthouse was built along Plum Gut in 1827. By
13 1869, the lighthouse was replaced with the
14 building that currently stands on the island and
15 in 1978 the Coast Guard automated the light with
16 an outside skeleton tower.

17 When Fort Terry was decommissioned in
18 the late 1940's, Suffolk County offered to
19 purchase the property. In 1950 the federal
20 government decided to keep the island. The
21 property in 1952 was given to the army of
22 chemical corp for use for research into chemical
23 and radiological warfare and to the Department of
24 Agriculture for research into hoof and mouth

2 disease. The Army Chemical Corp did not stay for
3 very long. By 1956 the labs became fully
4 operational and the goal of the new animal
5 disease labs was to find ways to combat animal
6 diseases that were starting to be transmitted
7 rapidly worldwide with modern transportation.
8 The labs began working on viruses that plagued
9 farm animals such as foot and mouth disease, Rift
10 Valley fever, Rhinopest and African swine fever.
11 Starting in 1971 the island began to host the
12 animal disease diagnostic training school, which
13 was open to scientists and vets from all over the
14 world, thus, becoming a continuing education
15 school for practicing vets. Due to the security
16 needed to prevent the animal diseases from being
17 studied on the island from escaping many odd
18 stories have sprung up about the labs and people
19 have decided that all sorts of nefarious things
20 were created there to be turned loose on the
21 unsuspecting public.

22 Today, most of the island has reverted
23 to its natural state and the lab occupies one
24 small corner of the island. Some of the military

2 buildings and gun emplacements from Fort Terry
3 remain but they're slowly falling apart and going
4 back to nature. The island is home to a number
5 of species that were once common across Long
6 Island, but due to urban sprawl they no longer
7 exists in the vast densely packed suburbia that
8 we have become since World War II. And this is
9 one of the last places of Long Island the way it
10 used to be. Four hundred years packed into ten
11 minutes, that's tough.

12 ASSEMBLY MEMBER ENGLEBRIGHT: We
13 geologist do that all the time, but not as well
14 as you just did. Tony?

15 ASSEMBLY MEMBER PALUMBO: Just thank you
16 for you testimony, it was very interesting.

17 MS. FOLK: Thank you.

18 ASSEMBLY MEMBER PALUMBO: Thank you very
19 much.

20 ASSEMBLY MEMBER ENGLEBRIGHT: I, I
21 really want to express the same sentiment, your
22 testimony is wonderful, but I also want to ask
23 you as a scholar what you think should happen
24 next?

2 MS. FOLK: You know as a his- --

3 ASSEMBLY MEMBER ENGLEBRIGHT: What would
4 you like to see happen after you have looked the
5 history, the historic artifacts, the structures,
6 what should happen to honor that history?

7 MS. FOLK: As a historian our jobs are
8 to look somewhat dispassionately at the past and
9 what has happened and in terms of the future
10 would be my person opinion rather than the my
11 historical societies. I know that most my co-
12 authors and myself as well as most people I've
13 talked to in the Town of Southold, we would like
14 to see it left to nature for the most part. We
15 don't want to see development there. As I said,
16 the island is surrounded by some pretty stiff
17 currents as well as a lot of rocks, there was
18 close to over 800 shipwrecks that I found in the
19 newspapers for the years.

20 ASSEMBLY MEMBER ENGLEBRIGHT: Eight
21 hundred shipwrecks.

22 MS. FOLK: Uh-huh, there's a lot of
23 shipwrecks.

24 ASSEMBLY MEMBER ENGLEBRIGHT: Wow.

2 MS. FOLK: And that's why they ended up
3 putting multiple, multiple lighthouses, you find
4 more lighthouses around the Southold area than
5 you do in just about anywhere else on the
6 coastline just because of the rocky terrain. It
7 would be nice if we could just leave it. It's
8 going to be difficult I'm sure to patrol getting
9 people out there. In talking to the staff at
10 Plum Island, they tell me it's really expensive
11 to run the ferry's back and forth. So it's going
12 to be a bit of a challenge that way.

13 ASSEMBLY MEMBER ENGLEBRIGHT: The
14 lighthouse that you mentioned, I just want to
15 make the observation that in my district, the 4th
16 assembly district, there was a lighthouse called
17 the Old Field Lighthouse.

18 MS. FOLK: I was actually a caretaker
19 there for about four or five years.

20 ASSEMBLY MEMBER ENGLEBRIGHT: Oh, you
21 were --

22 MS. FOLK: I lived there.

23 ASSEMBLY MEMBER ENGLEBRIGHT: It is,
24 we're being joined by Assemblyman Fred Thiele,

2 welcome. And they look like the same --

3 MS. FOLK: They are.

4 ASSEMBLY MEMBER ENGLEBRIGHT: --

5 architect did them both.

6 MS. FOLK: The Army and the Board of
7 Lighthouses, what they would do to save money is
8 about every ten years or so they would draw up on
9 set of plans and every building that was built
10 within that decade was identical. So there's
11 actually about four, six lighthouses all around
12 the, actually Long Island Sound area that are
13 identical to the Plum Island one. The insides
14 are a little different. When I peaked in the
15 window at Plum Island I know it is a little bit
16 different on the inside than the Old Field
17 Lighthouse, but the exterior is, is the same.
18 The same is true when you look at the army
19 buildings, if you look at the enlisted men
20 buildings that still somewhat stand on Plum
21 Island, they're identical to Fort Robinson in
22 Nebraska because they were both built about that
23 same time period. It was a way the federal
24 government could save money, one architect,

2 multiple buildings.

3 ASSEMBLY MEMBER ENGLEBRIGHT: Well, our
4 heritage on Long Island includes a natural
5 heritage and a human heritage including built
6 structures, and you have blended in your
7 testimony both parts of that heritage together
8 and I just wanted again express appreciation for
9 your scholarship. I think your book is very
10 important and I hope everyone on Long Island,
11 every school child and family on Long Island has
12 a chance to read and become further introduced to
13 the gateway to our heritage at Plum Island. The
14 implications for the history of our nation, in
15 fact, tie back to Plum Island's military position
16 and the armaments there. I remember reading in
17 your book that when the fired the retractable gun
18 that it blew out windows in Greenport, is that
19 true?

20 MS. FOLK: The, yes, the sound waves.

21 ASSEMBLY MEMBER ENGLEBRIGHT: When Mr.
22 Thiele speaks sometimes that same thing happens.

23 ASSEMBLY MEMBER FRED THIELE: But not as
24 long as you do.

2 MS. FOLK: The sound waves that were
3 actually emitted by some of the larger guns that
4 were stationed not only on Fort Terry but also on
5 Fort Mikey, which was on the Gulls and on Fort
6 H.G. Wright which was on Fisher's Island, those
7 guns were so strong that not only could lob their
8 ammunition more than 15 miles away but the shock
9 waves not only blew out all the windows in the
10 Gull Island lighthouse but also there were
11 windows that were being cracked all up and down
12 Orient, East Marion and into Greenport, just from
13 the sound waves. So what they would do is they
14 actually would sound an alarm and spread the word
15 that they were going to practice shooting these
16 guns and then everybody would open their windows
17 because opening the windows actually would let
18 the sound waves go through and the windows didn't
19 crack as much.

20 ASSEMBLY MEMBER ENGLEBRIGHT: That's
21 amazing stuff. Thank you again. Before we let
22 you go, I just wondered if Mr. Thiele wanted to
23 follow with a question.

24 ASSEMBLY MEMBER THIELE: No, I'm fine,

2 thank you.

3 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you
4 again.

5 MS. FOLK: You're welcome.

6 ASSEMBLY MEMBER ENGLEBRIGHT: We're sort
7 of midway through the formal testimony here.
8 Take a look, our next speaker will actually be
9 three in a panel, please. Adrienne Esposito,
10 Executive Director of the Citizens Campaign for
11 the Environment. Randall Parsons, Conservation
12 Finance and Policy Advisor to the Nature
13 Conservancy, Long Island Chapter, and Amanda
14 Pachomski, of the Long Island Bird Conservation
15 Coordinator of Audubon Society. Amanda, did I do
16 your last name what sometimes --

17 MS. AMANDA PACHOMSKI: I think not.

18 ASSEMBLY MEMBER ENGLEBRIGHT: -- happens
19 to complicated names.

20 MS. PACHOMSKI: You almost got it, it's
21 Pachomski.

22 ASSEMBLY MEMBER ENGLEBRIGHT: Pachomski,
23 okay. Who wants to go first?

24 MS. ADRIENNE ESPOSITO: I'll start

2 [unintelligible] [01:32:54]

3 ASSEMBLY MEMBER ENGLEBRIGHT: I thought,
4 I thought that you might. Adrienne Esposito,
5 please introduce yourself to the testimony being
6 recorded.

7 MS. ESPOSITO: Good afternoon
8 Assemblymen, my name is Adrienne Esposito, I'm
9 the executive director of Citizens Campaign for
10 the Environment. CCE is a bi-state environmental
11 organization with members and offices in both
12 Connecticut and New York. I believe we're on New
13 York State's largest grass roots environmental
14 lobby organization. Thank you so very much for
15 the invite to testify today on behalf of
16 preserving Plum Island. I'm not going to talk
17 about all the environmental assets, we have New
18 York State Audubon here that's going to do that.
19 We have Randy from the Nature Conservancy. We
20 have John Turner, a famous naturalist. They're
21 going to tell you about the ecological assets of
22 the island, I want to just focus on the public
23 will, and the public's attachment to preserving
24 land. This has been demonstrated for the last 25

2 years across Suffolk County and New York State,
3 well what proof do you have you might say, yes we
4 have some. For instance, as of 2014 according to
5 the Suffolk County comprehensive management plan
6 that was just published, approximately 20% of
7 Suffolk County has preserved for open space and
8 recreational value, that's 116,500 acres of land.
9 When you add the farmland preserved it jumps up
10 to \$133,000 acres that have been preserved or 23%
11 of the land. All at taxpayer cost, all that we
12 voted again and again to tax ourselves to
13 preserve. In fact, according to the trust for
14 public land survey that was recently released
15 that looked at all counties across the United
16 States from 1998 to 2011, Suffolk County spent
17 the most money on open space preservation out of
18 any other county in America; and that number,
19 thank goodness you're sitting down, is
20 \$657,561,662.48; that's a lot of money. As of
21 2014, a total of 25.21% or 147,000 acres of
22 Suffolk County has been preserved in both the
23 public and the private sector. That's a lot of
24 land, but it hasn't just stopped with Suffolk

2 County. Nassau County has demonstrated their
3 willingness to preserve land. In 19, I'm sorry,
4 in 2004 a \$50 million bond act was passed, in
5 2006 a \$150, \$100 million bond act was passed
6 equating to 150 million dollars in Nassau County.
7 The Community Preservation Fund something
8 Assemblyman Thiele knows very well. As of last
9 Friday, the number in the Community Preservation
10 Fund, which has been allocated to preserve land
11 was 1.0677 billion dollars for the east end to
12 preserve land. Again, another program the public
13 voted on. Brookhaven town passed a 100 million
14 dollar environmental bond act in 2004. New York
15 state passed a 1.75 billion environmental bond
16 act in 1996. Why am I telling you this because
17 this equates and just these examples, equate to
18 over six billion dollars that the public has
19 voted themselves to preserve land and preserve
20 Long Island Sound and preserve the character of
21 our communities. We are fighting desperately to
22 save what's left of our dwindling land resources
23 and we're willing to do it. Clearly, what this
24 has shown is that the public and local

2 governments have demonstrated a clear and
3 decisive willingness to invest taxpayer dollars
4 for our dwindling land resources and to protect
5 the Long Island Sound.

6 You know, there is good news and the
7 good news is that the Long Island Sound is
8 recovering. You another interesting number is
9 that according to the New York State DEC, coastal
10 water division, the municipalities across New
11 York State have all chipped in about two billion
12 dollars to upgrade sewage treatment plants that
13 discharge into the sound and that's for upgrading
14 the plants, including denitrification
15 technologies. We're not done yet, it's a large
16 investment but the Long Island Sound is
17 recovering, and as you said Assemblyman
18 Englebright, Plum Island is part of the Long
19 Island Sound ecosystem. This year we've seen
20 hundreds of dolphins swimming in the Long Island
21 Sound as we saw last year, first time in over a
22 decade. This year we saw three white beluga
23 whales lingering throughout Long Island Sound,
24 three white beluga whales, that's equivalent to a

2 sighting of bigfoot or something. I mean, that's
3 pretty significant. Last week two hump back
4 whales breaching and feeding right outside of
5 Huntington Harbor. So Long Island Sound is
6 making a comeback. The public has said time and
7 time again let's invest in preserving our natural
8 resources. Let's invest in preserving land,
9 let's invest in the Long Island Sound ecosystem.
10 It's an ecological but also economical engine,
11 but what does the federal government do? The
12 federal government takes an environmental asset
13 and puts it up for sale. How does that happen?
14 Well, you asked that question earlier assemblymen
15 and I actually have an answer for you. Because
16 the beam counters in the federal government
17 assigned zero value to owning the island. They
18 assigned a zero value to the natural resource and
19 to the natural asset. The only thing that
20 counted for them were the dollars that would be
21 gained by selling it and there was no analysis on
22 the dollars and the quality of life that would be
23 gained by preserving it, and that's why their
24 process was flawed. We know that it was only put

2 up for sale to offset the value of the new,
3 offset the cost of the new facility that is being
4 currently built in Manhattan, Kansas right now.
5 The cost for that facility is up to 1.2 billion
6 dollars, meaning that the sale of Plum Island
7 will barely even dent that. So now we need to
8 assess the value of keeping the island. You
9 know, you'll hear a lot about, about this island.
10 You'll hear that it's been designated a critical
11 national resource area by the U.S. Fish and
12 Wildlife Service. A New York State significant
13 coastal and fish and wildlife area by the New
14 York State Department of State and Environmental
15 Stewardship area by the Long Island Sound study.
16 This is exactly the type of land we've been
17 buying for the last 25 years. This is exactly
18 the type of land the public has voted again, and
19 again and again in asking us to preserve. Simply
20 put, the island is magnificent. The public wants
21 this type of preservation and the best news about
22 this island is we don't have to buy island, we
23 already own this island. All we have to do is
24 continue to do that. So for our organization the

2 bottom line is what is the public's will, which I
3 believe has been demonstrated clearly and
4 significantly over the last 25 years. We want
5 preservation, we want the Long Island Sound's
6 restoration to continue and to thrive and
7 purchasing it or at least preserving this island
8 and having a vision of it in the future that
9 includes preservation is exactly what the public
10 wants.

11 You know when it was put up for sale one
12 of the first people that came forth was Donald
13 Trump, who said he's going to make it a world
14 class golf course. Well, I want to say to you,
15 taking an island of this natural and national
16 significance and turning it into a playground for
17 the extraordinarily rich is akin to putting hydro
18 fracking sites in the middle of Central Park.
19 Any rational, reasonable person is repulsed by
20 that. We have a rare and special opportunity,
21 preserving this island is a legacy issue, it
22 won't present itself again. We need to take it
23 off the market, have a vision as you have been
24 discussing today for what the future can hold for

2 preservation, public access and in keeping this
3 as a legacy for the future. So thank you very
4 much for the opportunity to comment and I believe
5 that in this formulation we really do have to be
6 respectful of what the public wants and what the
7 public deserves and that means preservation of
8 the island. Thank you.

9 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you,
10 Fred, you've just joined us we're going to let
11 the panel speak and then if there are questions -
12 -

13 ASSEMBLY MEMBER THIELE: I understand.

14 ASSEMBLY MEMBER ENGLEBRIGHT: Please,
15 continue. State your name and affiliation.

16 MS. AMANDA PACHOMSKI: I'm Amanda
17 Pachomski, I'm the Long Island Bird Conservation
18 Manager for Audubon New York, and I'll be
19 speaking on behalf of Erin Croddy [phonetic] our
20 executive director who is also a vice president
21 of the National Audubon Society. Audubon New
22 York is the state program of the National Audubon
23 Society representing 27 local chapters and 50,000
24 members across the state. Our mission is to

2 conserve and restore natural ecosystems focusing
3 on birds, other wildlife and their habitats for
4 the benefit of humanity and earth's biological
5 diversity. Long Island Sound is a globally
6 significant ecosystem providing critical habitat
7 for an [unintelligible] [01:43:18] way of birds,
8 fish, and other wildlife, and it's also an
9 important driver of the regional economy. The
10 Sound is host to several high priority important
11 bird areas that support incredible diversity of
12 birds on par with everglades in terms of
13 ecological significance along the Atlantic
14 flyway. Audubon New York and her sister state
15 program Audubon Connecticut have been a leading
16 force working to restore and protect the Long
17 Island Sound and this testimony represents our
18 shared views. With its variety of habitats Plum
19 Island stands out as a critically important
20 habitat and a key migratory bird stopover in the
21 Long Island Sound.

22 In 1997, Plum Island is recognized as
23 part of the Orient Point to Plum IBA because it
24 supports large concentrations of birds including

2 threatened endangered species like the Piping
3 Plover and Roseate Tern. Oh, speak up, sorry.
4 In 2005, to further the protection of this IBA or
5 important bird area Audubon New York convened a
6 group of partners who identified the greatest
7 threats and conservation needs for this area.
8 The result of that effort was a conservation
9 action plan for the IBA and was finalized in
10 2009. Over the last five years Audubon has
11 organized bird surveys to better document bird's
12 uses of the island. Through these surveys over
13 210 bird species have been document in breeding
14 or foraging on Plum Island or in its surrounding
15 waters and also resting on shore. These species
16 include birds of prey, shore birds, wading birds,
17 waterfowl and songbirds. We have included some
18 of the more notable species in our testimony. We
19 know that these surveys only providing us a
20 snapshot of the ecological value of Plum Island
21 and it's likely that more species depend upon it
22 than we are aware. We applaud New York State
23 especially the DEC and the New York Natural
24 Heritage program for recently undertaking a new

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2 biological assessment of the island. This
3 valuable data coupled with Audubon's prior
4 assessments provide an even stronger
5 justification for permanently protecting this
6 Long Island Sound treasure. Audubon New York
7 along with our many partners has consistently
8 urged the federal government and particularly GSA
9 and Homeland Security to prioritize a transfer of
10 the island to the United States Fish & Wildlife
11 Service as an addition to the National Wildlife
12 Refuge System. Such a transfer would ensure that
13 the unique habitats on the island are protected
14 that a level of public access is maintained and
15 that the island is retained in public ownership.
16 Alternatively, the federal agencies could place
17 conservation restrictions on the sale to protect
18 the undeveloped portions of the island. Either
19 approach could allow for the reuse of the
20 existing infrastructure on the island, which we
21 would support. We also believe that such a
22 transfer or conservation restriction would be
23 consistent with the law that authorized DHS to
24 sell Plum Island. In this case ensuring the

2 permanent protection of the island is in the
3 government's interest and it warrants of an
4 expiration of a transfer to Fish & Wildlife or to
5 the National Park Service.

6 We commend you for organizing a Long
7 Island Sound delegation letter to the New York
8 Congressional delegation and federal agency
9 partners supporting such a transfer and imposing
10 the unrestricted sale of the island. We urge you
11 to send a similar letter to GSA, DHS requesting
12 that they move forward with the transfer of the
13 island to another federal agency or to develop
14 further restrictions on the sale. We also urge
15 you to continue pressing the New York
16 Congressional delegation especially Senator's
17 Humer [phonetic] and Gilibrand and Congressman
18 Zeldin, to quickly advance legislation to repeal
19 the provisions authorizing the sale of the
20 island. We also urge you to work with Governor
21 Cuomo to request that he make the preservation of
22 Plum Island a top priority for his
23 administration. While we commend his previous
24 correspondence the federal agency is pressing for

2 the environmental contamination of the island be
3 remediated, the governor must also press the
4 federal agencies to protect the habitats on Plum
5 Island, explore interagency transfer and urge the
6 congressional delegation in support repeal the
7 legislation or authorizing the sale. We commend
8 the state for recognizing the vital importance of
9 Plum Island by including it as a priority in its
10 open space plan. While it is important to note
11 that GSA and the Homeland Security could also
12 explore transfer to the state, actions like this
13 do highlight the need for increase spending for
14 the environmental protection fund so that the
15 state can have adequate resources to acquire
16 peaceful habitats like Plum Island. In addition,
17 should Plum Island ultimately be transferred to
18 New York or the state purchase the island for
19 protection, new resources must be identified to
20 support new agency staffing and management
21 activities to ensure that the island is properly
22 stewarded and that some public access is allowed.

23 Audubon New York is also great
24 encouraged by the zoning proposal adopted by the

2 Town of Southold, which will put in its place
3 development restrictions if the island is sold to
4 a nongovernment entity. The zoning is an
5 important safe guard to the sale of the island
6 move forward. We commend the town for developing
7 this proposal and look forward to supporting it
8 if needed. Thank you for the opportunity to
9 comment today and we look forward to working with
10 you in the future.

11 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you
12 very much, I just would like to point out that we
13 have been joined by Senator Ken LaValle and
14 welcome and I mentioned earlier of our remarkable
15 field trip a week ago to Plum Island and how
16 enjoyable and what a wonderful learning
17 experience it was. I also just made references
18 at the top of the hearing to the Pine Barons
19 Maritime Reserve Act and the larger context that
20 Plum Island is part of a major ecosystem the
21 senate sponsor for all of the state laws over the
22 last 25 years has been Senator LaValle and it's a
23 great honor to have you with us here today.
24 Randall Parsons, Nature Conservancy.

2 MR. RANDALL PARSONS: Thank you
3 Assemblyman Englebright. We sincerely appreciate
4 you calling the hearing and Assemblyman Thiel's
5 attendance, Assemblyman Palumbo and Senator
6 LaValle. I'm going to, we have a number of
7 points in our brief that have been covered. I'm
8 going to try not to duplicate that testimony, but
9 I did want to comment on some of the comments
10 just I think to fill up the record a bit with
11 information. You discussed to some extent the
12 idea that a park or a wildlife refuge with, as
13 Supervisor Russell called it, responsible public
14 access could substitute some of the economic
15 activity that the island provides now with its
16 400 jobs, and one of the issues that has come up
17 in those discussions is the reluctance of people
18 of Orient of having more traffic. And I just
19 want to mention that there have been some
20 preliminary discussions with the Village of
21 Greenport, which welcomes economic development
22 and has, of course a port, has a possible staging
23 site for a Plum Island destination. I also
24 wanted to mention that the Nature Conservancy who

2 I am employed by has done an appraisal of Plum
3 Island in an effort to try to get factual
4 information. We have provided a copy of that to
5 Senator Blumenthal and I can say that it in this,
6 that it does support the notion that a federal
7 windfall from the sale of Plum Island is not
8 accurate. And I believe we could make that
9 available to you if you would like that.

10 ASSEMBLY MEMBER ENGLEBRIGHT: We would
11 like that --

12 MR. PARSONS: Okay.

13 ASSEMBLY MEMBER ENGLEBRIGHT: -- and we
14 hold it in appropriate confidence.

15 MR. PARSONS: Okay. I also wanted to
16 mention a minor but significant transfer from the
17 Department of Defense to the U.S. Fish and
18 Wildlife Service what's known as the ruins at the
19 north end of Gardner's Island was recently
20 transferred to the Fish and Wildlife Service for
21 bird nesting, and I wanted to add that to the
22 other surrounding properties and the precedent
23 that you mentioned.

24 ASSEMBLY MEMBER ENGLEBRIGHT: So all

2 the, the nearby properties you're adding a fourth
3 to, two are parks, one is a county park one is a
4 state park. One is a bird sanctuary on the old
5 fort at Great Gull and you have appropriately
6 pointed out that the fourth nearest property is
7 also a bird sanctuary with U.S. Fish and
8 Wildlife?

9 MR. PARSONS: Yes.

10 ASSEMBLY MEMBER ENGLEBRIGHT: Okay.

11 MR. PARSONS: Which leads nicely into
12 what you called a mistake in decision in congress
13 or a confusing, confounding decision
14 inconsistent, I'm sorry, there were many words
15 used about how do we have this history on Long
16 Island of conservation, we're conservation minded
17 in Suffolk County as previous speakers have
18 pointed out. How did we end up with a
19 congressional decision contradicting that and
20 part of the research that I've done I see that
21 the first mention of auction of the island occurs
22 in the federal record in 2008, which as you'll
23 remember is the day beginning of the great
24 recession and then in 2009; and I think part of

2 the mindset perhaps in Washington where most of
3 the congress is not really aware of our
4 conservation mindedness in Suffolk County perhaps
5 they were over-reacting to the fiscal crisis in
6 their thinking to be generous. I also wanted to
7 mention another potential model, which is Camp
8 Hero in Montauk was surplusd as a military
9 facility of the Department of Defense under the
10 Regan administration. The final outcome of that
11 was a swap of state owned property on Fire Island
12 that the federal government wanted for Camp Hero,
13 which is now a state park. I have to put
14 something in the record about my employer, pardon
15 the rhetoric. The Nature Conservancy is the
16 world's largest conservation organization. We
17 work in all 50 United States and in 30 countries
18 around the world to protect nature for the
19 benefit of people today and future generations.
20 Our mission is to conserve the lands and waters
21 on which all life depends. We have 70,000
22 supporters in New York State. It's been
23 mentioned already the history of the EPA, New
24 York and Connecticut creating the, putting the

2 Long Island Sound and the Peconic estuary into
3 the National Estuaries Program pre-dating the
4 decision to sell. There was also the adoption by
5 congress in 2006 pre-dating the authorization to
6 sell of the Long Island Stewardship Act, public
7 law 109-359, and the Stewardship Act is what led
8 to the designation of Plum Island as one of the
9 initial 33 stewardship sites worthy of
10 conservation; again, all before the bill to
11 auction off the island. So I think we're all
12 astounded at the inconsistency with an, with an
13 auction. The IBA, the Audubon IBA bird
14 designation before the bill to auction the
15 island. New York State's designation of Plum Gut
16 and Great Gull has significant fish and wildlife
17 habitat before the decision to auction the
18 island.

19 In order to better understand the
20 ecological implications of a sale, the nature
21 conservancy in 2011, the Connecticut and the New
22 York Chapters commissioned the Natural Heritage
23 Program to do a, prepare a report called the
24 biodiversity and ecological potential of Plum

2 Island, New York. We would be happy to make a
3 copy of that available, you may have already seen
4 it. I know the DEC has it, in that report
5 recommended that a four-season field inventory of
6 the island be done. So I wanted to end my
7 testimony by saying that there are a number of
8 things New York has already done, which we're
9 very appreciative of. One of them is that DEC is
10 funding the four-season field inventory on the
11 island right now as we speak. That DEC is
12 playing a larger role in monitoring the hazard
13 waste handling, the sewage treatment plant, the
14 water supply system, those are all areas where
15 New York and New York has taken an aggressive
16 position getting Department of Homeland Security
17 into a consent order, which we thought was very,
18 a very positive move with the governor's support
19 and that consent order pretty much lays out the
20 very specific chapter and verse of how Plum
21 Island is to handle its medical waste and some of
22 its solid waste stream. We do think that going
23 on to look at all the legacy waste for the
24 hundred year federal occupation of the island is

2 the next step that DEC needs to take there. New
3 York has included Plum Island in its open space
4 plan, Assemblyman Englebright, Senator LaValle
5 along with their colleagues have sent letters to
6 the GSA and DHS stating their support of the
7 preservation of Plum Island. Those are all
8 things that are welcome and appreciated. As far
9 as things that might, we might suggest, of
10 course, to support the, the federal efforts to
11 repeal the order to sell, the role assembly
12 Englebright you've already focused on this, but
13 the role of the Department of State in
14 consistency, it was our understanding that they
15 have a role in as with the broad water project
16 where there are state permits was less clear
17 where there are no state permits involved in the
18 transfer of the island, but I think that needs to
19 be looked at more carefully. The other, there's
20 an interpretation issue of the language in the
21 federal bill, which has come up in the preserved
22 Plum Island coalition of which the Nature
23 Conservancy is a member. The language in the
24 bill that orders the sale of the island says,

2 closes with, subject to such terms and conditions
3 as necessary to protect a government interest and
4 meet program requirements, there's been a lot of
5 debate about whether or not that gives GSA more
6 flexibility than they say they have and the
7 Connecticut attorney general has weighed in on
8 the side of broader interpretation and we thought
9 that perhaps the New York attorney general if he
10 agreed with that, could also weigh in on that
11 interpretation question. Thank you very much for
12 the opportunity to speak and for holding the
13 hearing today.

14 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you
15 very much, very thoughtful and powerful last few
16 words were focused in at the moment just
17 reflecting on the importance of what you just
18 said. At the top of the hearing, we took a
19 moment to allow Mr. Palumbo and myself to make a
20 couple of summations of our thoughts and we've
21 been joined by two colleagues and I just wondered
22 if you, Fred, you were here first and senator, if
23 you had any summation of your thoughts and
24 offering of perspective, realizing, of course,

2 that our main purpose here is to hear from you,
3 but I think it's important to have this
4 conversation today of a little bit, at least,
5 from this side of the podium as well. Fred.

6 ASSEMBLY MEMBER THIELE: First of all,
7 thanks Steve for sponsoring this hearing and I do
8 think that there is a wide consensus that Plum
9 Island should be preserved. I think that's
10 certainly is consistent with decades of policy
11 decisions that have been made on the state,
12 county and local levels with regard to land
13 preservation, protection of Long Island Sound and
14 you know, I think we've heard that in great
15 detail just in the short time that I've been
16 here. So to me, you know, our focus really needs
17 to be as state officials working with our
18 congressional delegation is how do we get this
19 decision reversed, what's the best way to do
20 that, what is the process that we need to go, I
21 think Randy Parsons, you know, mentioned part of
22 that and whether, you know, what is the extent
23 and what discretion does the federal government
24 now in reversing field as far as not moving ahead

2 with the sale, and whether or not we need further
3 congressional legislation, which based on what
4 I've heard so far would certainly be the tightest
5 way I think to ensure that that nothing bad
6 happens here. I'm tempted when I see that Mr.
7 Trump wants to build a golf course here that
8 maybe one of the things we should add to the list
9 is maybe build a wall to keep him out, but I
10 think we'll go through congress, I think that's
11 the better way to go. So I hope that what we
12 identify and get organized to do is identify the
13 most effective way to reverse this decision and
14 then marshal the resources necessary to do it.
15 Thank you.

16 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you
17 and we're holding you guys here for a moment just
18 because we do have some questions, but again I'd
19 like to give the senator an opportunity to offer
20 some perspective as well. Senator LaValle.

21 SENATOR KENNETH LAVALLE: Thank you for
22 inviting me to the hearing, assemblymen. I think
23 we should, after the hearing, review the thoughts
24 here and within a very short period of time no

2 more than a couple of weeks, get together again
3 and establish a battle plan. We have been very
4 effective whenever we marshal our environmental
5 advocates and those in the community that are of
6 like thought and we will have a battle plan in
7 hand. We will then move forward in what is the
8 best way of changing the congressional authority
9 and I have a feeling that I know I've spoken of
10 the governor on this and I think it was mentioned
11 that in the conversation we had more than a year
12 ago he was very, very focused on preservation.
13 The Town of Southold has taken a very aggressive
14 position, but I know that they welcome the best
15 way to preserve the island. I would also like to
16 add is about 15% of the island that has buildings
17 that has, that have been dedicated to research
18 and that we find a way to continue the research
19 components and continue to use those, those
20 buildings. But I think it's a no brainer on the
21 preservation, it's how do we get there. So if we
22 establish a battle plan everyone knows what they
23 need to do. We've always been successful and
24 this is not the time to drop the ball, so, but

2 thank you, these hearings are very important.

3 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you,
4 Senator LaValle. Thank you for advocacy present
5 and past, it's quite a legacy. Questions for the
6 panel.

7 ASSEMBLY MEMBER THIELE: Well, I just
8 would say consistent with what both the senator
9 and I just said, I mean first of all, if you are,
10 if anybody knows I mean, where in the process is
11 this on the federal level as far as them trying
12 to move ahead with the, with the auction of the
13 property and second your own opinions as to what
14 you think is the most effect battle plan. What
15 is it you would want to see government officials
16 doing to join together with you?

17 MS. ESPOSITO: You know, frankly, I
18 mean, I'll just, if they could just withdraw the
19 legislation, they could pass another bill. I
20 mean, there is so -- it's an easy fix for this
21 and I think that's the good news and I just want
22 to, I think the battle plan is exactly the right
23 way to go and I would like volunteer to be a
24 sergeant in the army for the battle plan that you

2 are crafting, but this is an easy fix because we
3 have bipartisan support something I think you
4 both know we rarely see, but in this case this is
5 another good example of the public interest being
6 held at the highest standard and the
7 environmental interest. So we can fix this, we
8 can win this, it will take all levels of
9 government and bipartisan support but we have
10 that and we're moving forward in that momentum.

11 ASSEMBLY MEMBER ENGLEBRIGHT: I think
12 you're all aware that we have something called
13 the preserved Plum Island coalition and you're
14 going to hear from John Turner who's the
15 spokesperson for that organization, and we have
16 discussed your question, Fred, the, Assemblyman
17 Thiele, the you know, the best way forward and I
18 think we've kind of ended up with an all of the
19 above approach which would mean as Kathy Moser
20 put it, there's sort of a division between
21 stopping, if the auction, if the sale out of
22 public ownership is stopped that's one path. If
23 the sale out of public ownership is not stopped
24 that's a different one. I think the preference

2 is to as Adrienne put it, hang onto our property
3 and not really, frankly not have GSA waste any
4 more time, energy and money on this elaborate
5 process that they're going through to market the
6 island, to have focused groups to advertise for
7 the island. That would be, that would be I think
8 choice number one and that we have the four
9 senators in Connecticut and New York and we have
10 Congressman Zeldin who they have also struggled
11 with this question and they, they're approaching
12 it both in terms of repealing the language and
13 the bill, but also in the appropriations process.
14 So they've attempted to, I believe they've now
15 gotten the senate is now, has an appropriations
16 memo understanding that they will try to broaden
17 the consideration of options on the sale of Plum
18 Island that GSA has been saying is not possible
19 with the current language. So they, they're
20 going in that, Senator, I think you know what has
21 been suggested if we all got together to talk
22 about, I would include the senator's staff and
23 get their advice on what they think is the most
24 effective battle plan in the federal level. I

2 don't know if I have anything more to add, but
3 the, you know, we don't, we don't really want to
4 go to try to find private buyers that and, you
5 know, participate in the auction process. That's
6 got to be --

7 MS. ESPOSITO: Right, we definitely
8 don't support that.

9 ASSEMBLY MEMBER ENGLEBRIGHT: -- that's
10 like plan D.

11 MS. ESPOSITO: We, we already own the
12 island.

13 ASSEMBLY MEMBER ENGLEBRIGHT: I think
14 the GSA having met with them many times would
15 love to bring home the bacon for the federal
16 government and I understand they're employed to
17 bring in as much as revenue as they can to the
18 federal treasury and I think they want to do
19 that. So there's, I'll mention one other thing
20 and then stop, is that the conservancy worked on
21 a project on Block Island where surplus federal
22 military property was -- the conservancy acquired
23 the property from the Department of Defense and
24 then sold it for the same amount to U.S. Fish &

2 Wildlife Service because that resulted in a
3 revenue going to GSA. So there's a lot of -- the
4 different federal agencies don't necessarily
5 agree on the best outcome here. Other questions?
6 We will follow up as the senator has indicated,
7 we need to strategize and put together some
8 further actions, but your participation in our
9 forum here today has been instructive and very
10 helpful, thank you.

11 MS. ESPOSITO: I want you to know that
12 Ansal Adams was famous for saying "it's
13 horrifying that we have to fight our own
14 government to save the environment." So we want
15 to join with everybody, all levels of government
16 and really save this island. As I said earlier,
17 it's an unprecedented time in history that we
18 should take advantage of. Thank you so much for
19 your interest.

20 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you.
21 Our next testifiers are William Wise, the
22 director of New York Sea Grant and Steven C.
23 Resler, Owner and Principal Scientific Diver of
24 InnerSpace Scientific Diving; previously, a staff

2 member of the New York State Department of State.

3 ASSEMBLY MEMBER PALUMBO: Bill Wise is
4 not here.

5 ASSEMBLY MEMBER ENGLEBRIGHT: I
6 understand that Bill Wise is not with us. Steven
7 the forum is yours, this is your idea of
8 retirement to do InnerSpace Scientific Diving,
9 okay. I thought that's what you did when you
10 were working.

11 ASSEMBLY MEMBER PALUMBO: We thought you
12 had no place to go but up, but apparently not.

13 MR. STEVEN RESLER: The tour began long
14 before I met you.

15 ASSEMBLY MEMBER ENGLEBRIGHT: Welcome.

16 MR. RESLER: Thank you, Chairman
17 Englebright, Assemblyman Thiele, Assemblyman
18 Palumbo and Senator LaValle, for conducting this
19 public hearing.

20 ASSEMBLY MEMBER ENGLEBRIGHT: Just offer
21 your name and affiliation for the record, please.

22 MR. RESLER: Oh, I'm sorry, Steven
23 Resler. I'm the owner and principal scientific
24 diver of InnerSpace Scientific Diving based out

2 of Albany, but I conducted scientific research
3 under the surface of the water anywhere its
4 needed, primarily for government agencies and
5 academia. Thank you again for conducting this
6 public hearing and for providing this opportunity
7 to provide oral testimony regarding Plum Island
8 and its possible protection, preservation and
9 reuse. I've hoped for such an opportunity to
10 slightly more than two decades. I have spent
11 more than four and a half decades of my
12 professional career literally and figuratively
13 immersed in study, research, regulation,
14 comprehensive planning for and management of the
15 coast and its resources. There is something that
16 Englebright said, I retired from service with the
17 Department of State and its coastal management
18 program after 37 and a half years of managing the
19 coast in one way or another. Upon retiring I
20 found that a company providing specialized
21 scientific diving and related services primarily
22 for government agencies and academia, I remain
23 personally and professionally involved in state,
24 regional and national coastal matters. I'm the

2 visiting researcher, collaborator and contract
3 scientific diver for a major educational
4 institution and research center and this week I
5 was to be the lead scientific diver conducting
6 relatively discreet near shore under water
7 physical and biological surveys in the water
8 surrounding Plum Island. That work originally
9 planned to begin last week was to begin today but
10 has been delayed yet again, due to weather. I
11 offer the foregoing solely to introduce the
12 foundation for my own private remarks and to lend
13 support for others having similar interests
14 regarding Plum Island.

15 Southold Town relatively recently
16 rezoned Plum Island to protect it for
17 conservation, preservation, recreation and
18 research. This was and is highly laudable and so
19 long as the rezoning of the island isn't reversed
20 or otherwise weakened in the future so that other
21 private uses of the island would be allowed,
22 private development on most of the island would
23 be limited. However, municipalities have no
24 authority to regulate the federal and state

2 levels of government as long as the island is
3 owned or operated by the federal government the
4 town zoning ordinarily has and would have no
5 force or effect on the activity of federal
6 agencies nor would it on its on its own prevent
7 federal development of the island for new federal
8 or private development in anticipation of its
9 subsequent sale to one or more private entities.
10 As the State of New York once considered doing
11 with the state's former King's Park State
12 Hospital property on the shores of the
13 Nissequogue River here on the island. The state
14 could have developed that property as it wanted
15 and then sold it to a private entity for private
16 uses. That development and sale was prevented by
17 New York's federally approved coastal management
18 program and its local waterfront revitalization
19 program. A not well known or understood but
20 highly effective and enforceable partnership
21 between New York, its municipalities and the
22 federal government. That property is today part
23 of a state park as envisioned in the coastal
24 management program and the town of Smithtown's

2 LWRP.

3 The program also prevented the Federal
4 General Services Administration from disposing,
5 that was their words, of Governor's Island in New
6 York City to the highest bidder and conveying it
7 to private interests when it's used by the U.S.
8 Coast Guard and Army, was discontinued. You
9 discussed that earlier and if you want to know
10 some of the details of that I'll provide them.

11 ASSEMBLY MEMBER ENGLEBRIGHT: We would
12 like, we would like that information, Steve.

13 MR. RESLER: I'm sorry?

14 ASSEMBLY MEMBER ENGLEBRIGHT: If you can
15 provide that we would appreciate it.

16 MR. RESLER: I will and I can give you a
17 copy of the decision that prevented that sale to
18 private interests and resulted in the
19 collaborations later on that resulted in its
20 transfer to the City of New York. There are
21 other instances throughout New York coastal areas
22 who has the state has used its coastal program to
23 prevent the alienation of important, unique or
24 otherwise valuable federally owned public

2 property as that includes that military bases by
3 the way, maintaining them for a wide range of
4 public uses. Future development and uses of Plum
5 Island can be limited to conservation,
6 preservation, recreation and research through
7 the town of Southhold's local waterfront
8 revitalization program. The LWRP is a former
9 element of the state CMP, it includes enforceable
10 coastal policies implemented in large parts and
11 to varying degrees and is to varying degrees
12 enforceable by an implemented through
13 combinations of federal law and regulation and
14 state and town regulatory police power and other
15 authorities including the towns zoning and other
16 special purpose legislation. This maybe a bit
17 confusing because the town is preempted by the
18 federal government but having a LWRP in place
19 reverses that and I can explain that later if you
20 want to.

21 ASSEMBLY MEMBER ENGLEBRIGHT: Yes, I'd
22 like you to come back to that if you could.

23 MR. RESLER: Okay. This is significant,
24 I'll touch on it here, as the Federal Coastal

2 Zone Management Act includes consistency
3 provisions requiring the activities of all
4 federal agencies not just permits, direct
5 activities, funding or any kind of decision
6 making on the part of a federal agency, whether
7 undertaken directly by them or on their behalf to
8 be consistent with the enforceable policy,
9 policies of New York's federally approved coastal
10 management program. And wherever I use the term
11 coastal management program I'm also referring to
12 the town's LWRP, which is the coastal management
13 program in the town of Southold whether on land
14 or off shore to the territorial limits of the
15 state. If a federal agency proposal is not
16 consistency with New York CMP or with New York
17 CMP as its expressed in the town of Southold's
18 LWRP, the consistency provisions of the Coastal
19 Management Act prohibit federal agencies from
20 undertaking the activity; this is reverse
21 federalism by the way. This includes the
22 disposition of federally owned property affecting
23 New York's coastal area or its uses.

24 ASSEMBLY MEMBER PALUMBO: Even if

2 there's a separate law that has been passed as a
3 part of an appropriation bill?

4 MR. RESLER: Yes, this is a federal
5 standard on top of every other federal standard
6 there is out there. You will be very interested
7 in understanding the relationship between NIPA
8 and SECRA and how it works, but let's do that at
9 another time.

10 ASSEMBLY MEMBER PALUMBO: Finish your,
11 yeah.

12 MR. RESLER: There are no categorical or
13 other exemptions to this requirement except in
14 limited circumstances involving national security
15 and the ability of the United States of America
16 to defend itself from an aggressor nation.
17 Homeland Securities, animal disease lab, broad
18 waters, attempt to use energy as a national
19 security issue doesn't cut it. The national
20 security issue here is the result of states
21 decision must impair the ability of the United
22 States to protect itself from an aggressor,
23 that's a very tough standard to meet. The other
24 standard is a presidential exemption and even the

2 president is limited in exempting any federal
3 agency activity from federal coastal consistency
4 provisions. It's a very powerful authority. The
5 [unintelligible] [02:22:13] consistency
6 provisions are some of the broadest and most
7 powerful delegations of authority and waivers of
8 federal sovereignty ever made. They provide the
9 State of New York with a unique and unprecedented
10 opportunity to ensure that Plum Island and its
11 unique resources are retained in public ownership
12 for important public uses. In the case of Plum
13 Island, the CZMA, the state CMP and the town LWRP
14 provide a means of ensuring the retention of
15 limited, rapidly dwindling and valuable
16 publically owned coastal areas such as Plum
17 Island in preventing it's conveyance to private
18 interests for private development and uses. The
19 island can instead be retained for important
20 public uses.

21 When considering the re-use of Plum
22 Island think big. You did earlier, Assemblyman
23 Englebright, talk about the essentially the
24 environment within which the island is housed.

2 Think much bigger than Plum Island itself, think
3 sub-regionally and regionally. Think of the
4 larger marine environment within which the island
5 is housed and what shapes and otherwise
6 influences its natural physical features,
7 functions, biological resources and uses,
8 including its cultural and esthetic values. From
9 that perspective these are my thoughts regarding
10 possible uses or re-uses of Plum Island and its
11 surrounding area. And pardon me for the pun,
12 Plum Island is a plum sight to plumb coast in
13 depth. The near shore and offshore underwater
14 areas generally surrounding New York's Plum
15 Island, Great and Little Gull Island and Fisher's
16 Island comprise parts of Eastern Long Island
17 Sound in New York and Connecticut. Fisher's
18 Island Sound in New York and Connecticut and
19 Rhode Island; and Rhode Island and Block Island
20 sounds in Rhode Island. In areas beneath the
21 surface of those waters are spectacular. Their
22 bathometric, I'm sorry? Their bathometric
23 characteristics range in transition from the
24 smoothly, smoothly undulating sandy areas

2 offshore and characteristic of most of the east
3 coast of the USA, to dramatically irregular rocky
4 areas associated with New England. Those
5 shoreline, near shore, offshore characteristics
6 influence uses by species in and using the water
7 colony and those characteristics combined with
8 winds, waves and tides in the area contribute to
9 a relatively highly dynamic conducive to very
10 high quality marine ecosystems.

11 The area is biologically diverse, its
12 transition from that relatively interrupted and
13 gently sloping sandy environment to one of
14 irregular rocky sub-straits provides for
15 amazingly beautiful anemones, sponges, beds of
16 kelp and other elements of that environment
17 supporting all manner of other species.
18 Relatively significant numbers of whales,
19 dolphins, seals, marine turtles, sharks, lobsters
20 and all manners of fishes and other marine life
21 use the entire area including seasonal tropical
22 species. They ride and spin off the gulf stream
23 as it heads north and then northeastward from
24 southern regions. All of these species move

2 throughout and use the area year round or
3 seasonally and for important parts of their life
4 cycles and otherwise rely upon important elements
5 of this unique area. These species also support
6 important species above the surface of the water
7 on Plum Island, Great and Little Gull Islands,
8 Fisher's Island, Long Island's east end and other
9 near shore terrestrial areas these waters
10 surround and influence. Given these
11 circumstances the island and its research and
12 support facilities are ideal for an provide an
13 unprecedented opportunity for adapted re-uses
14 involving long term in depth study of near shore,
15 offshore, wetland, island and associated
16 environments and resources and related research
17 in addition to terrestrial research on the island
18 itself. Retaining the island from next of
19 research conservation, recreation and
20 preservation would be ideal.

21 Since 1995, during some very heated
22 interactions with other agencies regarding the
23 disposal of the dredge materials in Long Island
24 Sound I've hoped for the opportunity to have the

2 area or major parts of it designated and managed
3 as a state by state, tristate or national marine
4 reserve, preserve sanctuary or park, or some
5 other form of specially managed area that
6 recognizes and protects its characteristics and
7 the diverse species in and using the area. The
8 National Oceanic and Atmospheric Administration
9 has been considering candidate areas for a new
10 national marine sanctuary. Plum Island offers a
11 unique opportunity for such scenarios and
12 managing the area in such a manner would be an
13 excellent complement to management of Long Island
14 Sound, Peconic Bay through the USEPA's national
15 estuary program and New York's regional Long
16 Island Sound Coastal Management Program. Given
17 the island and the area's proximity to and access
18 to it from public and private educational and
19 research institutions in three states, the island
20 provides unique opportunities for collaborated,
21 in-depth, near shore and offshore research in
22 addition to terrestrial research. New York once
23 had such a public facility on Long Island at the
24 long gone New York Ocean Science's laboratory at

2 the former Navy facilities in Montauk. Closed
3 more than three decades ago for lack of funding
4 and subsequently lost to the public and developed
5 for private condominiums and a private marina.
6 There has never been an opportunity to replace it
7 with existing infrastructure such as relatively
8 deep and protected harbor and vessel mooring
9 areas which we had at Plum Island. Laboratory
10 and office storage facilities and housing for
11 visiting researchers and students or and
12 otherwise ideal location from which to conduct
13 relevant research and for which to administer a
14 comprehensive management program for such a
15 unique area and the opportunities it presents.

16 I'll skip some of what I have here you
17 have it written testimony. I'll just say that I
18 know firsthand that no amount of classroom,
19 virtual reality, remote sensing or other means,
20 remote sampling or measuring of the marine
21 environment can replace the unique experiences,
22 knowledge and understanding gained from being
23 completely immersed literally and figuratively in
24 the marine environment. Plum Island and the

2 surrounding marine environment provide the ideal
3 opportunity for study research, education,
4 conservation, preservation and management of the
5 area. Since the overall area surrounding Plum
6 Island and the other eastern islands as genuinely
7 in three states the area and the re-uses of Plum
8 Island might also provide a long overdue
9 opportunity for the three states and the federal
10 government to formally develop better
11 collaborative partnerships for managing their
12 share of region and resources. I'm sure you've
13 heard about some of the arguments between two of
14 the states regarding the disposal of dredged
15 material in the Sound, it's still not resolved.
16 One example of that collaboration could include
17 more advanced and much needed research regarding
18 the effects of continued disposal of dredged
19 materials in the Long Island Sound region,
20 especially effects of bioaccumulation of organic
21 and other contaminants associated with dredged
22 materials dumped at the relatively nearby Newlin
23 disposal and other sites in the Sound. And I
24 mention that because no work has been done in

2 that area ever. The Daymost Program that's run
3 by the Navy and USCPA and the Corp. only looks at
4 the physical efficacy of capping contaminated
5 material with sand, no one has done any work on
6 the bioaccumulation of the toxics that are
7 contained in that material.

8 I encourage this committee and its
9 counterpart in the state senate to support the
10 retention of Plum Island and public ownership for
11 such or similar appropriate public uses and
12 convey such sentiments to the governor and to
13 relative federal elected and appointed officials
14 and agencies. I also urge you to encourage the
15 State's Secretary of State and the Department of
16 State to fully exercise their federally delegated
17 CZMA and other authorities to ensure that
18 relevant state coastal program policies and the
19 Town of Southold LWRP are fully advanced by
20 retaining Plum Island and public ownership for
21 public purposes. The Plum Island circumstances
22 are unique and they offer an unprecedented
23 opportunity in our lifetimes. Its unlikely
24 similar circumstances will present themselves

2 again, please don't let the opportunity to slip
3 by and that concludes my remarks, and thank you
4 again for the opportunity to speak.

5 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you,
6 Steve. Many of the things that you've talked
7 about sort of summarize a lot of the range of
8 issues that are before us today. Some have legal
9 implications and I'm surrounded by three lawyers
10 up here and so I'm going to defer starting at the
11 senator end of the table here and let them speak
12 with you about legal and other implications of
13 what you're talking about and then I have some
14 questions myself, but let's start with Senator
15 LaValle.

16 MR. LAVALLE: Why don't we start with
17 the chairman.

18 ASSEMBLY MEMBER ENGLEBRIGHT: Okay,
19 thank you. The senator has deferred back to me.
20 What it sounds like are contradictions that have
21 been created by the various policies and laws at
22 the federal level where they intersect with the
23 states in particular our state and Connecticut in
24 this instance, and that there may be legal

2 implications that might complicate the sale, is
3 that, is that a fair first take at what you're
4 saying?

5 MR. RESLER: I would say not yet.

6 ASSEMBLY MEMBER ENGLEBRIGHT: Not yet,
7 okay.

8 MR. RESLER: The federal government has
9 not yet fulfilled its obligations and submitted
10 what's called the consistency determination to
11 the state. If I can offer a little background
12 here and this also relates to the draft and final
13 EIS in some manners. The consistency process is
14 not a part of either the NIPA process or the
15 state SICRA process. It's a separate decision-
16 making process especially at the federal level.
17 It gets a bit complicated but the Department of
18 State acting as state's coastal management agency
19 for federal purposes is not subject to secret,
20 just hold that in your mind for a moment. The
21 Department of State's role is in the federal
22 decision-making process not the state decision-
23 making process. It's an interim part of a
24 federal agency's decision making so that someone

2 earlier today, I think it was Randall mentioned
3 permits, federal permits and he indicated some
4 concern about the Department's role if no permit
5 was required. The process I'm going to describe
6 is essentially the same whether it requires
7 someone who's asking for a permit from a federal
8 agency or any form, other form or authorization
9 or direct agency activity, we don't call them
10 actions at the federal level by a federal agency
11 or anything involving federal financial assistance
12 or other types of funding. In this instance the
13 federal government itself is required to submit a
14 consistency determination to the state indicating
15 that it has compared what it intends to do or is
16 considering doing to the state's coastal program
17 and its enforceable policies and it determined
18 that its proposal is fully consistent with, the
19 term used in statute is consistent to the maximum
20 extent of practicable, the word is not practical,
21 it's practicable. What that means by definition
22 in the statute and its implemented in regulations
23 is that it must be done in a manner full
24 consistent with all of the relevant state coastal

2 policies if it is possible to do it that way
3 unless it's expressly prohibited from doing it
4 that way by law. That's a very tough standard.
5 It's in addition to all other federal standards
6 that apply. So what I'm getting at here is the
7 federal government has not yet submitted a
8 consistency determination to the state. The
9 state is then offered the opportunity to agree or
10 disagree with that. The state can disagree and
11 offer alternatives to what's being considered,
12 which is what we did with Governor's Island and
13 what we have today is one of the several
14 alternatives that the Department identified in
15 its objection to the original consistency
16 determination.

17 ASSEMBLY MEMBER ENGLEBRIGHT: Mr. Thiele
18 had a question.

19 ASSEMBLY MEMBER THIELE: I have a lot of
20 experience with the coastal consistency stuff
21 because the Village of Sag Harbor has an LWRP and
22 one of the, one of the earliest approved LWRPs
23 and of course, every decision has to, there on
24 the local level has to be consistent with their

2 coastal policies. Also, which I thought was a
3 very powerful tool with regard to the opposition
4 to broad water several years ago, now the only
5 difference and I think you've explained it's
6 really a distinction without a difference is that
7 with Broadwater there were federal permits here,
8 this is a direct federal action but it doesn't,
9 it's really a distinction without a difference
10 right, I mean --

11 MR. RESLER: It's the procedural
12 differences.

13 ASSEMBLY MEMBER THIELE: Yeah, but as
14 far as substance goes.

15 MR. RESLER: The substance is
16 essentially the same.

17 ASSEMBLY MEMBER THIELE: Let me get
18 right to the point, I felt like the State of New
19 York because of the coastal consistency
20 provisions with Broadwater that we almost had a
21 virtual veto power over the project and I guess
22 my question to you is do you believe that on the
23 issue on coastal consistency would the State of
24 New York again have a virtual veto power over

2 this federal action?

3 MR. RESLER: It's not quite as strong as
4 it would be for something requiring federal
5 authorization, as with Ferkin [phonetic]
6 Broadwater. In that instance, no one gets to
7 second guess the state's decision. It's appealed
8 to the Secretary of Commerce. The Secretary of
9 Commerce does not get to second guess the state's
10 decision and disagree with it, but he or she can
11 override the result of it if certain national
12 coastal objectives are significantly advanced.
13 Broadwater couldn't pass that hurdle, it couldn't
14 pass the national security hurdle and the
15 president certainly wasn't going to exempt it.
16 In the case of the federal direct activity the
17 battle takes place between the state and the
18 federal agency. If the state objects to what the
19 federal agency is considering doing they're
20 required to work that out and come to some
21 resolution and that usually results in the state
22 getting what it wants out of that land, which is
23 the retention of it for public purposes. There
24 are state coastal policies that basically say

2 we're not supposed to be alienating publically
3 owned waterfront property. You know some of the
4 case law but that case law there are both
5 statutes in New York Law, there is administrative
6 case law and there is judicial case law upon
7 which the state's policies are based. Those are
8 then are carried forward in a comprehensive land
9 and water use plan, which is essentially what the
10 town of Southold LWRP is. Those policy
11 objectives are to be met, they are to be
12 advanced, you don't barely meet them, and I
13 mentioned the separation from NIPA and SECRA
14 before, you're not allowed to balance different
15 objectives in the consistency process. You don't
16 get to conclude at the end of a consistency
17 review process as something so significantly
18 advances certain public objectives or benefits
19 that the relatively minor adverse effects of
20 something don't really count so much so we're
21 going to go ahead with it. You can't do that
22 with coastal consistency. When something is
23 being considered it has to meet every single
24 policy objective that applies given the

2 circumstances, and the best case I can give you
3 of that, the simplest way I can deal with it to
4 say I had a judge once say to me, Mr. Resler, you
5 have 44 state coastal policies, they all conflict
6 with one another. Policy 7 says protect,
7 preserve, and [unintelligible] [02:38:59] restore
8 significant coastal [unintelligible] [02:39:01]
9 habitats. Another policy says promote and
10 encourage and facilitate the development of
11 industrial water dependent uses on the
12 waterfront. Those are two conflicting policies
13 and I said, no judge they are not conflicting
14 they compete. Our job is to advance both of them
15 so that they don't conflict, and he says how do
16 you that? And I said it's very simple you don't
17 put that industrial development in the middle of
18 that designated map identified habitat, you put
19 it ten miles down the coast where you have the
20 sufficient, sufficient infrastructure to support
21 it and it in turn supports that infrastructure.
22 It's all simple, it's planning 101, this is a
23 land and water use program and it makes a lot of
24 sense when you play it, and that's how I see Plum

2 Island planning out.

3 ASSEMBLY MEMBER ENGLEBRIGHT: So, so.

4 ASSEMBLY MEMBER THIELE: It sounds to me
5 as if when we're putting together that battle
6 plan that the senator referred to earlier that
7 one of the weapons that the state has certainly
8 in addressing this is the coastal zone management
9 program.

10 MR. RESLER: Yes.

11 ASSEMBLY MEMBER THIELE: And it's a very
12 powerful weapon.

13 MR. RESLER: It is, it would be --

14 ASSEMBLY MEMBER THIELE: Thank you.

15 MR. RESLER: - it would be better if
16 congress would amend the legislation, but, thank
17 you.

18 ASSEMBLY MEMBER ENGLEBRIGHT: Other
19 questions here? I still had some questions, I, I
20 don't --

21 ASSEMBLY MEMBER THIELE: If I may, just
22 to follow up on that Mr. Resler, so just to
23 complete that thought, on our level, on the state
24 level we could simply maybe craft legislation or

2 somehow generate a review of the Plum Island
3 consistency aspects and indicate that any sale to
4 say a private entity similar to Governor's, to
5 Governor's Island, would be inconsistent with
6 state law and at that point just thinking back to
7 and not to get too far afield with the
8 constitutional argument, but obviously when the
9 state, like if our court of appeals interprets
10 state law, feds stay away from it. So you're,
11 these powers are reserved to the states and if
12 you want to interpret your own state law in your
13 own fashion, knock yourself out, we can't touch
14 it. And in that same circumstance if we could
15 create a situation where we can establish on the
16 state level that our interpretation of the
17 management, the coastal management program is
18 that under state law selling it to a private
19 entity for a golf course or to his excellency,
20 his excellency, Donald Trump, for a condo complex
21 then it would be inconsistent, and at that point
22 they have to stay away. That's essentially what
23 you'll be doing so the enforceable policy of the
24 state's coastal program have to be enforceable at

2 the state level. That includes the
3 municipalities, which are creatures of the state
4 and derived their authority from it. So the way
5 this works is that Southold policies are
6 implemented, as I said earlier, they're
7 implemented through several different venues. It
8 includes their local laws which ordinarily would
9 not apply to the federal government but the way
10 this works is that when, when congress offered
11 the states the opportunity to develop a coastal
12 program they offered a waiver of sovereignty and
13 said we will hold and you will hold the federal
14 government to your standards in your enforceable
15 policies. That's the way this works. This is
16 reverse federalism essentially. So they have to
17 adhere to how Plum Island is zoned, they don't
18 need authorization. If they propose to do
19 something at this point in time they would not
20 need authorization from the Town of Southold for
21 anything, but through consistency they still have
22 to meet the same standards that they would have
23 to meet if they were to apply for a permit.

24 MR. RESLER: Sure.

2 ASSEMBLY MEMBER THIELE: Got it, in
3 light of what, I mentioned to this to Supervisor
4 Russell, as far as the preemption issue it's a
5 consistency issue actually now that they've
6 implemented their local zoning laws indicating it
7 needs the preservation idea.

8 MR. RESLER: The zoning laws implement
9 many of the policies and purposes of the program
10 unfortunately, in order to get the program
11 approved to the federal level, this is, when I
12 say program I mean the LWRP, the Department of
13 State had a battle with Homeland Security over
14 that. So the LWRP remained somewhat silent with
15 regard to Plum Island itself and basically said
16 that federal consistency provisions don't apply
17 at this point in time as long as its owned by the
18 federal government, and what this really means is
19 that as long as the federal government does what
20 it wants with its property on that property and
21 there is no offsite effect at all and when I say
22 effect, effect means any reasonably foreseeable
23 effect on any coastal resource or human use of
24 it. It's far reaching, it reaches inside and

2 outside of the coastal area. So if they do
3 anything on that property that has any effect on
4 any use or any reasonable foreseeable effect on
5 any resource or use off the island, consistency
6 kicks in and applies.

7 ASSEMBLY MEMBER THIELE: Got it.

8 MR. RESLER: The sale of the land itself
9 is an activity that has an effect on the coastal
10 area by changing New York's coastal area. Right
11 now that island is by federal law excluded from
12 the coastal area, federally owned property is not
13 in New York's coastal area. It sounds bizarre
14 but that's how congress wrote the legislation.
15 If it were to change hands it becomes of New York
16 coastal area. That itself is an activity having
17 an effect that --

18 ASSEMBLY MEMBER THIELE: Outside of the
19 --

20 MR. RESLER: -- initiates the consistent
21 review process. We've been through this with
22 General Services Administration dozens of times
23 and as their attorneys, their counsel, their
24 program implementation people change over the

2 years, we always had to reeducate them. So we
3 fire off a nasty gram when they said they were
4 going to do something and then the battle started
5 and in the end they gave us what we felt what was
6 appropriate for New York and its municipalities.

7 ASSEMBLY MEMBER ENGLEBRIGHT: Terrific,
8 thank you.

9 MR. RESLER: We deal with lighthouses on
10 the regular basis.

11 ASSEMBLY MEMBER ENGLEBRIGHT: Yeah,
12 sure, thank you.

13 ASSEMBLY MEMBER THIELE: What would your
14 advice to us be as we are clearly united in our
15 desire to see the state maximize its leverage on
16 the protection of this island and the resources,
17 marine and terrestrial around it, what would your
18 advice be to us as to our next particular step.

19 MR. RESLER: Use your significant --

20 ASSEMBLY MEMBER ENGLEBRIGHT: Just a
21 moment, there's a, the noisiest garbage pal I've
22 ever heard. I'm sorry, go ahead, sorry.

23 MR. RESLER: I would say use your
24 significant leverage to convince the governor to

2 back you with this. I don't know, again, I'm not
3 a full time state employee anymore, I do
4 occasionally work for the Department on certain
5 matters, but I don't know where the department is
6 going at this point or where the governor might
7 go with it, so I would simply as a private
8 citizen say use your significant leverage to get
9 him.

10 SENATOR LAVALLE: The Department of
11 State is the lead agency, but the governor
12 basically, am I --

13 ASSEMBLY MEMBER THIELE: We don't use
14 the term lead agency.

15 SENATOR LAVALLE: It's not lead agency
16 but I mean juris --

17 MR. RESLER: We're not getting, we're
18 not --

19 SENATOR LAVALLE: Coastal jurisdiction
20 with the Department of State right?

21 MR. RESLER: It's federal jurisdiction
22 with the Department of State.

23 SENATOR LAVALLE: Okay, but the
24 governor.

2 MR. RESLER: Right, yes, there's no
3 decision not even for the smallest dock in
4 someone's back yard that doesn't go through the
5 governor's office before the decision is
6 released.

7 SENATOR LAVALLE: You can say that now.

8 MR. RESLER: I've always said it, I've
9 never shied from that.

10 ASSEMBLY MEMBER ENGLEBRIGHT: Steve, you
11 mentioned quite prominently in your testimony the
12 National oceanographic and Atmospheric
13 Administration has been considering candidate
14 areas for a new national marine sanctuary. Can
15 you expand on that just a little bit in your
16 knowledge of how Plum Island and its surrounding
17 waters might fit into such a possibility?

18 MR. RESLER: There are a few of them in
19 the United States. They are established after a
20 petition to NOAA to establish, ultimately they're
21 established by congress but NOAA does the ground
22 work to support a departmental, meaning a NOAA,
23 which Department of Commerce recommendation to
24 establish them after public input. But they can

2 be established because of their natural
3 characteristics and values and human use values
4 associate with them as well as their cultural
5 values. Some have been established because of
6 presence of shipwrecks and other underwater
7 cultural resources. So I was happy to hear
8 mention of that earlier today.

9 ASSEMBLY MEMBER PALUMBO: We have 800
10 shipwrecks is that --

11 MR. RESLER: There are, just so you
12 know, before I retired and even now I'm working
13 on what's called an underwater blue way trail for
14 New York, which is setting up an underwater trail
15 system around the state for shipwrecks and
16 underwater cultural resources tied to significant
17 events in the settlement history and development
18 of New York and the nation. The Long Island
19 Sound and Plum Island area has obviously plays a
20 big role in that as well as the Atlantic Ocean
21 and inland waterways and the Great Lakes. But
22 the cultural national marine heritage is right
23 now are in the Lake Superior, Lake Michigan and
24 two in Florida I believe. Ohio also has one.

2 New York doesn't have one yet. From my
3 perspective the area that I mentioned before also
4 going somewhat south toward Montauk Point in an
5 area off Montauk Point, a little bit to the
6 southeast of it called Constitution Shoals as you
7 begin to enter the Atlantic Ocean, meets all the
8 criteria that you could meet for both its natural
9 resource values, its human use values and its
10 cultural values both terrestrial and underwater.

11 ASSEMBLY MEMBER ENGLEBRIGHT: We'd like
12 to learn about the models that you are familiar
13 with as well as the particular relevance for its
14 possible application in the waters around Plum
15 Island. When Senator Ovaland [phonetic],
16 Supervisor Russell and I were out at the island
17 last week we saw seals playing in the waves and
18 cormorants and the ospreys and it was clear that
19 this was just looking at the rocks that this was
20 a superb rocky intertidal and shell sub-title
21 habitat. I have never seen such a concentration
22 of wildlife before on Long Island, it's really
23 was, it was an eye opening experience. So your
24 suggestion resonates with what we observed the

2 other day. I'd like to learn more about the
3 model that you have in mind.

4 MR. RESLER: One more suggestion.

5 ASSEMBLY MEMBER ENGLEBRIGHT: Surely.

6 MR. RESLER: There's no reason why the
7 state can't establish that itself rather than
8 have national marine sanctuary. The state has
9 the authority to do that you can do that.

10 ASSEMBLY MEMBER ENGLEBRIGHT: Well, as
11 we sit down in the aftermath of today's hearing
12 can we call on you to --

13 MR. RESLER: Absolutely.

14 ASSEMBLY MEMBER ENGLEBRIGHT: -- give us
15 further advice --

16 MR. RESLER: This has been a personal
17 and professional interest of mine as I said
18 earlier for decades, so I would, anything I can
19 do.

20 ASSEMBLY MEMBER ENGLEBRIGHT: It seems
21 consistent with some of the things that we've
22 been talking about and I think we will want to
23 call on you again to give us advice toward doing
24 what we can at the state level to protect this

2 extraordinary resource. Other questions from
3 colleagues? Thank you very much, much
4 appreciated. We're going to express appreciation
5 once again to Senator LaValle for joining us.
6 We'll make a complete record of the testimony
7 available to your office. Thank you for your
8 advocacy, thank you for being with us today.
9 Alright, our next panel, Leah Lopez Schmalz,
10 Program Director of the Connecticut Fund for the
11 Environment. Chris Cryder, Special Projects
12 Coordinator, Save the Sound. Louise Harrison,
13 Principal of Conservation & Natural Areas
14 Planning, a consulting firm, and welcome. Who
15 wants to go first?

16 MS. LEAH LOPEZ SCHMALZ: Alright, it
17 looks me.

18 ASSEMBLY MEMBER ENGLEBRIGHT: Leah Lopez
19 Schmalz, please for the record state your
20 affiliation.

21 MS. SCHMALZ: Of course, good afternoon.
22 My name is Leah Lopez Schmalz and I'm the program
23 director of Connecticut Fund for the Environment
24 and one of their senior attorneys. My

2 organization represents over 5000 members from
3 around the region and we have worked for over
4 four decades to protect and improve the land, air
5 and water of Connecticut, Westchester and Long
6 Island Sound. Our principle office place is in
7 New Haven, Connecticut, we also have another
8 office space in Westchester County. I'd like to
9 start by, is this any better, alright. I'd like
10 to start by thanking those in New York who are
11 already doing what they can to ensure Plum Island
12 is protected. Assemblyman Englebright and State
13 Senator LaValle for coordinating the letters to
14 congress, the New York congressional delegation
15 for their hard work on federal legislation,
16 Governor Cuomo and New York DEC for pushing on
17 contamination issues, Southold for moving forward
18 with zoning and our county legislators like Al
19 Krupski for being such fantastic advocates. CFE
20 is grateful for the invitation to provide
21 comments and potential measures to protect Plum
22 Island.

23 From endangered species swimming in its
24 waters like the north Atlantic white whale and

2 using its shores like the Roseate Tern, to one of
3 the most significant fresh water wetlands, and
4 impressive coastal bluff systems in New York
5 State, there is one thing federal, state and
6 local governments and the people of this region
7 agree on. Plum Island is one of the most unique
8 environmental and cultural sites in our country,
9 but you've already heard and I'm sure you're
10 going to hear even more after this panel about
11 how critical this island is. The thing that has
12 everyone stumped is while we all agree this is an
13 extraordinary property that should be conserved
14 we all know it's already owned by the public and
15 we merely need to keep it that way, and we all
16 understand that we have the tools to accomplish
17 keeping it public, permanent protection has
18 remained elusive. So for a few minutes I'll push
19 forward to what got us in this sticky situation,
20 which we've heard a little bit about and steps
21 that we think could be taken to permanently
22 protect Plum Island.

23 So first, the how did we get here,
24 slide, which the language is up there we've been

2 talking about it in bits and starts and I'll just
3 read it out right now. The secretary shall
4 liquidate the Plum Island asset through public
5 sale all real and related personal property and
6 transportation assets which support Plum Island
7 operations subject to such terms and conditions
8 as necessary to protect government interests and
9 meet program requirements. Well the GSA and the
10 Department of Homeland Security have repeatedly
11 claimed any conservation options were out of
12 their hands, the truth is congressional language
13 offers agencies multiple levels of discretion.
14 When reviewing the mandate it's worth noting that
15 it's well established that all language provided
16 in a law has intention and purpose. In other
17 words congress does not include extraneous words
18 or phrases when they construct new laws. So
19 taking that as a given, we'll take a look at the
20 next four sections that give them discretion in
21 this act. First, it starts with Plum Island
22 asset, it doesn't really say Plum Island, it says
23 Plum Island asset, they've added the word asset.
24 The Department of Homeland asset in this instance

2 is the facility itself, not the island. This
3 first provision sets the parameters of
4 liquidation to the asset or facility itself.
5 Next the law defines what should be sold, real
6 property that supports Plum Island operations.
7 Again the operation referred to is the research
8 facility. So the real property, the facility,
9 the facility is located on is what should be sold
10 according to this provision. Then most
11 critically as Randy mentioned before is that it
12 puts constraints on whatever sale does take
13 place, stating that any sale must be subject to
14 such terms and conditions as necessary to protect
15 government interests. EPA, the Connecticut AG's
16 office, U.S. Fish & Wildlife Service, the
17 National Marine Fishery Service and numerous
18 other conservation entities have identified on
19 multiple occasions that protection of Plum
20 Island's fragile habitats and species are in the
21 government interest as set forth by the
22 Endangered Species act, the National
23 Environmental Policy Act, the Coastal Zone
24 Management Act, the Clean Water Act and several

2 other federal and state laws. All of these
3 entities have outlined that conservation options
4 are needed as terms and condition on any title so
5 that these important government interests are
6 protected. Lastly, the law tells GSA how to sell
7 whatever portion of the property is sold. It is
8 to execute a public sale. The law does not
9 dictate that an auction needs to occur, which is
10 the current process GSA uses and they have been
11 talking about for Plum Island. A process that
12 agencies and conservationists cannot even dream
13 of competing and giving some of the players
14 expressing interest in purchasing Plum Island.
15 So based on this language it's clear that one,
16 GSA and the Department of Homeland Security can
17 effectuate a conservation sale, one that sells a
18 portion of the island the facility is located on
19 while conserving 600 plus acres of open space.
20 And two, instead of a free for all unfettered
21 auction it could use a negotiated conservation
22 process that ensures all stakeholders are
23 involved, much like you were talking about
24 earlier with various partnerships that could

2 occur. Now that we've reviewed how we've gotten
3 to this point and see the plain language of the
4 statute provides discretion, I'll outline a few
5 possible positive outcomes and a number of steps
6 that can be taken to protect Plum Island, all of
7 which the State of New York has a critical role
8 in making a realty. First, there are four
9 possible ideal outcomes for Plum Island that I
10 see right now, there have been a number of other
11 ones discussed. The first is that Plum Island
12 could be transferred to U.S. Fish & Wildlife
13 Service for management inclusion in the refuge
14 system with limited public access. The second is
15 that a portion of Plum Island with the facility
16 can be sold with, to a compatible, redevelopment
17 and research interest and the 600 plus remaining
18 acres are transferred again to U.S. Fish &
19 Wildlife Service for management, inclusion in the
20 refuge system. Third, Plum Island can be
21 transferred to New York for uses in educational
22 institution with limited public access. This
23 would probably require some sort of easement and
24 the management partnership with U.S. Fish &

2 Wildlife Service and fourth, Plum Island can be
3 transferred to New York for use as a state
4 wildlife park or a preserve with again limited
5 public access.

6 So how do we to get there and that's
7 kind what you've been exploring all morning and
8 I'll throw a few things that you've heard out
9 already, but legislation number one could be
10 passed under the confusion caused by the 2009 and
11 2012 appropriations bill. This would result in
12 the normal federal land disposal process taking
13 place where one sister agency like U.S. Fish &
14 Wildlife Service or the U.S. Park Service are
15 given the option of taking the property. When
16 this law was passed again as you heard the sale
17 of Plum Island was being used as financial
18 justification for the new expenditure of Enbath
19 [phonetic]. Now Enbath has been funded. There
20 is no longer the need to link any proceeds from
21 Plum to offset the cost of the Kansas facility.
22 New York can ensure that its entire congressional
23 delegation is actively cosponsoring and pushing
24 the legislation currently before congress that

2 would reverse the 2009 anomaly. Second, the
3 Department of Homeland Security and GSA could
4 interpret this existing congressional language
5 correctly and give away to a conservation
6 opportunity. In this case, New York can use its
7 executive and legislative branches to work with
8 the federal agencies responsible for this sale to
9 ensure that they do exercise the discretion that
10 congress really did give them. Third, GSA and
11 Department of Homeland Security could reopen the
12 faulty EIS and record of decision it issued on
13 Plum Island to fully analyze the contamination
14 and environmental concerns and examine
15 conservation options. So that's one of the
16 things I think that hasn't been touched on much
17 today is that the existing the environmental
18 impact statement has gone all the way its process
19 and a formal record of decision has been issued,
20 which is the final point for the feds before they
21 make whatever action they want. They do not have
22 to reopen up that EIS if they don't wish, but the
23 problem is that they executed that EIS without
24 all the available information. As you heard they

2 hadn't looked at the coastal policies, they
3 hadn't reviewed a lot of the contamination
4 issues. They definitely did not evaluate the
5 endangered species issues with U.S. Fish &
6 Wildfire Service and are in violation actually of
7 the endangered species act because of that so
8 that is a faulty document with a faulty final
9 decision and what they should be doing is
10 reopening that and New York has some say in that
11 because if they don' whenever the state agencies
12 review for their own reasons all of that will
13 fall on their shoulders to develop the record.
14 So you might as well get the federal government
15 to pay for it instead of New York State.

16 At the state level New York can form a
17 state and federal task force to identify possible
18 conservation outcomes. New York can use its
19 regulatory authority as we've heard a few times
20 through New York DEC consent order, through the
21 coastal consistency review to require the federal
22 agencies to do their part. Can hold GSA
23 responsible for developing the information for an
24 adequate environmental review and this one might

2 be a little bit bold, but by joining a potential
3 lawsuit against the Department of Homeland
4 Security and GSA regarding their failure to
5 comply with NEBA and the Endangered Species Act.
6 New York can partner with Connecticut and Rhode
7 Island through their governors, their
8 environmental agencies, their attorney's general
9 and their legislatures. We've seen the power
10 that New York and Connecticut have when they
11 stand united together. Again Shell Oil and
12 Broadwater can definitely attest to that. In
13 closing, many of us often say that this is
14 exactly the type of property that we would all be
15 clamoring to acquire as open space. The beauty
16 of this situation is that we the people already
17 own it. We only need our federal government to
18 stop going of its way to divest us of this public
19 trust property. We appreciate your willingness
20 to work with us and look forward to future
21 actions and activities.

22 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you
23 very much. I see that Mr. Thiele is --

24 ASSEMBLY MEMBER THIELE: We can listen

2 to all of them. I mean, I think we let everybody
3 speak and then -

4 ASSEMBLY MEMBER ENGLEBRIGHT: Yeah,
5 let's stay with, with that same process then.

6 MS. SCHMALZ: Of course.

7 ASSEMBLY MEMBER ENGLEBRIGHT: I thought
8 I saw Fred writing a question down, but --

9 ASSEMBLY MEMBER THIELE: I'll get to it.

10 ASSEMBLY MEMBER ENGLEBRIGHT: -- we'll,
11 we'll hear all three of the panel first, go
12 ahead.

13 MR. CHRIS CRYDER: Okay.

14 ASSEMBLY MEMBER ENGLEBRIGHT: State your
15 name and affiliation please.

16 MR. CRYDER: My name is Chris Cryder and
17 I work for Save the Sound, a bi-state program of
18 Connecticut Fund for the Environment, and I'm
19 also responsible for coordinating the outreach
20 effort for the preserve Plum Island coalition.
21 And the preserve Plum Island coalition now has 60
22 organizational members in New York and
23 Connecticut and its growing. The most recent
24 additions have been two fishing organizations in

2 Rhode Island and so now we're really a tristate
3 effort to preserve Plum Island. During this year
4 of 2015, I have been giving presentations in the
5 tristate area called preserving Plum Island for
6 future generations where I provide a virtual tour
7 of the island, highlighting its national
8 resources as well as the cultural and scientific
9 resources, and I would like to give you a four to
10 five minutes condensed version of what is
11 typically a 45 presentation. And so Plum Island
12 as you mentioned Chairman Englebright, is located
13 within an archipelago of peninsulas and islands
14 stretching from Orient Point as you can see to
15 Plum Island, Great Gull, Little Gull, Fisher's
16 Island and on to Napatree Point in Rhode Island,
17 and it was formed 22,000 years ago when the last
18 glacier was here and as it retreated it stopped
19 for a while and glacier boulders and sediment
20 formed this archipelago system. And as you
21 mentioned these islands are interlocked
22 ecologically. Here's a shot and by the way a
23 photographer, Bob Lorenz, has been able to take
24 many new photos of the island, he's had

2 unprecedented access and I show some here. This
3 is a shot of north side of Plum Island, and so
4 when you have a lot of water that's going through
5 narrow areas like Plum Gut, the sluiceway between
6 Plum Island and Great Gull and the Race, that
7 water speeds up and it churns and you have water
8 here that's four to six knots and the area, Long
9 Island Sound estuary along with the Peconic
10 estuary and the waters around Plum Island are
11 rich in marine life. And we have one of the
12 largest fish concentrations in this area in the
13 entire mid Atlantic, and I just want to mention
14 I've talked to two fishermen, Capt. Pete and
15 Capt. Barry, who fish in and around Plum Island
16 and they don't want to see this island developed.
17 They think it will actually have detriment to
18 their businesses. And so we're going to come
19 down for a little bit closer view, hope to give
20 you a little bit of visual entertainment and
21 special context to our discussion. Here's Plum
22 Island, this pork chop shaped island, 850 acres,
23 three miles long, 9 miles of beach around it.
24 Hold on one second, we got to postpone from

2 computer from stopping, and we have the Plum
3 Island Animal Disease Center on it, it's
4 currently owned by the federal government,
5 operated by the Department of Homeland Security
6 and what's really important though is that the
7 Plum Island Animal Disease Center really only
8 takes up with its associated buildings 20% of the
9 island, 80% of the island since World War II over
10 the last 70 years has been allowed to return to a
11 natural state and has become a refuge, a wildlife
12 refuge for some of the region's most imperiled
13 species.

14 Now we're going to our first spot on the
15 tour on the northwest point and here we come down
16 and here we are at the Plum Island lighthouse.
17 As Amy mentioned, it was built in 1869, this one
18 that's here today and in 1978 it went dark,
19 currently there's an aluminum structure to the
20 left side of the lighthouse, which does include
21 the actual light. Many organizations around the
22 area, historical preservation organization would
23 like to see this lighthouse restored and relit an
24 open to the public and there's another shot at

2 night. It is deteriorating at the moment. So
3 we're going to our next spot, it's in the
4 southwest corner and we're coming down to an area
5 known as Pine Point, and here we come down, I
6 think we're all the way down and if you look
7 really closely here's the Department of Homeland
8 Security's security vehicle right there but this
9 area is the area that has the preponderance of
10 the island's dune systems, Maritime Dunes, about
11 100 acres. And here we have a shot of Pine Point
12 in the morning at sunrise showing the dunes and
13 around the corner again is Pine Point with its
14 dune system, and as you can see it's been
15 relatively left alone, no human disturbance for a
16 long time. Now we're going a little bit north of
17 Pine Point coming down to the area of the island
18 with its fresh water wetland system and as you
19 can see it's pretty large here. It's about 96
20 acres of fresh water wetlands including a fresh
21 water lake here. Down in the lower corner is lab
22 257, which Amy mentioned earlier. Here's some
23 shots that were taken last fall of that fresh
24 water lake, right in the middle of Plum Island

2 and it's really beautiful and you can see the
3 hardwood forest growing up in the background. At
4 one time the island had been denuded, but the
5 forest is growing back. What's interesting, I'll
6 just make a side point here is we don't know what
7 lives in that lake and those fresh water wetlands
8 because of the restrictions for access. We know
9 a lot about the birds, a lot about the plants,
10 but very little about the mammals, the reptiles,
11 the amphibians or the insects on the island
12 because those haven't been studied up until now.
13 That's why the New York Heri-, Natural Heritage
14 Program is doing their four season biological
15 inventory and New York DEC this summer supposedly
16 did an inventory of this lake. I'm a little
17 disappointed, however, we can't learn of their
18 findings as they identify species until next year
19 when they finish the report. I was hoping we
20 could learn of those but the New York Natural
21 Heritage Program has signed a nondisclosure
22 statement with the Department of Homeland
23 Security. And so we now go to the north side of
24 the island and here's the footprint for the Plum

2 Island Animal Disease Center and, of course,
3 we've talked about the great and wonderful
4 research that they do, it's fantastic, and we
5 wish it could stay but it looks like, most
6 likely, that it will be closed and moved to
7 Manhattan, Kansas in the early 2020's. My point
8 here is that the footprint of the animal disease
9 center is pretty small. It and its associated
10 buildings are only 20% of the island. There's a
11 shot of it from an aerial point of view, and now
12 we're going to go the middle of the island and
13 here we come down to the remains of Fort Terry
14 and Fort Terry was an army base that was built in
15 1897 in preparation for the Spanish-American War
16 and it was the linchpin fort for a series of
17 forts in that archipelago. Fort Mikey on Great
18 Gull; Fort Wright on Fisher's Island and then
19 Fort Mansfield at Napatree Point, and I won't go
20 through all the buildings there but we can look
21 at this next postcard shot that was given to us
22 by the Southold Historical Society, which gives a
23 picture of what it looked like back in 1911. But
24 in this central area of the island is a different

2 type of habitat and it's absolutely striking,
3 it's beautiful, I love this picture. Here is a
4 coastal meadow in the foreground leading to a
5 shrub scrub, salt shrub scrub and then onto the
6 natural forest in the background. Here we have a
7 northern harrier hawk that lives and breeds on
8 the island and is a bird in conservation need in
9 New York, but it does breed on the island. We
10 have 16 rare species of plants on the island,
11 this is a spring ladies dress, a member of the
12 orchid family, 16 of those, I'm sorry, six of
13 those 16 rare and endangered plants are in
14 danger. Six are in danger to the 16 rare plants
15 and it's the second area in New York of highest
16 concentration of rare plants second only to
17 Fisher's Island. Now we move on to my favorite
18 part of the island and it might be yours too,
19 Chairman Englebright from what you've said; and
20 here we come down to the Maritime Bluffs, which
21 are large and extend for a significant way on the
22 south side of the island, and here you can the
23 bluffs and the boulders below and the intertidal
24 zone and they extend for some time here. And

2 here's a tall shot of the high Maritime Bluff 70
3 feet high and the rocks below. Here's another
4 shot of a bluff and if you look really closely up
5 here you're going to see holes at the top, and
6 these are homes of bank swallows, there's a large
7 colony on this island here, in the Maritime
8 Bluffs. This too is a species, a species of
9 conservation need with populations declining, and
10 then there are the seals, the grey seals and the
11 harbor seals. We'll take a little bit closer
12 view. I got to go here in January, there were
13 about 200 but there's been upwards of 600 and the
14 sight of them, the sound of them is absolutely
15 amazing, it's a miracle really. It's something
16 that has to be preserved, and then there's the
17 beaches, the beaches are long and wide,
18 beautiful. At the top the endangered Piping
19 Plover of breeds at the top of these beaches and
20 we have seen the captains of the ferry boats that
21 go from Connecticut to Plum Island as well as
22 Orient Point to Plum Island have seen the
23 endangered northern wright whale on a number of
24 occasions, and also the world's largest sea

2 turtle, the leatherback, which forges in this
3 area in the summertime. And finally I'll end up
4 with this bird the Roseate Tern and this is an
5 example of how this archipelago is interlocked
6 and works together. Roseate Terns are endangered
7 and you'll see right here there's a band on the
8 foot of this Roseate Tern and this was picture
9 was taken on Plum Island. Roseate Terns don't
10 breed on Plum Island they breed next door on
11 Great Gull, a 17 acre island. Last year 1300
12 pairs of Roseate Terns bred there and it's the
13 number one site in the whole western hemisphere
14 for the breeding of Roseate Terns. Nine thousand
15 pairs of common terns bred on that 17 acre Great
16 Gull Island, the number one spot in the world for
17 breeding common terns. My point here though is
18 they come over to Plum Island, they bring their
19 fledglings and this is where they're raised and
20 this is where they feed and this is where they
21 shelter, and we don't want to see this island
22 developed, it would definitely have an impact on
23 these tern colonies.

24 And so on Long Island I've presented so

2 far in East Marion, this is me two weeks ago at
3 the East Marion Community Association. I've
4 presented in Greenport, Cutchogue, Shelter
5 Island, South Hampton and Stony Brook as well
6 I've spoken to the East End Mayors and
7 Supervisor's Association and the Peconic estuary
8 program, program citizen advisory council. Soon
9 I'm going to be presenting to the New York
10 Sailing Club as well as to the Sweetbriar Nature
11 Center. So what if I heard from the attendees,
12 what have they told me, the majority of them have
13 said four main points. We would like to see the
14 natural resources of Plum Island conserved and
15 following conservation we want some form of
16 public access. Two, we want to see the Plum
17 Island Animal Research adaptively reused in order
18 to retain and keep as many good jobs as we can.
19 Number three, we want the island cleaned up of
20 its contamination known and unknown, and the last
21 fourth major point, the citizens have said we
22 want the character of the east end maintained and
23 we don't want additional traffic on main road.

24 I would like to share a story of Little

2 Gull Island, just for a moment that is next door
3 to Great Gull and the story directly applies to
4 Plum Island. Little Gull Island and its
5 lighthouse became surplus government property and
6 was sold by the government services administrate,
7 general services administration in 2012 through a
8 competitive bidding process and was sold to the
9 highest bidder. Interestingly, and ironically,
10 Mr. Plum of Connecticut. He purchased the one
11 acre island for \$381,000, which was the highest
12 price paid for one acre of land in GSA's history.
13 However, the New London Maritime Society, a
14 nonprofit, also placed a bid for \$100,000 on the
15 island, but they could bit no higher. This is
16 because nonprofits are constrained to bidding at
17 the fair market value. Unfortunately, the sale
18 of Plum Island is to be accomplished using the
19 same compe-, competitive bidding process,
20 effectively precluding nonprofit environmental
21 and historical preservation groups from ever
22 being potential owners of the island. As you may
23 be aware, Donald Trump, has indicated he is
24 willing to pay 100 million dollars for Plum

2 Island an amount which is believed to be
3 significantly higher than the fair market value.
4 So, therefore, I would like to respectfully
5 suggest that a joint request, request be made
6 from Governor Cuomo, the legislative leadership,
7 commissioners of DEC and DOS, Suffolk County
8 Executive and the Town of Southold supervisor
9 that should a sale of Plum Island move forward it
10 be constructed as a conservation purchase and not
11 an auction. There is nothing mandating that any
12 sale be conducted as an auction. Thank you.

13 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you
14 very much. Louise Harrison.

15 MS. LOUISE HARRISON: Thank you Chairman
16 Englebright and good afternoon Assemblyman Thiele
17 and Assemblyman Palumbo. My name is Louise
18 Harrison, I'm the principal of Conservation &
19 Natural Areas Planning, which is a small
20 consulting firm. I want to thank you for
21 assembling us today and hearing our ideas on the
22 steps New York can take to save Plum Island. I'm
23 a conservation biologist and I've served in
24 environmental protection on Long Island since

2 1980. Although I have served for many years in
3 environmental protection working for New York
4 State, Suffolk County, the federal government and
5 not for profits. I now work as a work as a
6 consultant through my firm Conservation & Natural
7 Areas Planning and in this way I help NGO's and
8 municipalities in their efforts to protect,
9 preserve and restore open space. I'm on the
10 steering committee of the Preserve Plum Island
11 coalition as a volunteer. This afternoon I'm
12 speaking on behalf of the coalition on a limited
13 basis, on my main points and will add a few of my
14 own thoughts at the end of my presentation.

15 John Turner, who has been patiently
16 waiting I think in the front row for most of
17 today is our official spokesperson for the
18 Preserve Plum Island coalition. You'll be
19 hearing more from him very soon. In my written
20 material for you, which you have I've outlined my
21 qualifications so I'll skip them now, but I would
22 like to let you know that while I was working at
23 the New York State Department of State in the
24 1990's I identified the most regionally important

2 natural areas, the acronym for that is RINA R-i-
3 n-a, along New York's Long Island Sound Shoreline
4 and I worked policy makers at DOS toward
5 protecting those areas through the nascent New
6 York Regional Long Island Sound coastal
7 management program. One of those areas was the
8 eastern islands RINA, which includes Plum Island.
9 Also, as a U.S. Fish & Wildlife service biologist
10 and liaison to U.S. EPA's Long Island Sound study
11 I saw firsthand that the protection of Plum
12 Island's natural resources is considered a
13 federal priority by U.S. EPA and the U.S. Fish &
14 Wildlife Service. I was able to tour Plum Island
15 through the Long Island Sound studies, citizen's
16 advisory committee in 2010. We in the Preserve
17 Plum Island coalition encourage New York State to
18 use its considerable power conferred by its
19 federally approved coastal management program, to
20 block the transfer of our uniquely valuable
21 coastal treasure to a private entity. We so
22 strongly believe in the state's need and ability
23 to do so that we prepared an analysis, which we
24 sent to Secretary of State Cesar Perales on May

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2 29 of this year, which I've included in my
3 testimony materials for you. So you have our
4 letter to him as well as our analysis. We
5 requested a meeting to discuss our conviction
6 that New York State an stop this sale just as it
7 has been involved in so many of the other
8 activities you heard about today from Mr. Resler
9 and others. We were granted a meeting on July 1
10 with deputy Secretary of State Sandy Allen, who
11 heads up the Department of State's office of
12 planning development and local government
13 services which houses the coastal program.
14 Several of us steering committee members attended
15 this meeting and we explained our position. As
16 we see it, a transfer of the island out of public
17 ownership to a private entity would not be
18 consistent to the maximum extent practicable with
19 the State's CMP. Deputy Secretary Allen assured
20 us that she and her staff would be examining the
21 pending sale carefully. The general services
22 administration as you know assigned with the
23 handling of this sale failed to consider the
24 federal coastal zone management act or New York's

2 consistency requirements in their draft
3 environmental impact statement, in the final EIS
4 and in their June 25, 2013 record of decision on
5 a Plum Island sale. Their failure to do so
6 denied the State of New York the ability to
7 consider how any change in the island's ownership
8 and it's possible uses affects coastal resources
9 and policies. GSA failed to recognize that if
10 the sale under minds or is inconsistent with
11 coastal policy that is significant. GSA is
12 required to submit a formal consistency
13 determination to the Department of State for
14 review and consideration as part of its federal
15 agency decision making. Mr. Resler described
16 this in very great detail to you. To our
17 knowledge, GSA has not yet done so with regard to
18 the proposed auction and transfer of Plum Island
19 from federal ownership to a private entity. They
20 did, however, issue a final decision that Plum
21 Island be sold without any conditions to protect
22 the ecological and cultural resources.

23 We believe New York can be a primary
24 force in securing the permanent protection of

2 Plum Island's highly significant natural and
3 cultural resources. The transfer of Plum Island
4 to a private entity will affect New York's
5 coastal area, which will then make it subject to
6 consistency provisions of the CZMA and New York's
7 CMP. Such a transfer to a private entity for
8 private development and uses that might exclude
9 important public uses of the island and
10 protection of its unique and valuable coastal
11 resources would not be consistent to the maximum
12 extent practicable with the CMP. That's our
13 belief. For this reason we believe New York in
14 effect can say no to the pending sale. There
15 have been many people today who have spoken about
16 the many different state interests in Plum
17 Island. I'll run through some. Through the New
18 York, through the state's delegation of the
19 Coastal Erosion Act, the Town of Southold has
20 designated the entire shoreline of Plum Island as
21 a coastal erosion hazard area because of its
22 important and sensitive nearshore areas, beaches,
23 dunes and bluffs. The state has designated Plum
24 Gut as a significant coastal fish and wildlife

2 habitat. Plum Island is within and is an
3 important element of the state's eastern islands,
4 regionally important natural areas I mentioned
5 earlier. Orient Beach State Park as you were
6 talking about so much this morning, Assemblyman
7 Englebright, offers a close-up view of Plum
8 Island and it lies right near Plum Island's ferry
9 landing property, which GSA is also tasked with
10 selling. And as everybody has said the New York
11 Natural Heritage Program is undertaking the Four
12 Season biological inventories of the island and
13 nearshore waters. We heard from the DEC today
14 about the consent order handling waste from the
15 animal disease center going forward. So as
16 everybody has heard today as we all well know, we
17 can't deny the state's intense interest in the
18 island. So the coalition hopes that with your
19 encouragement and strong support the Secretary of
20 State and the Governor will render a decision
21 that the transfer of Plum Island from private to
22 public hands is inconsistent with our coastal
23 polices and thus will stop the sale altogether.
24 The coalition favors protecting approximately 80%

2 of the Plum Island as a national wildlife refuge.
3 We're imagining adaptive reuse of the animal
4 disease center facility and the other 20%. Our
5 full mission statement accompanies the analysis I
6 handed in with you, to you and I'm sure you'll be
7 hearing much more from Mr. Turner.

8 Now as for myself, I would love to Stony
9 Brook University refit and use the infrastructure
10 and laboratories on Plum Island and the waters
11 around it for marine and estuarine research as
12 well as for studies on the impact of climate
13 change on sensitive coastal resources. I would
14 love to see Plum Island protected within a larger
15 context of a research reserve or a marine
16 sanctuary. Scientists could also study the
17 particular biogeography of Plum Island, which you
18 were touching on earlier Assemblyman Englebright,
19 in both the context of its position relative to
20 the end of Long Island and Great Gull, Little
21 Gull and Fisher's Islands, and of its relative
22 size and diversity of terrestrial wetland and
23 underwater habitats. The ecological functions of
24 fresh water wetlands on Plum Island surrounded as

2 it is by salt water are critically important not
3 only to the island wildlife but also to the avian
4 species of the other nearby islands where fresh
5 water is rare or absent. The biological
6 interdependence of the islands in this unique
7 archipelago is only partly appreciated and
8 perhaps even less understood. Our dreams for
9 Plum Island can't be realized, our treasured rare
10 endangered and threatened natural resources can't
11 be protected if our coastal gem is turned into a
12 golf course or developed for luxury housing. As
13 we in the Preserve Plum Island coalition are fond
14 of saying and often paraphrasing our fellow
15 steering committee Randy Parsons, we well has
16 many other people here today have said, we, if we
17 didn't already own Plum Island, we would be
18 trying to buy it. Thank you for any help you in
19 the legislature can offer and I promise not to
20 break out into 1960's pop song, but let's hold
21 onto what we've got.

22 MR. CRYDER: The Four Seasons.

23 MS. HARRISON: Chris says I should sing.

24 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you

2 very much, questions from colleagues.

3 ASSEMBLY MEMBER THIELE: Yes, I did have
4 a couple of questions as a matter of fact. One
5 is do we have potential, based on your knowledge
6 of Connecticut state government, do we have a
7 possible partners in state government in
8 Connecticut who would be willing to join us in
9 this effort?

10 MR. SCHMALZ: I think absolutely. The
11 governor, I guess it was Governor Rell [phonetic]
12 a number of years ago actually submitted a letter
13 into the docket for the draft environmental
14 impact statement stating that she wanted to see
15 Plum Island preserved. Our DEP has gone on
16 record on a number of occasions stating that Plum
17 Island's best use is preservation and I think it
18 might have been Randy who mentioned that our
19 Connecticut AG has also done analysis of the law
20 and the NIBA documents and found them faulty and
21 that one of the best options for Plum Island
22 would be surprise, surprise, preservation. So I
23 think, absolutely.

24 ASSEMBLY MEMBER THIELE: Okay, okay.

2 And my second question, which you would, I think
3 you would, first of all that you [unintelligible]
4 [03:31:14] statue really well, I really enjoyed
5 that, but after that you outlined four, four
6 potential outcomes and have you ranked those at
7 all as to what you prefer or at this stage any of
8 the four as long as we preserve the island?

9 MS. SCHMALZ: Bingo, I think any of the
10 four as long as we preserve it. I think as a
11 coalition we talked about it a number of times
12 and I think everyone would love to see the entire
13 island preserved as part of a refuge system, but
14 anything that actually does the job of preserving
15 it for the future.

16 ASSEMBLY MEMBER THIELE: And any
17 thoughts about ultimate ownership whether its
18 best kept with the Federal Fish & Wildlife or
19 should it be transferred to the state?

20 MS. SCHMALZ: I would say that that's a
21 perfect conversation for the task force that you
22 guys are going to be building.

23 ASSEMBLY MEMBER THIELE: Yeah and
24 hopefully we get to make that kind of decision

2 right?

3 MS. SCHMALZ: Exactly.

4 ASSEMBLY MEMBER THIELE: Okay, thank
5 you.

6 ASSEMBLY MEMBER PALUMBO: That was my
7 question as well as far as the system from
8 Connecticut.

9 ASSEMBLY MEMBER ENGLEBRIGHT: I have a
10 question, is it possible for you to pull up the
11 slide of the aerial showing the wetlands in the
12 central part of the island?

13 MR. CRYDER: Sure.

14 ASSEMBLY MEMBER ENGLEBRIGHT: What
15 strikes me about the wetlands is their, their
16 parallel linear features, are those something
17 that you can tell us something about, I, I look
18 at those and they look like dune or accretionary
19 sedimentary features?

20 MR. CRYDER: I'm not a scientist, but
21 I've heard that potentially there was at one time
22 the dune system went further back into the system
23 in these concentric sort of lines there.

24 ASSEMBLY MEMBER ENGLEBRIGHT: That's

2 what it looks like, it looks like spit accretion
3 types of deposition.

4 MR. CRYDER: And so I do know on the
5 bottom part of these wetlands here it is
6 described as a high bush blueberry bog system
7 now, and the top part there is considered a deep
8 emergent marsh, and its fed by a sole source
9 underground aquafer, ground water aquafer.

10 ASSEMBLY MEMBER ENGLEBRIGHT: Yes, Mr.
11 Harrison.

12 MS. HARRISON: I have been fascinated by
13 that ever since I saw the first aerial photograph
14 of that fresh water wetland and I have been
15 asking every single person I can find about it,
16 and the closest I've been able to come is very
17 similar to what you were just thinking about a
18 dune system. There's a similar and sort of
19 parabolic dune system at Orient Beach State Park
20 and another one that I became well acquainted
21 with near the first causeway on Shelter Island.
22 So these kinds of formations are in the area,
23 those showed more parabolic features than this.
24 The parallel features of this fascinating. I'm

2 not really sure what it's all about, I almost
3 thought that at one point people were, you know,
4 pushing things in there to fill the wetlands and
5 that those evidence of some kind of bulldozing
6 activity, but I, you know, we need to study it
7 and find out, it's fascinating. I've never seen
8 anything like it and as you know, I've been
9 studying fresh water wetlands for a long time.

10 ASSEMBLY MEMBER ENGLEBRIGHT: Yeah, it's
11 very reminiscent of a spit accretion depositional
12 pattern but where's the spit.

13 ASSEMBLY MEMBER PALUMBO: It happens.

14 ASSEMBLY MEMBER ENGLEBRIGHT: Yes, it's
15 complicated certainly and intriguing all at once
16 as is the whole island.

17 MR. CRYDER: Just one additional point,
18 there used to be also Atlantic white cedar forest
19 area within this wetlands structure and it's
20 thought that perhaps that could be restored at
21 some point, if conserved.

22 ASSEMBLY MEMBER ENGLEBRIGHT: That is
23 also intriguing. That's one of our rarest
24 coastal habitats. Thank you very much. We'll be

2 back to you again as we evolve our thought
3 processes as a follow up to this hearing, but I
4 appreciate you being here. Thank you.

5 MS. HARRISON: Thank you.

6 MS. SCHMALZ: Thank you.

7 ASSEMBLY MEMBER ENGLEBRIGHT: We thank
8 you. Next, Michael Kaufmann [phonetic], member
9 of the Suffolk County Planning Commission and
10 Commissioner for Suffolk County. Robert S.
11 DeLuca, President, Group for the East End. Bill
12 Toedter, President, North Folk Environmental
13 Council and John Turner, spokesperson for the
14 Preserve Plum Island Coalition. Now just, I
15 wonder if you want to go in this sequence or do
16 you, let's hear from Mike Kaufmann, member,
17 Suffolk County Planning Commission.

18 MR. MICHAEL KAUFMANN: Thank you, Mr.
19 Chairman, gentlemen. Thank you for the
20 opportunity to speak before you.

21 ASSEMBLY MEMBER ENGLEBRIGHT: Just speak
22 into the mike.

23 MR. KAUFMANN: Okay, trying to set it up
24 without blowing anyone's ears out. I'm speaking

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2 on behalf of David Cologne [phonetic] the
3 chairman of the Suffolk County Planning
4 Commission who's unavoidably detained today in
5 the City. I'm a member of commission, I also
6 used to run an LWRP, I'm familiar with what Steve
7 Resler was talking about, I happen to agree with
8 most of what I can remember that he taught me a
9 long time ago. I ran one for 22 years. The
10 Suffolk County Planning Commission is a regional
11 planning agency for Suffolk County pursuant to
12 New York State Law. We oversee all major land
13 use issues in Suffolk, again per state law. We
14 also oversee all town zoning issues that have
15 regional impacts. Earlier, I think it was late
16 2014, we endorsed the Southold Town zoning
17 changes and LWRP actions meant to preserve Plum
18 Island. We felt the regional resource needed
19 protection and we endorsed Southold's approach
20 and LWRP and endorsed the local determination of
21 its fate. Yet, we see right now unfortunately,
22 the federal government ignoring the regional
23 determinations and also the CMP consistency
24 standards. I'm not going to repeat what a lot of

2 people have said here today, I'm just going to
3 point out a couple of salient issues. One, the
4 island is one of the last great undeveloped
5 places on the entire east coast, both in terms of
6 Long Island and also the entire Atlantic
7 seaboard. Normally, an island like this when its
8 primary use is being ended would be preserved as
9 a park, that's been the history of the coastline
10 along the Atlantic and frankly also the specific
11 but unfortunately recent budgetary offset issues
12 from Washington are driving the process and
13 basically counseling out the opportunity for
14 preservation. Okay, that's never really occurred
15 before, previously the feds were always willing
16 to make a preserve out of this stuff, out of
17 biologically important locations like this.
18 Also, note that many military bases throughout
19 the country during the base closure periods a few
20 years ago, were transferred essentially free or
21 for \$1.00 to the local municipalities. It was
22 usually for economic development but a lot of
23 those military bases had important natural
24 features on them and they were preserved. Again,

2 this is a sea change in what is going on in the
3 federal government where basically you have
4 budgets and bad laws driving the process. Now
5 there's a lot of precedent for preserving
6 islands. In 1993, Suffolk was prevent-, Suffolk
7 County was prevented from selling Robin's Island
8 in Peconic Bay, it was a complex situation
9 involving contracts, private ownership, etc. and
10 the county somehow or other got involved. I was
11 part of the committee that was dealing with that
12 potential sale, and that was another of the last
13 great places in the area. Suffolk County wanted
14 to put about 20 houses on there, it was a
15 horrible site plan, and a bunch of us at the
16 Council for Environmental Quality at Suffolk
17 County moved heaven and earth and eventually we
18 were able to help preserve that island. The
19 Nature Conservancy stepped in to preserve it
20 along with a gentleman named Louis Bacon, and
21 that island right now is essentially in its
22 natural state. Note also David's Island, off of
23 New Rochelle, I believe Steve Resler was involved
24 in that a little bit. Donald Trump at that time,

2 and I hate using that particular name each time
3 but he seems to be very heavily involved with
4 islands recently both here and in the Caribbean
5 among other places. Mr. Trump, I believe, wanted
6 to develop David's Island with giant towers. He
7 was prevented from doing that basically of the
8 CMP program of New York State, the Coastal
9 Management Program of the state. It's now
10 basically as I remember it a park and of great
11 value to the public, essentially the CMP and
12 other preservation efforts have saved the last of
13 the offshore islands from development. And again
14 they were saved despite tax benefits that were
15 offered, cost offsets, things like that. So
16 precedent does exist right in this region, within
17 a 100 mile range for preservation. Now I'm going
18 to speak as a real estate attorney. Islands that
19 can be privately held and built on have a giant
20 appeal for development. David's Island was a
21 classic, you also saw a little bit of what
22 happened with Robin's Island. In the Caribbean
23 they're taking islands and putting golf courses
24 on them, just ripping literally the tops of the

2 island right off, Karauku [phonetic] in the
3 Grenadines, a couple of other places. They are
4 simply being destroyed. They are also, you look
5 at Block and Fishers Island, those were developed
6 prior to the Coastal Management Programs, but
7 nonetheless they are developed heavily and
8 essentially they're off limits to most people
9 even they are often biologically important. You
10 look at, again, at some of the recent
11 developments in the Caribbean, Panama, places
12 like that, entire islands are in effect sold and
13 basically destroyed. Any sale to a private
14 entity is eventually going to defeat the local
15 zoning control, that's the history of Long
16 Island. That's what we've been dealing with at
17 the planning commission for a number of years and
18 this is not Dave Cologne's opinion, this is my
19 opinion at this point in time. A sale will
20 create massive pressure by developers to change
21 the codes right now to protect that island
22 assuming the CMP does not prevent anything.

23 People will buy if able to and then they
24 will mount campaigns to change. Some of this has

2 already occurred in Southold, some probably will
3 occur. Again, you've seen it all through Long
4 Island that's why we look like what we look like.
5 Planning has not been the best if you will, it
6 hasn't protected what we need to protect. We
7 have a chance here through your efforts and
8 through the Coastal Management Program and
9 through the governor to try and effect change and
10 stop a travesty from occurring. Thank you. Turn
11 it over to Bob, now.

12 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you,
13 Mr. DeLuca.

14 MR. ROBERT DELUCA: Good afternoon, Mr.
15 Chairman, Assemblyman Palumbo, Assemblyman
16 Thiele, thanks very much for the opportunity to
17 speak. My name is Bob DeLuca, I'm a resident of
18 East Marion, New York and I serve as president of
19 Group for the East End, which is one of the
20 founding members of what is now a tristate
21 Preserve Plum Island Coalition. I want to thank
22 you very much for giving me the opportunity to
23 speak and I will do my best to be mercifully
24 brief.

2 For the record the group is a
3 professionally staffed conservation advocacy and
4 education organization with offices in Southold
5 Town and for the last 43 years we've represented
6 the environmental and community planning interest
7 of some 2000 member households, individuals and
8 businesses from throughout the region. We, like
9 many others you've heard from today, are deeply
10 concerned about the future of Plum Island and its
11 pending transfer from the public domain to the
12 highest bidder. As a sidebar I heard earlier, I
13 believe it was the Chairman, asking about some of
14 the history here and looking in to the value of
15 having state involvement in federal action I can
16 tell you if you dig into how it is that all of
17 this came to be you'll find that the Kansas State
18 House, which was very interested in having the
19 AMBATH facility worked extremely hard to make any
20 case that it could to the feds that bringing what
21 now looks like a billion dollar facility, needed
22 to look like it was going to cost less. And in
23 the work that I did with Congressman Bishop
24 before any of this started there was an awful a

2 lot of, you know, back in the day when real
3 estate prices looked like they would go simply
4 vertical in New York and on the East Coast. You
5 know, somebody threw a hail Mary is what happened
6 here and said, you know what, we'll sell the
7 island, we'll the sell lab and the AMBATH won't
8 cost us anything. Well, that turned out not to
9 be the case but if I learned anything from that
10 now that we're fighting this particular problem
11 that was created, you know, the battle plan that
12 Senator LaValle mentioned before engaging state
13 representatives from New York, state
14 representatives from Connecticut, and our
15 congressional delegations from each state is our
16 best bet and anything that we can do to promote
17 that, you know, we would love to support and work
18 with you. But getting back to the script here,
19 you know, for our part not surprisingly, we
20 object to the federal sale of Plum Island to a
21 private interest. We believe Plum Island's
22 hundreds of acres of undeveloped shorelines,
23 wetlands and uplands should be permanently
24 preserved and responsibly managed as a refuge for

2 the future benefit and protection of the island's
3 wildlife and cultural resources. We also believe
4 that the island's extensive lab and
5 infrastructure can be repurposed for public good.
6 Given the documented richness and diversity of
7 the islands resources you've already heard from
8 many experienced individuals and experts on the
9 value of the natural and cultural resources that
10 the island has to offer the region and the
11 increasing -- in an area which is increasingly
12 dominated by the impact of human development. On
13 behalf of the group, we wholeheartedly endorse
14 these views and support a plan for preservation
15 and management of this unique and historic island
16 resource. We've also heard from many who are
17 looking to you, our state leaders, to prevent the
18 ill-advised federal decision that would sell this
19 island out from under the people of New York
20 without any clear direction as to how a sale
21 would impact the future of the island's many
22 resources as well as the lives and livelihoods of
23 hundreds of New York and Connecticut residents
24 who make their livelihood on Plum Island. Again,

2 we endorse these views and urge you to explore
3 every option you have to maintain Plum Island and
4 public ownership and protect its unique resources
5 for the future.

6 From my part, I just want to focus on
7 the possible role the state could play in making
8 constructive use of the already developed
9 portions of the island as an academic
10 institutional or research facility with the
11 smallest possible development footprint and the
12 lightest pollution impact on its surroundings.
13 For those of us who have closely been involved in
14 evaluating the resources and operations of Plum
15 Island for more than a decade the idea that the
16 developed portion of the island is somehow a
17 crumbling and obsolete research facility with
18 little or no potential for adapter reuse is a
19 narrative that while convenient for some of those
20 looking to sell the island does not fit the
21 reality of what Plum Island offers as a potential
22 center for research and innovation. Some of you
23 may recall that in the wake of the 9/11
24 terrorists attacks the Department of Homeland

2 Security conducted several critical vulnerability
3 assessments of various assets that were of
4 substantial value to the nation's security. At
5 the time of the attacks, Plum Island was under
6 the direction of the U.S. Department of
7 Agriculture. By 2002 the facility had been
8 turned over to the Department of Homeland
9 Security and by 2003 the government
10 accountability office had issued an expansive
11 assessment of safety and security issues facing
12 the future of the lab. Not surprisingly, a
13 substantial number of GAO's priority recommended
14 on the need for upgrading many of the facilities
15 buildings, infrastructure and security apparatus
16 at the lab. To that end over the last 12 years,
17 Plum Island has been the beneficiary of tons of
18 millions of dollars in facility investment, which
19 have improved the safety and security of the lab
20 and provided substantial maintenance and
21 operating upgrades to the island's nearly 200,000
22 square feet of existing lab space including
23 hardening protection and replacement key facility
24 infrastructure ranging from electrical power

2 generation and fuel storage to solid waste
3 management. It's also worth pointing out that
4 Plum Island's 55,000 square foot main building,
5 building 101, was only constructed in the mid-
6 1990's and that substantial improvements to the
7 site's waste water treatment plant including an
8 ongoing 30 million upgrade to the autoclave
9 facility that is a pretreatment for that waste
10 water plant is underway as we speak today. These
11 are just a few of the substantial taxpayer
12 investments that demand a second look before the
13 island is considered for any private sale to a
14 party that could take a wrecking ball to these
15 public investments and do a terrible disservice
16 to those of us who fought for and gladly paid to
17 have Plum Island lab brought up to the highest
18 safety and security requirements. Unfortunately,
19 very little attention to these past and ongoing
20 investments is ever mentioned in the federal
21 documents and reports promoting the island's
22 private sale. Today it's our hope that you as
23 our state elected officials can pledge to take a
24 closer look at this development portion of the

2 island and look at the environment where tens of
3 millions of public research dollars could be put
4 to the highest and best public use as opposed to
5 private use.

6 I think about the potential adaptive
7 reuse of Plum Island's laboratory and how they
8 could help the hundreds of good paying jobs that
9 the facility has longed provided. We find hope
10 in the Start-Up New York Program and the New York
11 State Empire Development Corporation. We believe
12 the Plum Island merits further consideration as
13 an academic or lab facility with potential
14 suitability for research investment and clean
15 energy, life science, agriculture, Mari culture,
16 fisheries, environmental remediation, marine
17 resource management, coastal resiliency and
18 climate change as well as surveillance and
19 security technology where there's been a
20 tremendous investment already at the facility
21 which could be made use of going forward as part
22 of a lab. If you take a look at the Start-Up New
23 York program at Stony Brook University it seems
24 an adjunct laboratory at Plum Island could be

2 established in a way that would not compete with
3 Stony Brook's existing advanced technology,
4 biotech and information technology focus, but
5 rather could serve its enhance its mission and
6 possibly broaden its overall potential by adding
7 a wider array of environmental and technological
8 research potential. It's also worth examining
9 whether the availability of lab space and the
10 unique coastal environment would be a value to
11 Long Island's other research and academic
12 institutions as a collaborative facility, which I
13 think was mentioned earlier, for teaching,
14 research and investment in sustainable economic
15 and environmental innovation. We should never
16 forget that Long Island's famous cold spring
17 harbor laboratory was humbly founded as a place
18 to educate marine science teachers and yet with
19 its vision and investment it would become a
20 facility that unraveled the mystery of human
21 genetics. Who knows what potential lies in the
22 future of Plum Island and all it has to offer,
23 but whatever it may be I doubt it will ever be
24 realized if the island is simply sold off like a

2 building lot to the highest bidder. In my 30
3 years of conservation advocacy I've seen the
4 State of New York do some remarkable things when
5 it's had the courage to see the bigger picture
6 and was not afraid to make change. We've saved
7 the Long Island Pine Barons, created a billion
8 dollar recurring revenue source for land
9 conservation across the east end and stopped the
10 dangerous and ill-advised industrialization of
11 Long Island Sound as a liquid natural gas
12 terminal. All of these efforts were questioned
13 and even dismissed at the outset yet all were
14 accomplished through a partnership of passionate
15 public advocacy and the conviction of state
16 leadership. There will never be another Plum
17 Island and there will never be another
18 opportunity to simultaneously protect this
19 remarkable natural treasure at the confluence of
20 two national estuaries while developing an
21 innovative opportunity to promote cutting edge
22 research in many of the areas that most support
23 our region and our way of life out on the east
24 end. I thank you very much for your time and

2 attention, and I hope you will be as inspired as
3 we have been about the future potential of this
4 remarkable island. Thanks very much.

5 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you,
6 Bob. Bill Toedter, President, North Fork
7 Environmental Council.

8 MR. BILL TOEDTER: Yes, my name is Bill
9 Toedter and I currently serve as president of the
10 North Fork Environmental Council. North Fork is
11 an original grassroots environmental organization
12 founded in 1972 and representing over 400 member
13 households, 20 member businesses and over a 1000
14 non-member friends and followers in Southold and
15 Riverhead Towns. I can see why Dick Amper
16 [phonetic] loves to go last because I don't have
17 to worry about including what everyone has said
18 before me into my allotted time, and I won't be
19 as eloquent as everybody else but I hope to give
20 you a little bit of insight from a local
21 perspective both from the organizational
22 standpoint but also from someone who spent 55
23 years in Southold. I want to thank the
24 assemblymen, his colleagues and their staffs for

2 putting this public hearing and allowing myself
3 and others to share our thoughts on the possible
4 sale of Plum Island. Despite the federal
5 government's plans this is the first time anyone
6 has asked interested parties, the people who live
7 near or work on the island to speak out in such a
8 form about what a sale would mean to the people,
9 and to the region it would be most affected not
10 just to react to a government activity or action.
11 Southold Town is a relatively small rural town,
12 which is rich in history, rich in farming and
13 rich in open space and unspoiled environmental
14 diversity. And Plum Island sitting to the east
15 of Orient and west of Fisher's Island both parts
16 of Southold Town has and continues to play a key
17 role in the town and that's why for the past six
18 years since the federal government put the motion
19 in sale, the motion of the sale of the island the
20 NFEC and other local and regional groups have
21 sought to preserve the island. Now back in the
22 1960's and 70's if you lived in Southold you knew
23 someone who worked on Plum Island. In our rural
24 agriculture, tourism based economy the lab on the

2 Plum Island was a major employer offering the
3 type of high level and high paying job not seen
4 elsewhere in the North Fork. And with these jobs
5 came great pride that in this small town our work
6 went to save millions of lives here in the U.S.
7 and around the world in preventing livestock
8 disease and protecting the food supplies from any
9 poor developing countries and what critical, and
10 that critical work continues today although it
11 to, is slated to move to a new facility in
12 Kansas. And while employment for North Fork
13 residents has dropped over the years with about
14 half the jobs now filled by Connecticut based
15 employees, the number and type of jobs the lab
16 provides is still a critical economic driver for
17 the area. That's why when we an environmental
18 group talk about preserving Plum Island one
19 component is either keeping the current lab in
20 operation or ensuring that other types of
21 research such as next generation of renewable
22 energy continue in the research zone. Besides
23 the research zone which covers the lab's current
24 footprint, Southold Town has had the foresight

2 and dedication to zone Plum Island's other
3 important components and put into place before
4 possible sale, a 600 acre conservation zone an
5 area which no development can take place in order
6 to protect the island's vast and diverse
7 ecosystems and wildlife, which live and depend on
8 them. You see, Plum Island represents one of the
9 last unprotected, mainly undeveloped island
10 ecosystems on the mid and north Atlantic Coast.
11 In this conservation zone sits undisturbed native
12 woodland, wetlands, grasslands, not to mention
13 the bluffs and the beaches. These ecosystems are
14 homes to over 200 species of resident nesting and
15 migratory birds and actually this past weekend
16 the 219th species was just identified. But
17 migrating birds aren't the only visitors, the
18 beaches have been documented as the largest fall
19 out spot for local seals, but the island itself
20 is not the only rich ecosystem, the waters around
21 Plum Island are rich and diverse in fin and
22 shellfish making it one of the most popular and
23 productive destinations for sport and commercial
24 fishermen. All of this plant and animal life

2 make Plum Island unique and a critical habitat
3 worthy of preservation. And as grand as Plum
4 Island is we can't forget that Southold Town is
5 still a small rural town. If the island were
6 sold to a private party and developed along the
7 lines laid out by the GSA the Town of Southold
8 would forever change. While federal
9 transportation experts look to take over 4000
10 tractor trailers off the I-94 corridor and send
11 them by ferry to Orient Point and down Long
12 Island because they saw a New York state road,
13 Rt. 25, they failed to realize that this is an
14 essentially a narrow two-lane rural roadway,
15 which is easily shut down for hours by a single
16 accident, a major weather event or even a school
17 bus picking up a large group of children or
18 dropping them off. It is the sole artery from
19 Orient Point to Greenport and if Plum Island were
20 to be sold and developed to any extent the added
21 traffic would cripple the area. Now as I said
22 the lab and the employment situation have changed
23 over the years and the preservation of the island
24 will also result in some changes, not necessarily

2 at the lab. If it or some other operation were
3 to continue but with regards to the conservation
4 zone. You see although now publically owned
5 access to the island is highly restricted due to
6 the nature of the work being done there, but if
7 the island were not sold and kept in the public
8 domain we would hope that the public would have
9 managed access to the conservation zone for bird
10 watching; for visiting the island's historic
11 buildings such as Fort Terry and the lighthouse;
12 and other such passive activities that would not
13 disrupt the precious ecosystems, because even
14 this possible added traffic of eco-tourists is a
15 concern to local residents it makes sense that
16 Greenport a village with tourists infrastructure
17 in place of parking, of stores, hotels and
18 restaurants, which also lies at the eastern
19 terminus of the Long Island Railroad and is home
20 to one of the area's major marina operations, be
21 the jumping spot for small passions -- small
22 passenger ferry boats to take the day visitors to
23 the island. So if the lab or other research were
24 to be shut down for a period of time the added

2 ecotourism opportunities would help offset those
3 losses and be a benefit to the area.

4 Plum Island has changed over the years
5 an island named by the Native Americans because
6 of its thick rows of beach plum bushes. It has
7 served as a military outpost and as a world
8 class research facility. The question remains
9 what will Plum Island be in the future. How will
10 it serve the interest of the people who live and
11 work in the area? Again, as part of our efforts
12 we would like to see the jobs in critical
13 research and the current facility continued or to
14 be replaced by another operation, educational
15 research and adaptive use. But we also want the
16 remainder of the island in its natural wonders it
17 holds be part of a plan to not only protect the
18 natural beauty of the island and its unique
19 ecosystems but to allow the public to see and
20 understand the value of this jewel of Southold
21 Town by keeping it in the public realm and not
22 allowing it to go to the highest bidder. We ask
23 the state to help stop the sale of Plum Island,
24 it's not right for the people working there, it's

2 not right for the people living in the area. And
3 it's not right for the plant and animal, it's
4 part of an intricate regional marine and
5 terrestrial ecosystem which call Plum Island
6 home. And I would ask that this, the state and
7 this group do what the federal government hasn't
8 done in the past, hasn't done with the I-95
9 corridor study, hasn't done with the potential
10 sale of the island and hasn't done with the
11 dumping of dredge materials in Long Island Sound
12 and that is to work with the county and work with
13 the local governments also on your efforts
14 because they are rich and knowledge and rich in
15 resources and they also are close to the people
16 who live and work there and know what they want.
17 Thank you.

18 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you
19 very much. Now John Turner you've been spoken of
20 many times here today.

21 MR. JOHN TURNER: I've nothing to say.

22 ASSEMBLY MEMBER ENGLEBRIGHT: Of those
23 who are listed testifiers, we've saved you for
24 last.

2 MR. TURNER: Oh my goodness.

3 ASSEMBLY MEMBER ENGLEBRIGHT: And but I
4 note that we still have time within our allocated
5 amount of time this afternoon so there may be
6 some who are who wish to testify, we'd like to
7 hear them as well.

8 MR. TURNER: Sure.

9 ASSEMBLY MEMBER ENGLEBRIGHT: But among
10 those who have formally and earlier been listed
11 you're last but not least and I just want to
12 emphasis that. You are --

13 MR. TURNER: Don't insult
14 [unintelligible] [04:00:40]

15 ASSEMBLY MEMBER ENGLEBRIGHT: -- you are
16 one of the more articulate advocates and, but we
17 want to give you an opportunity to help pull
18 things together here conceptually.

19 MR. TURNER: Okay.

20 ASSEMBLY MEMBER ENGLEBRIGHT: So the
21 forum is yours.

22 MR. TURNER: Okay, thank you so much,
23 Assemblyman Englebright. I want to thank the
24 Chairman and thank the other members of the

2 committee for holding today's hearing. I also
3 want to thank the staff, I've been in that
4 position so Steve, Michelle and Maria, thank you
5 too because I know that they do a lot of the work
6 that allow for this to happen today. For the
7 record, good afternoon, not good morning anymore.
8 My name is John Turner and I am a spokesperson
9 with the Preserve Plum Island Coalition. I also
10 happen to serve as a conservation policy advocate
11 for the Seatauk [phonetic] Environmental
12 Association, which is a member of the coalition,
13 and again I want to thank you for holding the
14 hearing today, Chairman Englebright, members of
15 the committee and it's really critical that the
16 committee hold this hearing to be able to focus
17 on ways to preserve Plum Island and you've heard
18 so much today, I'm going to skip some of the
19 stuff, I guess one of the benefits going last is
20 to try to wrap up. But I do want to amplify on
21 two points if I can. I want to thank you and
22 thank Senator LaValle for the letters that you
23 spearhead and sponsored and got other members of
24 the Long Island delegation to the assembly and

2 senate that was sent up to your federal
3 colleagues expressing, speaking with one voice
4 about expressing the support for, for Plum
5 Island.

6 For the record the coalition was formed
7 in 2009 to really kind of help focus, coordinate,
8 synergize, synergize the advocacy efforts of its
9 individual members. It consists of 60
10 organizations, I hope soon 61 from chatting with
11 somebody in the audience earlier today and they
12 consist of a wide array of interests, mostly
13 conservation and environmental interests as you
14 might guess but also civic and business
15 organizations as well as a number of elected
16 officials or members of the coalition. Many of
17 those organizations have spoken today in their
18 kind of individual behalf, Bob, Bill, Leah, Chris
19 and others. The mission of the coalition is
20 important and I want to make sure I put that on
21 the public record. It is to secure the permanent
22 protection of the significant natural and
23 cultural resources of Plum Island, the coalition
24 advocates for comprehensive solutions that

2 safeguard this national treasure and we truly
3 believe it's a natural treasure. We think that
4 the testimony provided to you today clearly I
5 think underscores that point. It includes, this
6 includes dedicating Plum Island's undeveloped
7 acreage, we've been kind of talking about 80
8 percent I think it could be as high as 90%
9 because I actually think the [unintelligible]
10 [04:03:29] footprint is a little small than
11 perhaps been thought, as a national wildlife
12 refuge or creating a preserve providing
13 equivalent protection in perpetuity. The PPIC
14 recognizes the existence of the Plum Island
15 Animal Disease Center and a job supported by this
16 facility so the coalition has a very simple
17 position. If the center is closed and no
18 adaptive reuse could take place, the coalition
19 supports the removal of the non-historic
20 buildings and surplus infrastructure, the cleanup
21 and restoration of any [unintelligible]
22 [04:03:58] and a dedication of those lands for
23 conservation purposes. If there can be adaptive
24 reuse and I'll provide ideas, other people that

2 spoke today provided some ideas; we would welcome
3 the continued use of the building and the land
4 surrounding the building that would be needed for
5 support.

6 For the record, I would like to focus
7 just on two specific aspects of the proposed
8 sale. They were discussed, Leah discussed them
9 as well as Randy, but I just wanted to amplify or
10 maybe reiterate what they said, and that is a
11 conditional enabling language in the 2008 federal
12 statute and how this language can mean a much
13 different future for Plum Island than the current
14 path it is on and two, just the unusualness of
15 the measure to sell the island and Mike talked
16 about this a bit with the typical process of
17 procedure used to deliberate the future of any
18 federally owned parcel. Section 540 of the
19 public law again, you've heard it several times
20 is not withstanding any of the provisional law
21 should a Secretary of Homeland Security determine
22 that the national bio and agro defense facility
23 be located at a site other than Plum Island. The
24 secretary will look at date the Plum Island asset

2 and it goes on, which support Plum Island
3 operations subject to such terms and conditions
4 as necessary to protect Government interests and
5 meet program requirements. Unfortunately, the
6 general services administration through the
7 entire NIPA process through the DEIS formulation
8 through the final environmental impact statement,
9 a conclusion and the record of decision after
10 that has contended that this language interpret
11 to mean that they have got no flexibility but to
12 sell the entire island, although they have never
13 explained their position. The Plum Island
14 Coalition repeatedly asked the members of the GSA
15 in the EIS to explain, if you, taking a legal
16 perspective that you have no flexibility here but
17 to sell the island can you please lay out your
18 legal thinking in EIS. We asked for that, again,
19 on repeated occasion, we've never heard a whisper
20 from them about what their thinking is. However,
21 their perspective is not shared by many others.
22 You've already heard that the Connecticut
23 attorney general has a different perspective,
24 perhaps most notably the U.S. Fish & Wildlife

2 Service has different perspective but I want to
3 introduce to the hearing record a very, very
4 important letter dated October 19, 2010 from the
5 U.S. Fish & Wildlife Service that you have, you
6 could see what their argument is. That, in fact,
7 the language is highly conditionally qualified
8 and that it would be quite, the GSA could quite
9 easily meet the mandate of that legislation by
10 transferring the property to the Fish & Wildlife
11 Service as a national life refuge or some other
12 conser-, conservation outcome. The U.S. Fish &
13 Wildlife Service again made that case in that
14 letter, they made the case on several other
15 occasions and it really reflects, its focused on
16 the protect government interest clause. As their
17 letter extensively details, these government
18 interests include endangered and threatened
19 species, resident migratory bird species, as well
20 as marine mammals among other statutes in area so
21 federal interest. Moreover, the coalition
22 contends that real property that supports the
23 federal government's operations on Plum Island
24 does not necessarily meet all of Plum Island.

2 Taken literally the part of the island that
3 supports government operations unquote, or quote
4 on quote, is the land upon which the laboratory
5 buildings, parking lots and other built aspects
6 and infrastructure are located. The built
7 footprint if you will, which again encompasses
8 about 42 acres in the western part of the island,
9 a small fraction of the total 843 acre island.
10 The remainder of the island is in mostly natural
11 state with the exception of course, the
12 lighthouse and the remains of Fort Terry, which
13 you've already heard a lot about. Surely, that
14 abandoned fort for example, does not support the
15 operations of the animal laboratory nor does the
16 large wetlands situated in the southwestern
17 corner of the island, which you've recently just
18 saw pictures about nor does the coastline along
19 the eastern reaches of the island which is
20 frequented by a large winter seal population.
21 They don't support the Plum Island operations,
22 yet DHS and GSA have without any discussion of
23 the point declared that they under a
24 congressional mandate to sell this fort, wetland

2 and rocky coastline along with every other square
3 foot of the island. We believe that if congress
4 had intended to direct the sale of the entire
5 Plum Island we would have explicitly said that in
6 Section 540, it would have simply said liquidate
7 Plum Island; they didn't do that again, we think
8 the language is quite conditional. Fish &
9 Wildlife Service believes that, Connecticut
10 attorney general believes that and we think quite
11 frankly a reading of your counsel, very good
12 counsel over your left shoulder as well as
13 perhaps the New York State attorney general would
14 likely have a different interpretation about
15 that.

16 In terms of the what the
17 [unintelligible] [04:08:58] Committee could do,
18 again, besides your own review, we won't be so
19 presumptuous as to just say this should be your
20 perspective you need to read the legal
21 documentation, but we think you'll reach the
22 conclusion that the perspective of the coalition,
23 its coalition members that the language is much
24 more flexible than heretofore been believed by

2 GSA is the right one and I think that if you
3 reach that conclusion then you could use that and
4 begin to opine about that to decision makers at
5 the federal level. If you feel comfortable with
6 that that perspective we would certainly
7 encourage you to write to the New York State
8 attorney general asking for his intervention and
9 his perspective on the issue as well.

10 Lastly, I just want to talk a little bit
11 about the, one of the odd quirks about this
12 again. Mike discussed it a little bit and that
13 is about how this legislation really so varies or
14 deviates from the typical process that congress
15 takes. Typically, when federal real properties
16 declared surplus the GSA will follow legal
17 requirements, the United States code section 40,
18 sections 521 through 529 and first offer that
19 surplus real estate to other agencies. If those
20 agencies don't like it then its typically the GSA
21 will reach out to local government working their
22 way down from state down to local level and see
23 if they have any pragmatic interest in that.
24 That process has been followed on hundreds of

2 occasions and in fact, many of the national life
3 refuges that are part of the national system have
4 bene established that way. In fact, several
5 national wildlife refuges in relative proximity
6 to Plum Island have been created. If you could
7 stand on Plum Island, Steve, you used to play
8 basketball, you're very strong arm, if you could
9 a take a rock and really throw it hard you could
10 land that rock on [unintelligible] [04:10:38]
11 national wildlife refuge, Block Island National
12 Wildlife Refuge, No Man's Island National
13 Wildlife Refuge, Amagansett and really strong arm
14 you can reach Shawangunk Grasslands upstate. All
15 of those national wildlife refuges, which are
16 remarkable places to experience and enjoy were
17 preserved through the typical federal process
18 that was not followed with regard to Plum Island.
19 And yet congress chose to deviate from the normal
20 process it wanted to see funds from the sale of
21 the island to be used to offset the fiscal
22 impact, Bob talked about that. The irony is that
23 premise of the approach has been undercut largely
24 by the town of Southold's recently enacted zoning

2 initiative as well as the residual cleanup costs
3 that have to take place on Plum Island.

4 And in conclusion, I'd like to draw
5 attention to the fact that on September 26, this
6 past Saturday, a mere two days ago the country
7 celebrated National Public Lands Day, yes, two
8 days ago hundreds of communities throughout the
9 country and dozens in New York State celebrated
10 their public parks by taking a hike or walk and
11 we did it by bird watching down at Jones Beach
12 and Robert Moses, or by watching birds, picking
13 up litter or by participating in a project to
14 plant trees, control erosion and stem the spread
15 of invasive species. We can only hope that our
16 congressional representatives will see the value,
17 importance and wisdom to add the gem that is Plum
18 Island to this portfolio of already preserved
19 public lands, an island that people soon will be
20 able to visit and enjoy and during all future
21 celebrations of National Public Lands Day be able
22 to experience. So that really concludes my
23 remarks and I just wanted to add one more thing I
24 think because Assemblyman Thiele was talking

2 before about a battle plan. From the coalitions
3 perspective there's a lot of arrows in our
4 quiver, you've heard some of them today. The
5 most simple and direct thing we'd like to see is
6 really the congress to overturn the legislation.
7 Stop the clock on the sale of Plum Island, give
8 us some breathing space, allow us to be
9 thoughtful about how we, Bill was saying about we
10 kind of plan for the future of the island. We
11 think and again, early on in the process that a
12 national wildlife refuge was the appropriate
13 designation. I think we're open to other types
14 of conservation outcomes. You do with the
15 historic elements there, the cultural elements
16 that are found on the island so maybe there would
17 be some other aspect than just a wildlife refuge.
18 I do know Eastern Shore National Wildlife Refuge
19 at the tip of the Delmarva Peninsula I birded
20 there many, many times. They do have some
21 military, old remains of forts there, that they
22 do a great job of interpreting. So maybe you
23 could incorporate that historic aspect into a
24 National Wildlife refuge as well, maybe you want

2 something with the National Park Service. We're
3 not again really sure what the exact designation
4 is, but we strongly think that the best step, the
5 most direct step, an appropriate step would be to
6 congress to pass the legislation to stop the sale
7 of something that should never ever have been put
8 on the blocks. Assemblyman Englebright, you talk
9 about, say that you found it mysterious and just,
10 your mystified, you're absolutely right. I
11 remember when I first heard about it, I think Bob
12 and I chatted the day after, I think I read about
13 it in the paper. My jaw dropped, I couldn't
14 believe that there was a proposal that, given all
15 we've been doing to try to preserve the east end
16 of Long Island, Suffolk County, Assemblyman
17 Thiele and Palumbo have been doing so much to
18 think that, to be this effort that runs so
19 counter, so deeply grained and counter to what we
20 have been trying to do is being advanced by the
21 federal government, but it was, but we have an
22 opportunity to change direction, change that I
23 think and I with your assistance we'll be able to
24 do that. So on that note, I'll shut up.

2 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you
3 very much for your advocacy, all of you, and your
4 articulate presentations. Questions?

5 ASSEMBLY MEMBER PALUMBO: Thank you,
6 gentlemen, this is more of a comment and kind of
7 an overall opinion I guess, I've been in politics
8 now for a whopping two years, but just from what
9 I seen. First of all, I live in New Suffolk,
10 those Bob and Bill if this past weekend we could
11 have taken someone from GSA and let them drive
12 around a little bit. I went to Calverton with my
13 kids, it took me basically two and a half hours
14 to get Calverton and back from New Suffolk, I
15 mean, the pumpkin pickers, God bless them, but if
16 we were develop it into a bunch of condos the
17 traffic would be just preposterous especially for
18 those of you out in East Marion and way out. But
19 generally the process seems to be so far down the
20 road and I just wanted to comment on this and see
21 your feeling that I'm almost thinking and of
22 course, we absolutely, or least speaking for
23 myself and I expect my colleagues do as well that
24 we want to immediately stop the sale. But the

2 investment has been made fairly significantly or
3 quite significantly in Kansas that they'll be
4 looking to move the facility. So they will
5 either going to dump it or sell it, so I think,
6 I'm just thinking out loud at this point that it
7 seems from all the comments that we almost should
8 really start, really focusing, start focusing on,
9 let Congressman Zeldin and the other federal
10 legislatures do their thing and try to make that
11 happen, but we need, our plan B I think needs to
12 get, move into action at this point regarding
13 preservation and all the protocols that were,
14 John mentioned, that weren't complied with are
15 quite significant, and as was mentioned
16 previously, I think Ms. Lopez Schmalz mentioned
17 it about a lawsuit. I mean, that's, you know,
18 that's why people don't like lawyers because
19 that's the sort of thing that has us feed our
20 families, but speaking for Mr. Thiele and myself
21 that may have to actually be an option, something
22 just to bring their attention to it because it
23 almost seems as if they haven't complied with
24 federal mandates and if they haven't complied

2 with their ultimate regulations we might be able
3 to somehow have it overturned or somehow reaching
4 some sort of a compromise for preservation.

5 ASSEMBLY MEMBER ENGLEBRIGHT: That has
6 happened before. I mean, this country is sue
7 happy to put it bluntly.

8 ASSEMBLY MEMBER PALUMBO: Right, right.

9 ASSEMBLY MEMBER ENGLEBRIGHT: Okay,
10 everybody sues everybody about anything nowadays.

11 ASSEMBLY MEMBER PALUMBO: Yo, yo, take
12 it easy with the lawyers comments, alright,
13 lighten up a little bit.

14 ASSEMBLY MEMBER ENGLEBRIGHT: Okay, I'm
15 representing, you're both lawyers.

16 ASSEMBLY MEMBER PALUMBO: Yeah, yeah,
17 yeah.

18 ASSEMBLY MEMBER ENGLEBRIGHT: But
19 seriously, given the deficiencies in the legal
20 process that we've seen that we've seen that have
21 been outlined by John and a number of the other
22 speakers, this thing is right for lawsuit. You
23 may not be able to stop the movement of the lab
24 to Kansas, but the ancillary issue or the

2 secondary issue of preventing a sale is well --

3 ASSEMBLY MEMBER PALUMBO: Right, the
4 parameters of the sale, right.

5 ASSEMBLY MEMBER ENGLEBRIGHT: There
6 standing, I mean, whether it's by the New York
7 State attorney general or the assembly, etc.
8 There is standing local residents have it also,
9 because we're all going to be impacted by it --

10 ASSEMBLY MEMBER PALUMBO: Sure, with
11 plaintiff, Chairman Englebright --

12 ASSEMBLY MEMBER ENGLEBRIGHT: The
13 lawsuit, CMP problem --

14 ASSEMBLY MEMBER PALUMBO: -- we'll
15 represent.

16 ASSEMBLY MEMBER ENGLEBRIGHT: -- is
17 massive.

18 ASSEMBLY MEMBER PALUMBO: I'm all in.

19 ASSEMBLY MEMBER ENGLEBRIGHT: Literally
20 coastal, the coastal management program violation
21 is massive.

22 ASSEMBLY MEMBER PALUMBO: Right.

23 ASSEMBLY MEMBER ENGLEBRIGHT: Okay and
24 I've been dealing with LWRP's for 20 plus years,

2 I've seen the federal issues come to the floor
3 and frankly the locals have been successful in
4 pushing back against it, when the federals want
5 to do something the locals say no, it works, and
6 that's just the first, the first tier if you will
7 of a possible lawsuit on this to stop the sale.

8 ASSEMBLY MEMBER PALUMBO: Right,
9 exactly, as were mentioning earlier how we can
10 interpret under our state law and then they're
11 out.

12 ASSEMBLY MEMBER ENGLEBRIGHT: And also
13 frankly, I think they're, under federal law,
14 they're missing something. You have the CZM Act
15 from the 1970's administered by the department of
16 the interior at least it was way back then. Then
17 you have this appropriations bill, if you look at
18 it from a constitutional law standpoint the CZM
19 Act is superior and the appropriations basically
20 is defective if it does not follow the other laws
21 that are out there. You have a constitutional
22 argument against it on the federal law level. So
23 it's ripe at this point in time and frankly
24 injunctions and things like that may be the only

2 way to stop this on the federal level.

3 ASSEMBLY MEMBER THIELE: I do want to
4 make a point, Leah, I think may have mentioned it
5 before that the value of a legal action regarding
6 this issue has not been lost and already made
7 notice about the filing suit with regard to the
8 process, that the GSA went through with regard to
9 the NIPA process and how it was deficient. So
10 that's happening.

11 ASSEMBLY MEMBER PALUMBO: Sure, that may
12 be plan C.

13 ASSEMBLY MEMBER THIELE: Yeah.

14 ASSEMBLY MEMBER PALUMBO: When it really
15 comes, then we, then we can get nasty down the
16 road, we'll try to do amicably first, right.
17 Thank you.

18 ASSEMBLY MEMBER ENGLEBRIGHT: Profound
19 thoughts from this panel and I hope we don't have
20 to come to conflict but the public interest lies
21 in protecting this asset and if the federal
22 government lets us down, I think you can see
23 before you a bipartisan both house profile of
24 opposition to doing something that would be

2 calamitous to the environment of eastern Long
3 Island and so we will read carefully again your
4 testimony here today and I'd like to come back
5 and call upon you as we develop a follow up
6 within the same kind of context that you've been
7 hearing us talking about to put together an
8 action plan to follow up and so thank you all
9 very much. I'd like to indicate we have two more
10 individuals that I'm aware of who have some
11 comments to offer as witnesses. These are Robert
12 Adamo, New York State Ornithological Association
13 and Robert de Zafra, professor of physics at SUNY
14 at Stony Brook. Thank you for your patience and
15 for your participation. Who wants to go first?
16 Dr. de Zafra.

17 MR. ROBERT DE ZAFRA: Thank you for your
18 patience. I feel I'm talking to a captive office
19 here both in front and behind me, but I'll try to
20 be brief. I've, we've heard a lot about the
21 needs of the wildlife on Long Island and I don't
22 mean to belittle those needs at all, I feel much
23 more sympathetic than I do to the needs of what
24 I'm going to talk about, but let me also mention

2 this, and that is the two-legged inhabitants of
3 Long Island. We often site what Long Island
4 would be in national ranking if it were a state
5 or even international ranking in terms of its
6 total productivity. The output of its farmlands
7 and fisheries and so forth and so on, economic
8 impact of all its collective citizens and they're
9 rather high incomes, etc. etc. Let me turn to a
10 different statistic, however, that is almost
11 never mentioned and I got curious about it a
12 couple of three or four years ago, so what you're
13 going to hear now is based on the 19, or the 2010
14 U.S. Census but the numbers don't change very
15 much. I want to talk about population density of
16 Long Island if it were it a country relative to
17 the population densities of other countries of
18 the world.

19 Only two countries would outrank Long
20 Island as a total going all the way to the east
21 river, only two, anybody know what they are.
22 I'll make it brief, Monaco and Singapore. Now
23 both of them rather unique city states, Monaco
24 given over to gambling casinos, right up Mr.

2 Trump's alley and Singapore basically a city
3 state on an island very, very highly packed with
4 people. Long Island would be third if it were a
5 country, if we say well, gee it's not fair to
6 count in Brooklyn and Queens, Brooklyn and Queens
7 residents like to come to Long Island and use its
8 resources rather than slug their way through New
9 York City and Northern New Jersey to find a
10 public park or a place to swim or whatever. So I
11 think it's fair to count those, but what if we
12 cut out Queens and Brooklyn and just take Nassau
13 and Suffolk County. We drop them to number seven
14 if we were a country, if we count Suffolk County
15 only we'd be number nine in the world in terms of
16 population density. Let me mention some of these
17 countries that we think of as being terribly
18 overcrowded and no place we'd want to live.
19 Bangladesh; well, let me start with Long Island
20 all four counties, 5200 inhabitants per square
21 mile. Next we'll go to Bangladesh, horribly
22 overcrowded at only 2600 people per square mile,
23 that's if we take in all four counties. If we
24 take in Suffolk County alone then our population

2 density drops to 1600 people per square mile.
3 Now let's look at some others, Japan 873, India
4 851, and that terrible example of overcrowding
5 China 350 versus Long Island, Suffolk County only
6 at 1613 per square mile. United States as a
7 whole has a population of 80 people per mile.
8 When we fly over Long Island especially the
9 eastern end, Suffolk County in particular and
10 look down you see lush green areas of what appear
11 to be forests. Underneath those forests are
12 thousands, and tens of thousands of houses. We
13 don't have the open space per person in
14 Bangladesh or in India or in China and all the
15 other countries I read, not by a far cry. Let me
16 just end with a brief notation from my only
17 family history. My grandfather was born in 1839,
18 in 1839 Manhattan consisted of a fairly dense
19 population at one end of the island, the southern
20 end, you might contrast that today to Brooklyn
21 and Queens at the western end of Long Island.
22 Greenwich Village was an outlying suburb of New
23 York City, uptown was like eastern Long Island,
24 farms, fishery, shellfish industry and look at

2 today, three generations later and I'm not dead
3 yet, you see what's Manhattan's become. I don't
4 think this is irrelevant comparison granted that
5 I'm the late born son of a late born father of a
6 grandfather born in 1839, exponential growth has
7 a habit of starting low and going up like that.
8 We're in a state still of exponential growth in
9 this country and elsewhere. The population in
10 the United States when I was in grade school was
11 150,000, now it's over 350,000. I think that
12 we're going to reach New York City levels of
13 density throughout Long Island in a much shorter
14 time, your children or grandchildren's time then
15 it took from my grandfather's time. So beware it
16 can happen here, it will happen here. We need
17 all of the open space we can, not just for the
18 two-legged inhabitants, but for the preservation
19 of the wildlife. The rest of the life that the
20 Pope so eloquently talks about in his recent
21 address this, let's be careful, thank you.

22 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you,
23 Dr. de Zafra. Robert Adamo, New York State
24 Ornithological Association, the forum is yours.

2 MR. ROBERT ADAMO: First off, its Adamo,
3 it's an O at the end.

4 ASSEMBLY MEMBER ENGLEBRIGHT: Adamo, I'm
5 --

6 MR. ADAMO: That's alright.

7 ASSEMBLY MEMBER ENGLEBRIGHT: I have a
8 correction to make, it's made. If you could pull
9 your mike a little closer to your --

10 MR. ADAMO: How's this?

11 ASSEMBLY MEMBER ENGLEBRIGHT: A little
12 better, you can, closer is even better.

13 MR. ADAMO: Okay, I'll kiss it.

14 ASSEMBLY MEMBER ENGLEBRIGHT: Excellent.

15 MR. ADAMO: Is this okay?

16 ASSEMBLY MEMBER ENGLEBRIGHT: Perfect.

17 MR. ADAMO: Good. My name is Bob Adamo,
18 I live in Riverhead and today I'm here
19 representing the New York State Ornithological
20 Association. Before I read us this statement I
21 would like to mention two things since we're
22 talking about Plum Island. I hope you noticed
23 that out in the lobby, the second floor lobby
24 there are little exhibit of antique duck decoys.

2 One's a common golden eye, the other is a black
3 duck and, of course, both of those are seen every
4 winter or even now longer during the year from
5 Plum Island. The other thing is that just this
6 weekend a fellow named John Sep [phonetic], he's
7 a member of the Sepnonski family agricultural,
8 old time agricultural family from the North Fork.
9 He found a northern wittier, now it's kind of an
10 unusual bird to be found here, it's a European
11 bird maybe even gets into Asia, if we see one on
12 Long Island every ten years or so it's quite a
13 sight. So Plum Island the, you mentioned the
14 four season Heritage Program for counting
15 different species, well they just got a new one
16 this past weekend, which is kind of nice I think.

17 The New York State Ornithological
18 Association is a, is the umbrella group for bird
19 clubs and member of Audubon chapters in New York
20 State with over 500 individual members and 42
21 member organizations representing over 15,000
22 birds. Our organization has been concerned over
23 the ultimate fate of Plum Island since it was
24 proposed to be declared surplus land by the

2 federal government. Its value as a bird habitat
3 for many species including those in decline and
4 otherwise at risk cannot be overstated. The
5 island represents perhaps the last opportunity to
6 preserve a significant property in southern New
7 York waters for such species as Osprey, Piping
8 Plover, common [unintelligible] [04:32:43] and
9 Roseate Terns as well as other beach nesting and
10 salt marsh birds. All of these species have seen
11 loss of habitat throughout their ranges. The
12 island is also an important stop over point for
13 migratory, migratory song birds and waterfowl.

14 Plum Island has been recognized as part
15 of a distinguished, important bird area by the
16 National Audubon Society, as a critical natural
17 resource area by the U.S. Fish & Wildlife Service
18 and has significant coastal fish and wildlife
19 habitat by the state of New York. Clearly, this
20 property has extremely high conservation value
21 for birds and for other wildlife. Loss of Plum
22 Island to development or other high impact uses
23 would be a serious blow to the state's abiforna
24 [phonetic] and disappearing coastal resources.

2 We strongly support public acquisition of this
3 island ideally as an national wildlife refuge and
4 management to maximize its value to birds, marine
5 mammals and other species. Thank you for hearing
6 my message.

7 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you
8 for bringing your testimony in and for being
9 patient through this entire day, Mr. Adamo and we
10 take your thoughts very seriously, thank you for
11 sharing them. Any questions from colleagues?

12 ASSEMBLY MEMBER PALUMBO: Thank you.

13 ASSEMBLY MEMBER THIELE: No, thank you.

14 ASSEMBLY MEMBER ENGLEBRIGHT: Is there
15 anyone else who wishes to testify before we end
16 today's portion. We're going to keep the hearing
17 open because we're hopeful that there will be
18 additional comments offered so we'll keep it open
19 for one week. Yes sir, Mr. Adamo.

20 MR. ADAMO: I'm sorry, but I would like
21 to go on record, I'm also a member of the eastern
22 Long Island Audubon Society and although we are
23 member of the coalition, Plum Island coalition, I
24 would like to state that our organization wishes

2 it in the strongest terms possible, as being kept
3 in a state that will keep the island open for
4 bird life and just keep the habitat as it should
5 be. Thank you.

6 ASSEMBLY MEMBER ENGLEBRIGHT: Thank you,
7 sir. I'd just like to --

8 MR. DE ZAFRA: Steve, might I add one
9 thing?

10 ASSEMBLY MEMBER ENGLEBRIGHT: Yes.

11 MR. DE ZAFRA: May I add one thing I'd
12 like to say --

13 ASSEMBLY MEMBER ENGLEBRIGHT: Dr. de
14 Zafra once again.

15 MR. DE ZAFRA: I would urge that if the
16 testimony period stays open that you seek comment
17 from Carl Safina, who is one of the most
18 respected proponents of wildlife and preservation
19 today and one of its best writers. He is
20 nonpolemical but if you, if anybody has read his
21 recent book called the "View from Lazy Point"
22 written here about what goes on, on an annual
23 cycle in the migration of animals of the eastern
24 seaboard as far as northern Canada and back

2 again. Fish, seals, birds, you name it, they're
3 in his book and the interrelation between all of
4 these things is very eloquently played out in
5 that book. It's not just about what happens to
6 be there, that you saw last week or last month or
7 who fishes from, from Rhode Island necessarily,
8 it is about the interconnection of everything.
9 If birds flying up the east coast landing on, for
10 instance, Plum Island, find condominiums instead
11 of horseshoe crab eggs they don't have the
12 nourishment that they need to finish their flight
13 north. Coming south the same kind of thing; fish
14 also prey upon each other, it's part of nature.
15 If they don't find the smaller fish that they
16 depend on when they arrive off Long Island's
17 shores they don't have the strength to proceed
18 where they're going and so forth and so on. So
19 read that book, get his testimony, add to the
20 full story of the value of someplace like Plum
21 Island and all of eastern Long Island, not just
22 what's there but what migrates past us both ways
23 all year long.

24 ASSEMBLY MEMBER ENGLEBRIGHT: Dr. Safina

2 is clearly one of the leading voices in animal
3 conservation in preserving the oceans of the
4 world and his comments would be most welcomed.
5 He's on a six-nation tour right now. I hope we
6 can get him to take time to offer comments and we
7 would welcome them. Just in closing I, for today
8 and we're going to keep the hearing open for
9 seven days, I'd just like to point out that one
10 of the things that struck me when we did our
11 visit to Plum Island last week was that we really
12 don't much about Plum Island. Despite all that
13 we've heard today the place has not been open to
14 investigation by naturalist or researchers on a
15 regular basis. We have a great deal more to
16 learn and within that context I am intrigued, we
17 have a terrible disease that wrongly has been
18 assigned and blamed to the animal research lab at
19 Plum Island and Lyme disease is an ancient
20 disease, we just didn't recognize it until
21 recently, it's not something that escaped from
22 the lab. But what the lab is doing and has done
23 is they have purged the island of deer, we really
24 don't know what the effect of deer is on the tick

2 population and thereby on the vector for human
3 disease, but there is a potential for Plum Island
4 to be a control as if only we could have our
5 health researchers go onto the island and survey
6 tick populations and monitor them through at
7 least one or more annual cycles. So there may be
8 a fourth state agency that has an interest here,
9 which might be the New York State Health
10 Department, and finally, just back to the
11 wetlands. I'm intrigued with wetlands on this
12 island from several vantage points. I'd like to
13 learn more but you can't get onto the island to
14 do the investigation. I'd like to know what is
15 the history of what of those wetlands because in
16 the sediments of the wetlands very often it is
17 the story told through the depositional sequence
18 of fresh water peat, is told the story of climate
19 change. Our coastal New York region is
20 undergoing terrible stress due to climate change
21 that is proceeding at a rate that it would be
22 very useful to have an index to measure against
23 from an unspoiled, untrammeled island and I
24 suspect that those wetlands and untrammeled and

2 unspoiled. Whatever those features are they
3 clearly are or likely let me say, are quite
4 ancient and that the sediments in those wetlands
5 would be very, very useful for helping us to gain
6 additional insight into the climatic changes
7 effecting our greatest city and our densest
8 population further to what Dr. de Zafra was
9 speaking of, we need to protect that population
10 and Plum Island is, because of its isolation is a
11 place that we can go to, to seek some of the
12 answers. I thank my colleagues for being here
13 today and we will keep everyone informed as we go
14 forward and I thank all of those who participated
15 today. We're going to shut down, but not close
16 the hearing today. Thank you all very much.
17 Safe home.

18 (The public hearing concluded at 3:42
19 p.m.)
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CERTIFICATE OF ACCURACY

I, Julia Zappi, certify that the foregoing transcript of Committee on Environmental Conservation on September 28, 2015 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



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GENEVAWORLDWIDE, INC

256 West 38th Street - 10th Floor

New York, NY 10018