

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION

CENTER FOR A SUSTAINABLE COAST; and
KAREN GRAINEY,

Plaintiffs,

v.

U.S. ARMY CORPS OF ENGINEERS and
COLONEL DANIEL H. HIBNER, in his official
capacity as District Commander and District
Engineer, U.S. Army Corps of Engineers,
Savannah District;

Defendants.

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* Case 2:19-cv-58-LGW-BWC
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Declaration of Karen Graineey

I, Karen Graineey, declare as follows:

1. I reside in Savannah, Georgia. I am a member of and serve as Co-Director for the Center for a Sustainable Coast, which sued the U.S. Army Corps of Engineers for approving a private dock in Cumberland Island National Seashore without notice to the public and without assessing how the dock may impact the National Seashore’s primitive state.
2. The Center for a Sustainable Coast is a non-profit, tax-exempt corporation. The Center’s mission is to ensure and improve the responsible use, protection, and conservation of Georgia’s coastal resources — natural, historic, and economic — for all Georgians, including future generations. In furtherance of its mission, the Center engages in public education, advocacy, and, when necessary, litigation.
3. The Center and its members have an interest in ensuring agencies carry out their responsibilities and comply with laws designed to protect the environment and our quality of life. The Center and its members rely on agencies, including the Corps of Engineers, to comply with the National Environmental Policy Act and the Cumberland

Island National Seashore enabling act. The Center and its members rely on agencies to comply with requirements to involve the public before decisions are made that may affect coastal resources. The failure to provide public notice of the application harmed my interest and the Center's interest in protecting Georgia's coastal resources. Providing notice would have led to public input informing the Corps that the dock would impair Cumberland Island National Seashore's primitive state, which could have led to denial of the application to build the dock, but at least would have led to the Corps making a decision only after considering this impact and hearing public opposition.

4. The Corps should have known there would be substantial opposition to any private development or construction in Cumberland Island National Seashore. From my discussions with the Center's members and other citizens, there is widespread concern about the dock and Lumar, LLC's proposed ten-lot subdivision.
5. A central part of the Center's work is to keep its members informed about issues that threaten Georgia's coastal resources, and to advocate on behalf of its members for those resources. The Center accomplishes this, in part, by notifying its members about proposed permits and projects that may impact Georgia's coastal resources and by submitting comments and attending meetings to ensure that agencies carry out their responsibilities under applicable laws. The Center and its members have important procedural and informational interests advanced by the National Environmental Policy Act. Our interests in attaining full, clear, and accurate information regarding potential impacts to coastal resources were injured by the Corps' approval of the dock without public notice and without considering the Cumberland Island National Seashore enabling act. The Center and its members were deprived of the right to participate fully and meaningfully in the environmental review and decision-making process.
6. The Corps did not provide any notice or opportunity for public comment prior to issuing the Letter of Permission to Lumar, LLC to construct a dock in Cumberland Island National Seashore. Neither the Center nor I had any knowledge about the application to build a private dock in Cumberland Island National Seashore until the dock was under construction. If we knew about the application, we would have notified the Center's members and other citizens in the area about the proposed dock, and we would have provided comments to the Corps explaining that the dock would impair Cumberland

Island National Seashore's primitive state. The Center and its members, including me, were harmed by the Corps' failure to provide public notice and an opportunity to comment and were harmed by the Corps' approval of the dock.

7. The Center's members, including me, visit Cumberland Island National Seashore to enjoy its serenity and its primitive character but the dock impairs the Seashore's primitive state and interferes with the enjoyment of Cumberland Island National Seashore. My recreational, aesthetic, professional, moral, and spiritual interests are harmed by Lumar, LLC's dock and by the Corps' Letter of Permission to build the dock.
8. My personal interest in Cumberland Island National Seashore predates my employment with the Center for a Sustainable Coast, extending as far back as my teenage years growing up near Jacksonville, Florida, when my family visited the National Seashore. My first visit was during the 1970s when the ferry service to Cumberland Island began. During that time, I was becoming aware of the paving over of the Florida coastline with vacation homes, resorts, and condominiums and therefore was very enthusiastic about the decision to preserve Cumberland Island. I was not disappointed. The sublime beauty and tranquility of the place amazed me, and I have returned many times since.
9. The Lumar, LLC property is adjacent to Sea Camp on the southern end of Cumberland Island, where most visitors experience the island's aesthetic and natural qualities. On my past trips to Cumberland Island, I observed the coastal marshlands and western coast of Cumberland Island in the specific location where Lumar, LLC's private dock now stands. Most of my trips have been day trips on the southern end of the island where I would typically walk a loop from the Dungeness dock out to the beach, then along the beach to Sea Camp, and through the woods back to Dungeness. For a while, when I worked for Wilderness Southeast as a naturalist guide, I guided school field trips along this walk, teaching the children about the natural and human history of the island. I have also made overnight service trips with a volunteer group I belong to called Clean Coast. On these trips, we cleaned up the mostly plastic litter that the tides deposit on the shoreline. I have also walked north from Sea Camp on the main road through the Lumar, LLC parcel. The landscape is densely forested with saw palmetto and a live oak overstory, as seen from the main road in a photograph on the following page:



10. The Corps requested Lumar, LLC to include the upland property (identified as 90 acres) in an archeological survey, from the marsh on the western side of the island to the dunes and beach on the eastern side. (See, AR00199). In response, Lumar, LLC replied, "There are no plans associated with the upland portion of the tract. One day the landowner may decide to build a house somewhere on the 7.3 acre trac[t], but no such plans for a house are drafted or completed at this time." (AR00063). The Corps accepted this and allowed an archeological survey limited to 7.3 acres. (AR00169). But less than five months after the Corps issued the Letter of Permission, and prior to constructing the dock, Lumar, LLC sought a hardship variance from Camden County to subdivide the entire tract into ten lots. The Letter of Permission to construct the dock stated that the Corps may reevaluate its decision if the information provided in support of the permit application was "false, incomplete or inaccurate." (AR00006). The Center notified the Corps that Lumar, LLC's variance application showed that Lumar, LLC submitted information to the Corps that was false or no longer accurate.

11. My enjoyment of Cumberland Island National Seashore is, in part, based on knowing that Congress directed that the area be permanently preserved in its primitive state. Approval of the dock, and consequent construction of that dock, injure my interests in being in a tranquil ecosystem that I know is legally protected.

12. The Corps' failure to analyze the impacts of the dock on Cumberland Island's primitive character, and failure to provide public notice of the application, greatly impairs the Center's interest in protecting coastal resources, and lessens my enjoyment of Cumberland Island National Seashore. I am alarmed because if it remains, the dock will likely lead to the development of new housing on the island, even though a promise was made to the American public to maintain the National Seashore's primitive character. Humans have left a mark on the island, but the purpose of creating the National Seashore was to halt further private development and allow nature to reclaim the landscape over time. I am upset by the way this mandate to permanently preserve the Seashore's primitive state was overlooked by the Corps, just when retained rights agreements with island landowners are expiring.

13. Since there are no houses on the Lumar, LLC tract, which is an undeveloped tract of dense maritime forest, the dock is presently an unnecessary intrusion of a visitor's

enjoyment of the natural beauty of the western shoreline of Cumberland Island. I have taken the ferry ride from Sea Camp to Plum Orchard and enjoyed the scenic beauty of that undeveloped stretch of shoreline. The Lumar dock is a noticeably large utilitarian structure of no aesthetic value, and it troubles me to think that it now gratuitously intrudes on this scene. This dock is also unnecessarily contributing contaminants to the water and disrupting the natural flow of sediments. Worst of all, it serves as an unpleasant reminder that natural areas ostensibly protected by federal legislation remain imperiled by development due to government agencies failing to follow the laws designed to protect these areas. I fear that the dock will serve as more than a symbol of agencies failing to observe laws when Lumar LLC uses its investment in building the dock to disingenuously claim that the prohibition against the construction of new residences is a hardship. The dock is the camel's nose under the tent that could eventually lead to the construction of new houses within the boundaries of Cumberland Island National Seashore.

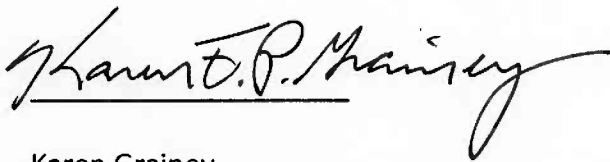
14. Except for a year in Arizona, and four years in Massachusetts, I have lived my entire adult life on the Florida and Georgia coast where I have seen cherished landscapes disappear under bulldozers or locked away behind gates. Vast areas out West have been reserved as Parks and Monuments so that future generations of Americans would be able to enjoy the natural beauty of this country. It has been much more challenging to do this in the densely populated East where our nation has succeeded in preserving far fewer acres. Cumberland Island National Seashore is a rare conservation achievement on the heavily developed East Coast. As a lifelong resident of the East coast, I have an interest in the preservation of the natural landscapes that provide beauty and spiritual uplift in this region.

15. A few years have passed since the last time I visited Cumberland Island National Seashore. My plans to visit the island last year were cancelled because of Covid-19. I have plans to return next year, and I intend to return as often as I can throughout the remainder of my life. If for some reason I am unable to fulfill this aim, I would be satisfied with knowing that the beauty of the island remains intact for others to experience. If the maritime forest on the Lumar, LLC tract is cleared for the proposed ten-house subdivision, I intend to camp at the adjacent Sea Camp before construction crews and chainsaws arrive. Clearing this site will degrade the tranquil atmosphere for

me and for future campers and will reverse 50 years of protecting Cumberland Island National Seashore from the noise and tumult of modern life. Even before any maritime forest is cleared, the presence of Lumar, LLC's dock has lessened the aesthetic and recreational values of the Cumberland Island National Seashore for me and impairs the primitive character of Cumberland Island National Seashore.

16. The Center and its members, including me, have been harmed by the inability to provide comments before the Corps approved Lumar, LLC's dock. Remanding the decision back to the Corps — with instructions to provide notice to the public before making any further decision on whether to approve the dock — would remedy this injury by providing the opportunity for public comment. Harm to my interest in Cumberland Island's primitive character would also be remedied by a decision from this Court instructing the Corps to consider how the dock may affect Cumberland Island National Seashore's primitive state before making any further decision on whether to approve the dock.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on June 14, 2021.

A handwritten signature in cursive script, appearing to read "Karen Graine", written over a horizontal line.

Karen Graine