

Jamaica Bay--Submission

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February 23, 2000

Commission for Environmental Cooperation
393, rue St-Jacques Ouest
Bureau 200
Montreal (Quebec)
Canada H2Y 1N9

Re: Submission on Enforcement Matters under
Article 14 and 15 of the North American
Agreement on Environmental Cooperation

SUBMITTED BY:

- Hudson River Audubon Society of Westchester, Inc.
P.O. Box 616
Yonkers, New York 10703
- Save Our Sanctuary Committee
c/o Alfred Ott
170-25 Highland Avenue
Jamaica, NY 11432

**PARTY TO NORTH AMERICAN AGREEMENT
ON ENVIRONMENTAL COOPERATION:**

* United States

SUMMARY OF MATTER:

We submit that the United States Government, through their Federal Agency, the United States Department of Interior- National Park Service, is failing to enforce and proposing to violate Section 703 of the Migratory Bird Treaty Act (MBTA) 16 U.S.C. 703-712, which prohibits the killing of migratory birds without a permit from the U.S. Fish and Wildlife Service, and that the MBTA implements four international treaties, including agreements with Canada, Mexico, Japan and the former Soviet Union aimed at protecting migratory birds and,

We submit that the United States Government, through its Federal Agency, the United States Department of Interior- National Park Service , is failing to enforce and proposing

to violate Sections 4 through 10 of the Endangered Species Act of 1973, which prohibits the taking of endangered and threatened species and requires the protection of such species "whether by protection of habitat and food supply" and requires the designation of "critical habitat."

We submit that the United States Government, through its federal Agency, the United States Department of Interior- The National Park Service, is violating the above laws by proposing to construct a paved, multi-purpose bicycle path, through the Jamaica Bay Wildlife Refuge (part of the Gateway National Recreation Area) located in Queens, New York. We submit that the construction of this pathway through the Jamaica Bay Wildlife Refuge will destroy critical habitat for endangered and threatened species and will result in the taking of migratory birds (including nests) and will therefore be in violation of both the Migratory Bird Treaty Act and the Endangered Species Act. To further support our submission, the Jamaica Bay Wildlife Refuge has been designated as an Important Bird Area by the National Audubon Society and the American Bird Conservancy, and it has been designated as New York City's only Critical Environmental Area by the New York State Department of Environmental Conservation. In addition, the Jamaica Bay Wildlife Refuge is listed in your Commission for Environmental Cooperation's recent publication entitled *North American Important Bird Areas- a Directory of 150 Key Conservation Sites*. According to your press release, the guide listed the "key areas of highest conservation priority in Canada, United States and Mexico" and identifies itself as an attempt to "identify North American sites critical for the conservation of birds."

We have recommended to the United States Department of Interior-National Park Service an alternative site for the bicycle path outside the boundary of the refuge. There is an existing bicycle path outside the refuge that could be utilized to achieve their goals. The alternative proposal to use the existing bicycle path outside the refuge was approved by the Department of Transportation. The National Park Service has rejected this alternative.

We are enclosing the most recent correspondence from the United States Department of Interior-National Park Service dated August 27, 1999 and December 3, 1999. The documents show that it is their intent to build the bicycle path through the refuge. Please note in the 4th paragraph of the letter dated December 3, 1999 it states the "Jamaica Bay Refuge is a terrifically important natural resource area and should be managed with that primary (but not exclusive) value in mind." However, the plan remains to cut a recreational bicycle path through the refuge. The construction will destroy critical habitat and result in a recreational activity, which will disrupt nesting and feeding of migratory birds. It will destroy nests and feeding areas of endangered and threatened wildlife and migratory birds in violation of the Migratory Bird Treaty Act and the Endangered Species Act.

We respectfully request that you consider this information and find in favor of issuing a Factual Report and that said report be made available to the public.

Very truly yours,

(Original signed)
Joseph J. O'Connell
President
Hudson River Audubon Society of Westchester, Inc.

(Original signed)
Al Ott
Chairperson
Save Our Sanctuary Committee

Mr. O'Connell can be reached at telephone no. 914-476-9140

Mr. Ott can be reached at telephone no. 718-526-2467