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August 7, 2003

Via Facsimile - (401) 736-1703

Rachel Marino, Environmental
Branch Chief
United States Coast Guard
300 Metro Center Boulevard
Warwick, RI 02886

Re: Squirrel Point Light, Arrowsic, Maine
Proposed Addendum to Deed

Dear Ms. Marino:

The Board of Directors of Citizens for Squirrel Point (CSP) has carefully considered your July 29, 2003 proposal to amend the 1998 deed of Squirrel Point in Arrowsic, Maine. In short, the proposed deed addendum is completely unacceptable to CSP.

1. No Authority: CSP believes that the Coast Guard has no authority to amend the 1998 deed in a way that would be entirely inconsistent with the National Historic Lighthouse Preservation Act and National Historic Preservation Act.

The Coast Guard apparently believes that amendment of the deed is one of its powers under 5 U.S.C.A. §301. This statute gives a military department the power to "prescribe regulations for...the custody, use, and preservation of its records, papers, and property." However, the Supreme Court made it clear in U.S. v. George, 228 U.S. 14, 33 S.Ct. 412, 57 L.Ed. 712 (1913), that this statute gives administrative powers only, not legislative powers. For example, determining that one day per month for public access meets all the public recreational requirements is rewriting the legislation and is far beyond the Coast Guard's power. The Coast Guard's addendum is "clearly inconsistent" with both sections 1001 and 1002. See, Tasker v. U.S., 178 Ct. Cl. 56 (1967).

Even if it was authorized, the process by which any proposed amendment to the 1998 deed is considered needs to comply with the Administrative Procedure Act, 5 U.S.C.A. §553. There is an exception in that act for "military functions", but changing the terms of a lighthouse deed does not qualify as a military function. See, Ass'n of Nevada v. O'Leary, 57 F.3d 766 (1995)(holding that the exception does not apply to civilian security guards employed by a contractor because the military did not exercise direct supervisory control--it was not a "military

function"). Likewise, changing the terms of Squirrel Point's deed is not a military function and thus the Coast Guard should be forced to follow the Administrative Procedure Act.

2. Uncompensated Privatization of Public Property: While it is within the authority of the federal government to sell excess assets at auction, it was the explicit intent of the Maine Lights Program and its successor, the National Historic Lighthouse Preservation Act, that lighthouses be transferred to nonprofit owners under specific deed covenants requiring that they be used for the public benefit. The public benefit requirement represents the payback to the public for the public funds used to build and maintain these assets. The proposed deed addendum unacceptably privatizes a public asset with no compensation to the public, and is beyond the Coast Guard's authority.

3. Inadequate Public Commitment: The proposed deed addendum dramatically reduces the important requirements that the entire property be used as a nonprofit center for educational, historical, recreational and wildlife conservation programs. Having the property open for one day a month is wholly unacceptable and completely inconsistent with the unfettered community access that has always been available to this property. I have enclosed a proposed Public Benefits Program developed by CSP, which is the public program commitment that CSP would expect to be made by whoever the owner of Squirrel Point Light may be. If there is going to be any further clarification of the 1998 deed covenants, CSP will insist that these minimum standards be included in that clarification.

4. Proposed Buyers: I received a phone call directly from a Mr. Leonard Picotte who reported that he and his wife Sandra Whiteley have a contract to purchase the light from SPA. This fact has been confirmed by their Maine attorney, Lee Lowry, apparently hired only to investigate access issues. Mr. Picotte has described himself as a retired Admiral in the United States Navy. He asked CSP to suggest a specific public benefits program that would be acceptable to CSP, which is why he has received a copy of this letter and its enclosures.

CSP is especially concerned that the important public program policies of federal law may be gutted for another "military insider". I have also enclosed a copy of a 1999 statement given to CSP by Troy Wallace, an Arrowsic area resident, describing events that occurred at the time of the 1998 award of the lighthouse to Squirrel Point Associates. To the best of our knowledge, Ted Dernago of the Coast Guard remains active in the Coast Guard's real estate division.

Given these odd set of facts from 1998, to have the Coast Guard change the deed for the personal benefit of another military insider is simply unfair to the citizens of the United States of America, especially in these difficult economic times for our government.

5. Possible Litigation: Finally, I have enclosed a DRAFT Complaint that CSP is prepared to file in the United States District Court in Maine, if necessary. CSP believes that, at this time, the United States of America owns Squirrel Point Light in Arrowsic, Maine, because of the "automatic" language in the reverter clause in the 1998 deed. Considerable evidence exists to support this claim. The Maine State Historic Preservation Officer made written findings in October, 2002 that Squirrel Point Associates has been continually out of compliance with the

1998 deed covenants since it was given the property in 1998. Squirrel Point Associates has also failed to meet the June 30, 2003 deadline set forth in the Coast Guard's June 6, 2003 letter Therefore, CSP seriously questions whether Squirrel Point Associates even has anything to sell at this point in time.

We also believe that the Coast Guard proposal to amend the 1998 deed to accommodate the personal desires of a high ranking retired military naval officer requires judicial review and public scrutiny.

The current goal of CSP is to have the Coast Guard confirm that it now owns the light, and have it redistributed to a qualified organization in accordance with federal law. CSP also hopes to reach a written agreement with the owner of the light, whoever that may be, requiring the owner to meet the standards set forth in CSP's proposed Public Benefit Program. If these goals cannot be achieved very soon, then the Directors of CSP have authorized me to file the Complaint in federal court, whether a closing between Squirrel Point Associates and Picotte/Whiteley has occurred or not.

Thank you very much for the opportunity to provide comments on your proposed action. Please let me know as soon as possible when a decision has been made on the proposed deed addendum.

Sincerely,

Chris Neagle

CSN/mle
Enclosures
cc: Lee Johnson, President, CSP
Ralph A. Dyer, attorney for Squirrel Point Associates
Leonard Picotte and Sandra Whiteley
Leslie E. Lowry, III, attorney for Picotte/Whiteley
Earle G. Shettleworth, Jr, Maine SHPO
Sarah Forster, Maine Attorney General's Office
Senator Olympia J. Snowe
Maeghan L. Maloney