



CLIFTON BAY...
GIVEAWAY?

THE GREAT CROWN LAND GIVEAWAY?



Nygaard Cay



FLOUTING THE RULE OF LAW?

- Has Mr. Nygard taken Crown Land from the Bahamian people?
- Has Mr. Nygard damaged marine life by dredging the sea bed surrounding Nygaard Cay?
- Has Mr. Nygard carried out illegal construction activities at Nygaard Cay?
- Has Mr. Nygard stopped the flow and nourishment of sand at Jaws Beach at Clifton Heritage Park?

Jaws Beach

Clifton Heritage Park





The Bahamian government, after repeated letters and warnings, issued a request for Nygard to restore the coastline to its original 1984 boundaries (shown in yellow above). Despite repeated requests, Nygard failed to comply. Instead he applied to bring judicial review proceedings, then withdrew them and brought a claim against the Attorney General's office seeking a declaration of ownership of the accreted land.

Simms Point/Nygaard Cay

Simms Point/Nygaard Cay and EP Taylor Drive form the northern boundary of Clifton Bay. Growing from 3.25 acres in 1984 to more than 6 acres in 2013, Simms Point/Nygaard Cay's expansion has come at the expense of marine habitat.

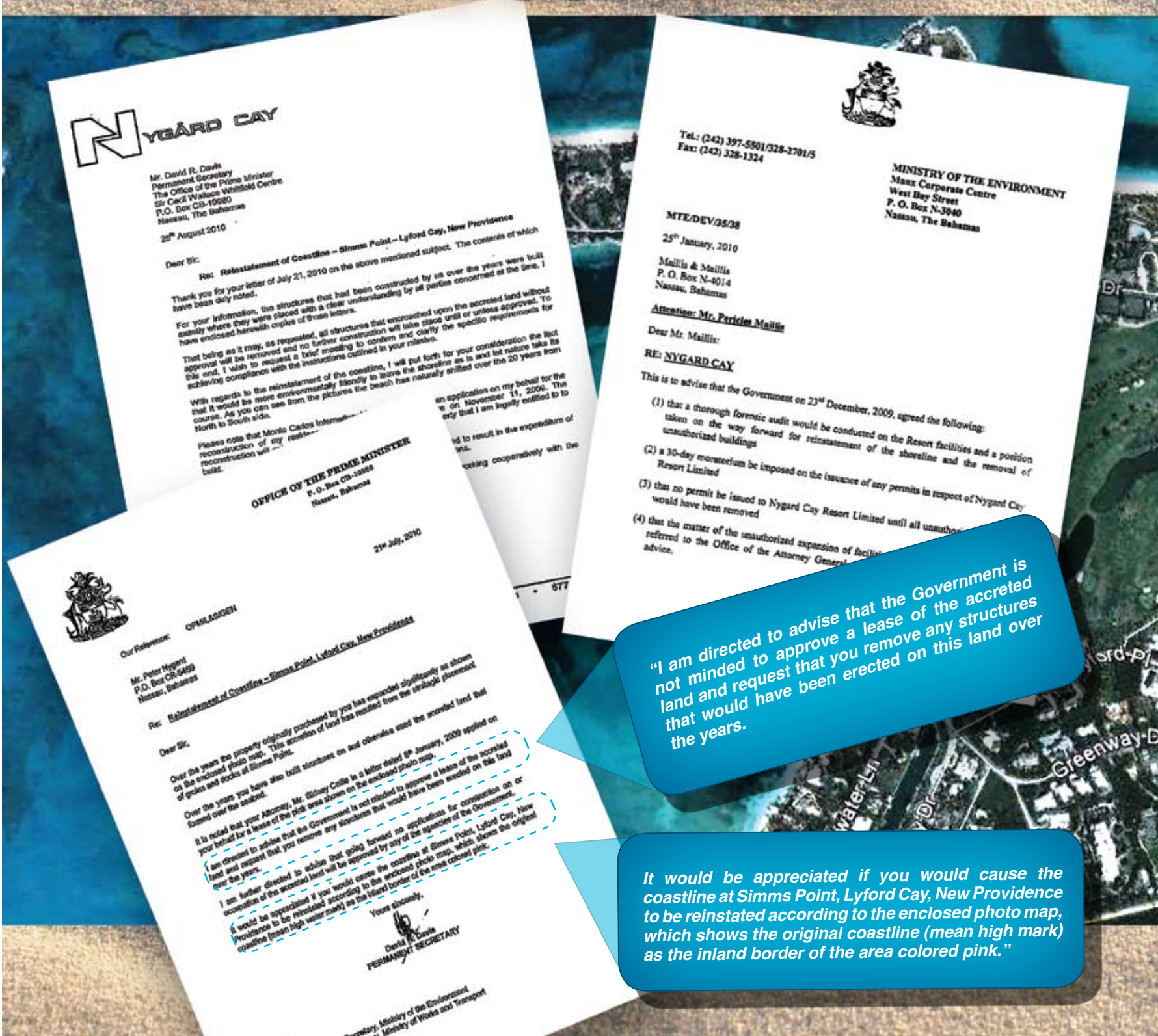
The area under Simms Point/Nygaard Cay's Clifton Bay dock has been completely filled with rock, effectively creating a hidden groin and cutting off the long-term supply of sand to downdrift landowners (see *2000 Dr. Stephen Leatherman's Shore Modifications**). Wire structures filled with rocks, cinder blocks and debris have been dumped

onto the sea grass beds of Clifton Bay south of Simms Point/Nygaard Cay. These wire structures, or gabions, have been stabilized with woven polypropylene sand bags and plastic buckets filled with debris. The gabions, sand bags and plastic buckets create an artificial reef extending west from the dock (see *Simms Point/Nygaard Cay Expansion Photo Story**).

A suction dredge on a floating platform has been used to support a pump to move sand from offshore to the beach. "No sediment curtain was used and massive destruction to the near shore

seagrass occurred in a large area" (see *2005 Coastal Incident Report**). The sand pumped onshore is trapped by the artificial reef and "sand bags and gabions have been used to contain the large amounts of sand moved along the shoreline," creating a beautiful beach on Simms Point/Nygaard Cay. Unfortunately, Clifton Bay is left with "large holes and devastated sea beds which are littered with plastic debris, steel wires, rock debris, bottles, cinder blocks, PVC pipe fragments, etc." (see *2011 University of Miami Sea Floor Report**).

LETTERS BETWEEN NYGARD AND THE GOVERNMENT



NYGARD CAY

Mr. David R. Davis
Permanent Secretary
The Office of the Prime Minister
Sir Cecil Wallace Whitfield Centre
P.O. Box CB-10980
Nassau, The Bahamas

25th August 2010

Dear Sir:
Re: Reinstatement of Coastline – Simms Point – Lyford Cay, New Providence

Thank you for your letter of July 21, 2010 on the above mentioned subject. The contents of which have been duly noted.

For your information, the structures that had been constructed by us over the years were built exactly where they were placed with a clear understanding by all parties concerned at the time. I have enclosed herewith copies of those letters.

That being as it may, as requested, all structures that encroached upon the accreted land without approval will be removed and no further construction will take place until or unless approved. To achieve compliance with the instructions outlined in your missive.

With regards to the reinstatement of the coastline, I will put forth for your consideration the fact that it would be more environmentally friendly to leave the shoreline as is and let nature take its course. As you can see from the pictures the beach has naturally shifted over the 20 years from North to South side.

Please note that Moris Carlos Inlame...
reconstruction of my residence...
building.

an application on my behalf for the...
on November 11, 2009. The...
ery that I am legally entitled to...
result in the expenditure of...
cooperatively with the

OFFICE OF THE PRIME MINISTER
P.O. Box CB-10950
Nassau, Bahamas

21st July, 2010



Our Reference: **CPM/AS/GEN**

Mr. Peter Nygard
P.O. Box CB-5469
Nassau, Bahamas

Re: Reinstatement of Coastline – Simms Point, Lyford Cay, New Providence

Dear Sir,

Over the years the property originally purchased by you has expanded significantly as shown on the enclosed photo map. This accretion of land has resulted from the strategic placement of piers and docks at Simms Point.

Over the years you have also built structures on and otherwise used the accreted land that formed over the seabed.

It is noted that your Attorney, Mr. Sidney Cole in a letter dated 6th January, 2009 applied on your behalf for a lease of the pink area shown on the enclosed photo map.

I am directed to advise that the Government is not minded to approve a lease of the accreted land and request that you remove any structures that would have been erected on the land over the years.

I am further directed to advise that going forward no applications for construction on or occupation of the accreted land will be approved by any of the agencies of the Government.

It would be appreciated if you would cause the coastline at Simms Point, Lyford Cay, New Providence to be reinstated according to the enclosed photo map, which shows the original coastline (mean high water mark) as the inland border of the area colored pink.

Yours sincerely,

David R. Davis
PERMANENT SECRETARY

Secretary, Ministry of the Environment
Ministry of Works and Transport

Tel: (242) 397-5501/328-2701/5
Fax: (242) 328-1324



MINISTRY OF THE ENVIRONMENT
Main Corporate Centre
West Bay Street
P. O. Box N-3040
Nassau, The Bahamas

MTE/DEV/35/38

25th January, 2010

Mailis & Mailis
P. O. Box N-4014
Nassau, Bahamas

Attention: Mr. Pericles Mailis

Dear Mr. Mailis:

RE: NYGARD CAY

This is to advise that the Government on 23rd December, 2009, agreed the following:

- (1) that a thorough forensic audit would be conducted on the Resort facilities and a position taken on the way forward for reinstatement of the shoreline and the removal of unauthorized buildings
- (2) a 30-day moratorium be imposed on the issuance of any permits in respect of Nygard Cay Resort Limited
- (3) that no permit be issued to Nygard Cay Resort Limited until all unauthorized buildings would have been removed
- (4) that the matter of the unauthorized expansion of facilities referred to the Office of the Attorney General for legal advice.

"I am directed to advise that the Government is not minded to approve a lease of the accreted land and request that you remove any structures that would have been erected on this land over the years."

"It would be appreciated if you would cause the coastline at Simms Point, Lyford Cay, New Providence to be reinstated according to the enclosed photo map, which shows the original coastline (mean high mark) as the inland border of the area colored pink."

This type of poorly regulated activity is a threat to Clifton Bay and, by extension, sets a precedent...

Continued from pg. 3

The “area of sea floor directly impacted by dredging, destruction to the seagrass bed, debris and trash from land, and gabions” is estimated by the University of Miami to be 84,000 square meters. “This restructuring of the shoreline has changed the marine habitats dramatically within about 100 meters of the shore, with the most notable damage being the loss of reef areas to the west” (See 2001 University of Miami Marine Environment Report*).

After years of activity which the government claimed was illegal and unpermitted – a claim denied by the property’s owner – Simms Point/Nygaard Cay has almost doubled in size, from 3.2 acres in 1984 to 6.1 acres in 2013. There has been little apparent oversight exercised by those commissions, governmental agencies and laws empowered to manage coastal expansion or the taking of Crown Lands, although the Attorney General – acting on behalf of the

Bahamian government in 2012 – denied that the accreted land has been caused by tidal forces.

To the contrary, the Attorney General stated that “such land has been caused by the deliberate and calculated acts and works of the Plaintiff (Nygaard)” and denied that Nygaard “obtained all necessary approvals from the Department of Lands and Surveys.” The statement went on to say that “numerous letters were written for and on behalf of the Attorney General either asserting the Crown’s rights in the foreshore and seabed, alleging various incidents of unauthorized dredging and construction works and requiring Nygaard cease and desist such activities.” These repeated letters and warnings culminated in the Bahamian government “issuing a request for Nygaard to restore the coastline to its 1984 boundaries.” Furthermore, “Despite repeated requests, the Plaintiff (Nygaard) failed to comply.”

After failing to comply, Mr. Nygaard

commenced an application for judicial review seeking a declaration of ownership of the land which had allegedly accreted to the Nygaard Property. This accreted Crown land reputedly has a value of between \$25 to \$30 million. Should our government give – or lease – this artificially created real estate to the landowner who caused this devastation to our common marine habitat?

This type of poorly regulated activity is a threat to Clifton Bay and, by extension, sets a precedent. If all property owners in The Bahamas were allowed by the government regulatory bodies to artificially expand and develop their beach fronts the way Simms Point/Nygaard Cay’s property owner has done, it would have a catastrophic effect on the reefs, marine habitat and aquatic life that make the Bahamian waters so special and unique.

* References available at www.protectcliftonbay.org



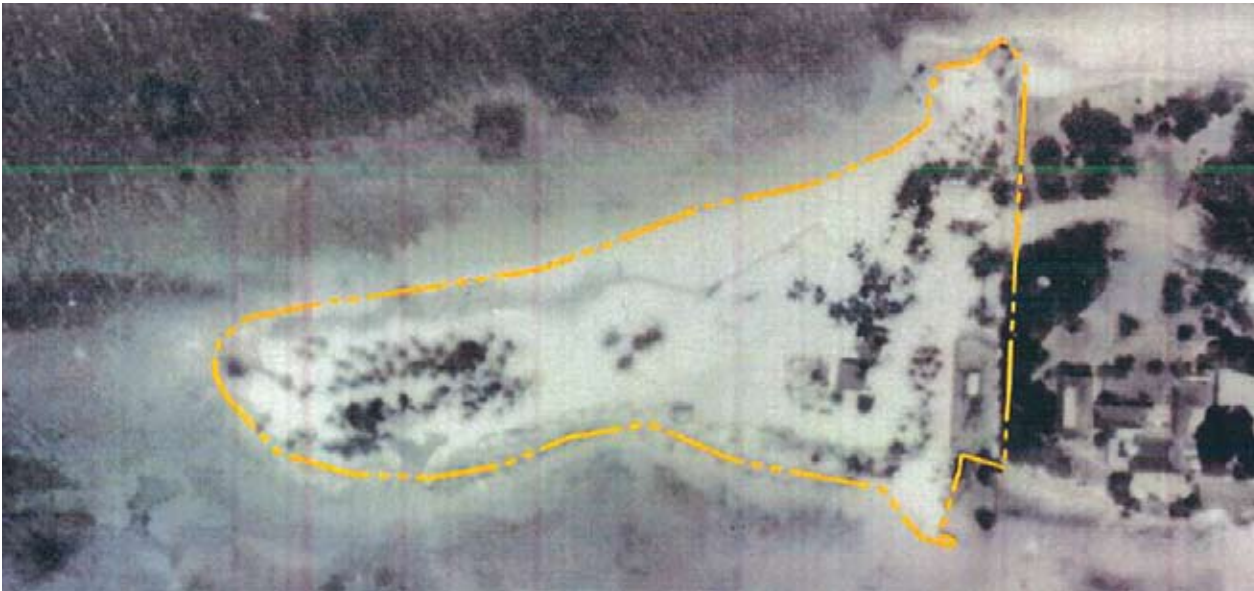
◀◀◀ This June 2000 photo documents the construction of a massive artificial reef jutting out from the north side of Simms Point/Nygaard Cay to create a lagoon.



◀◀◀ On behalf of the Bahamian Government, the office of the Attorney General has denied in litigation that Mr. Nygaard obtained the necessary approvals for the construction from the Department of Lands and Surveys. Even if he did have the right paperwork in place, the Attorney General says “what Mr. Nygaard has done goes beyond the scope of any permission.



◀◀◀ This June 2000 photo documents the building of the artificial reef on the north side of Simms Point/Nygaard Cay.



This 1984 aerial photograph shows the original footprint of Simms Point/Nygaard Cay. Note there are no outcroppings on the north side of the point.



Compare the north side of Simms Point/Nygaard Cay in this November 2000 Google Earth photo to the north side of Simms Point/Nygaard Cay in the 1984 photo. Imagine the Bahamas if all property owners were able to ignore the government's permitting processes and construct their own private lagoons. Note also the triangular build-up of the beach to the southeast. The dock extending into Clifton Bay, which was water-permeable, is now a fully enclosed structure below the water line. The dock has been transformed into a jetty, trapping the sand.



An area that used to be underwater sea grass beds and coral reefs is now a displacement reef.

Wire gabions on Simms Point/Nygaard Cay's dock in Clifton Bay. These wire gabions are about to be filled with rocks and debris and then dumped on the sea grass beds of Clifton Bay. Note how the once water-permeable dock has been transformed into a jetty. June 2000 photo.



Worker throwing polypropylene sand bags from Simms Point/Nygaard Cay's dock/jetty into Clifton Bay to stabilize the wire gabions.



Worker dropping polypropylene sand bags into Clifton Bay from a boat. January 2002 photo.



Owner overseeing the reef construction activities on the Simms Point/ Nygard Cay dock/jetty. These plastic buckets are being filled with rocks and debris and are about to be dumped onto the sea grass beds of Clifton Bay.



This 2002 photo shows workers helping to create the artificial reef going west from Simms Point/Ny gard Cay's dock/jetty by dumping the plastic buckets into Clifton Bay.



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∨
∨ Another 2002 photo which shows the polypropylene sand bags which are stabilizing the wire gabions.



“Most of the gabions were broken up, and there was a substantial amount of rock debris” (2011 University of Miami Report).

“The bags were made from woven polypropylene, and there was much evidence of plastic debris in the adjacent seagrass beds and patch reefs” (2011 University of Miami Report).

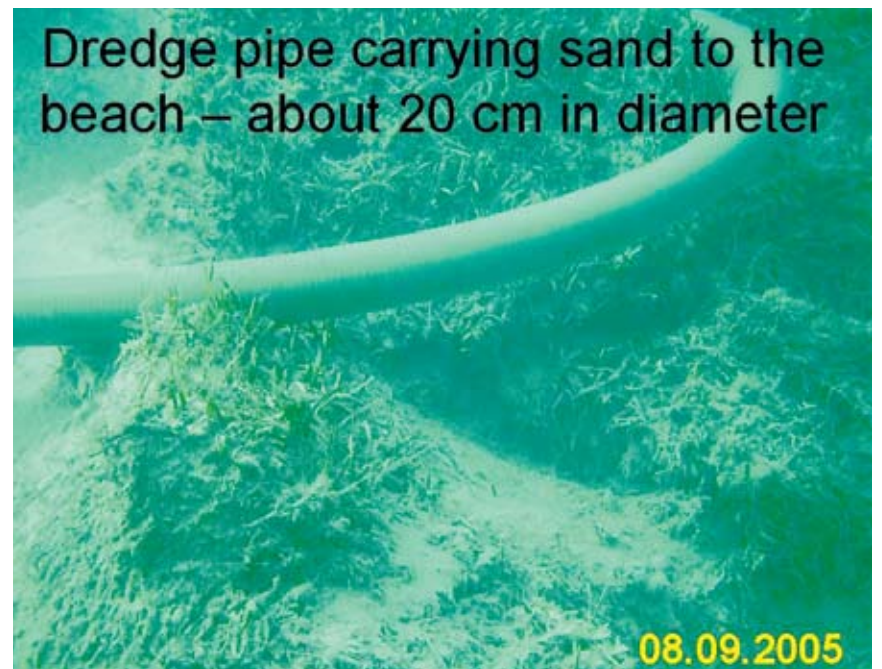


Dredge pumping platform



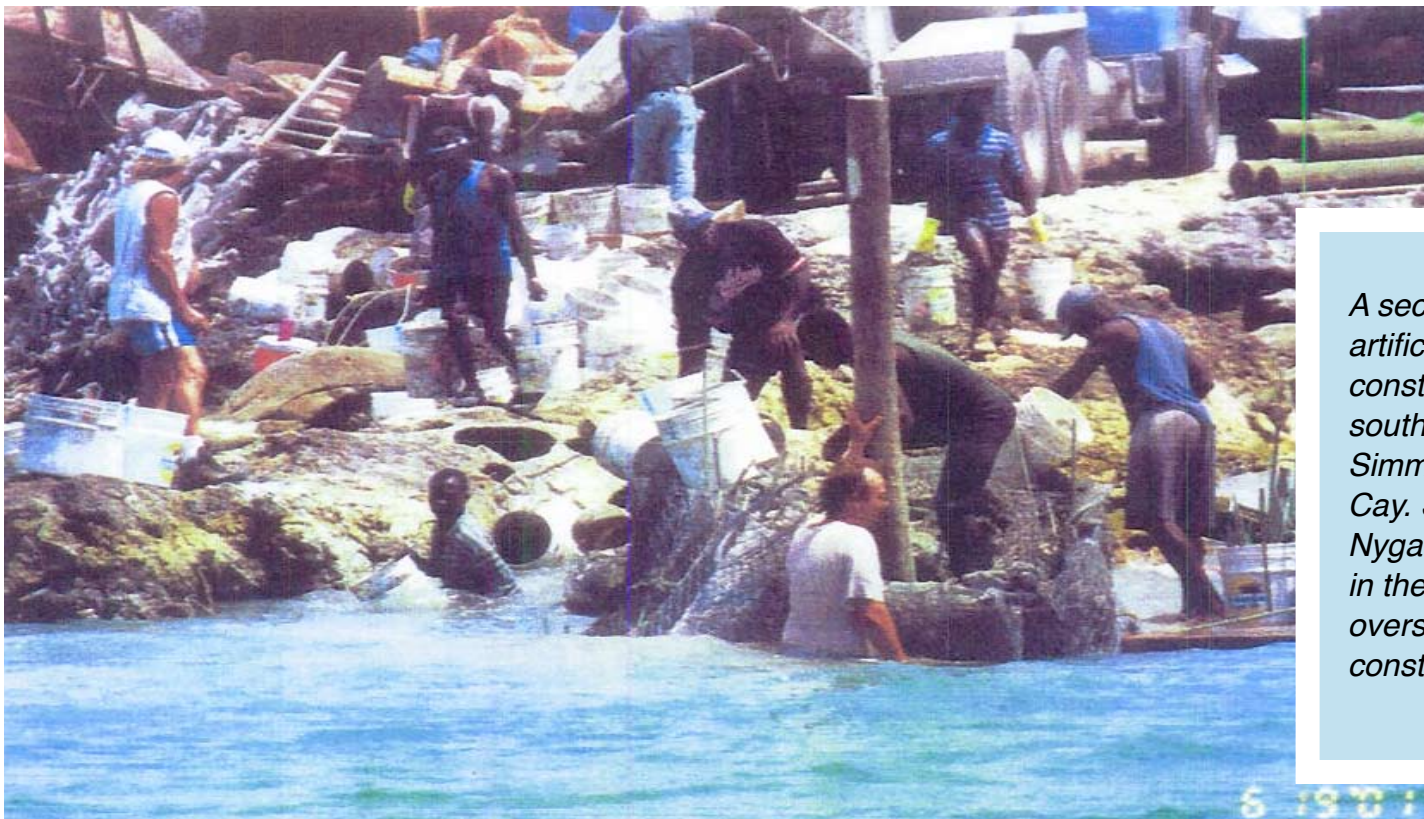
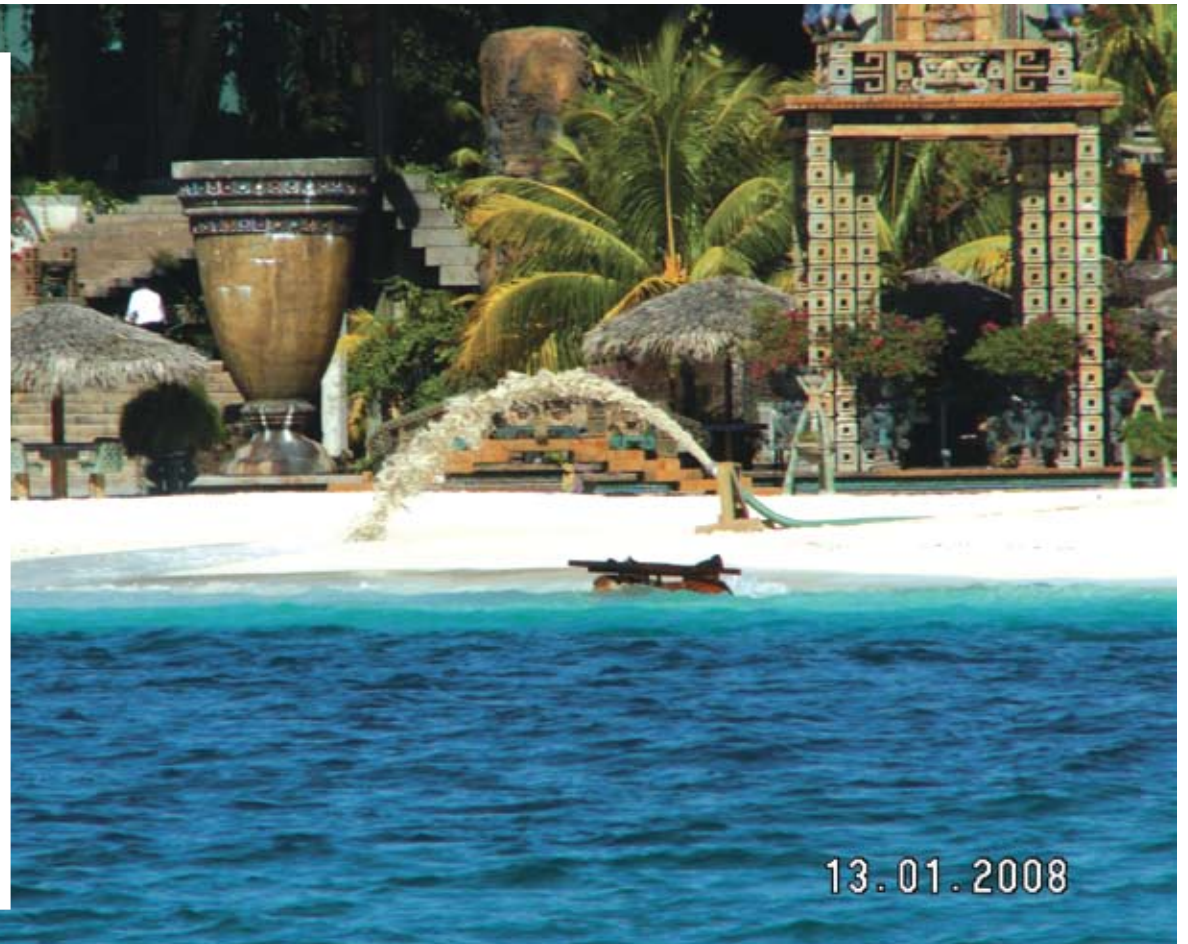
∧
∧
∧ “A floating platform was used to support a pump to move sand from offshore to the beach” (2005 Coastal Incident Report).

Dredge pipe carrying sand to the beach – about 20 cm in diameter



∧
∧
∧ Photo and commentary from 2005 Coastal Incident Report.

Sand being pumped from Clifton Bay onto Simms Point/Nygaard Cay. The Bahamian government alleged that Nygard's acts "included the unauthorized dredging of the seabed and the dumping of the sand on the southern side (Clifton Bay) to create an artificial beach."



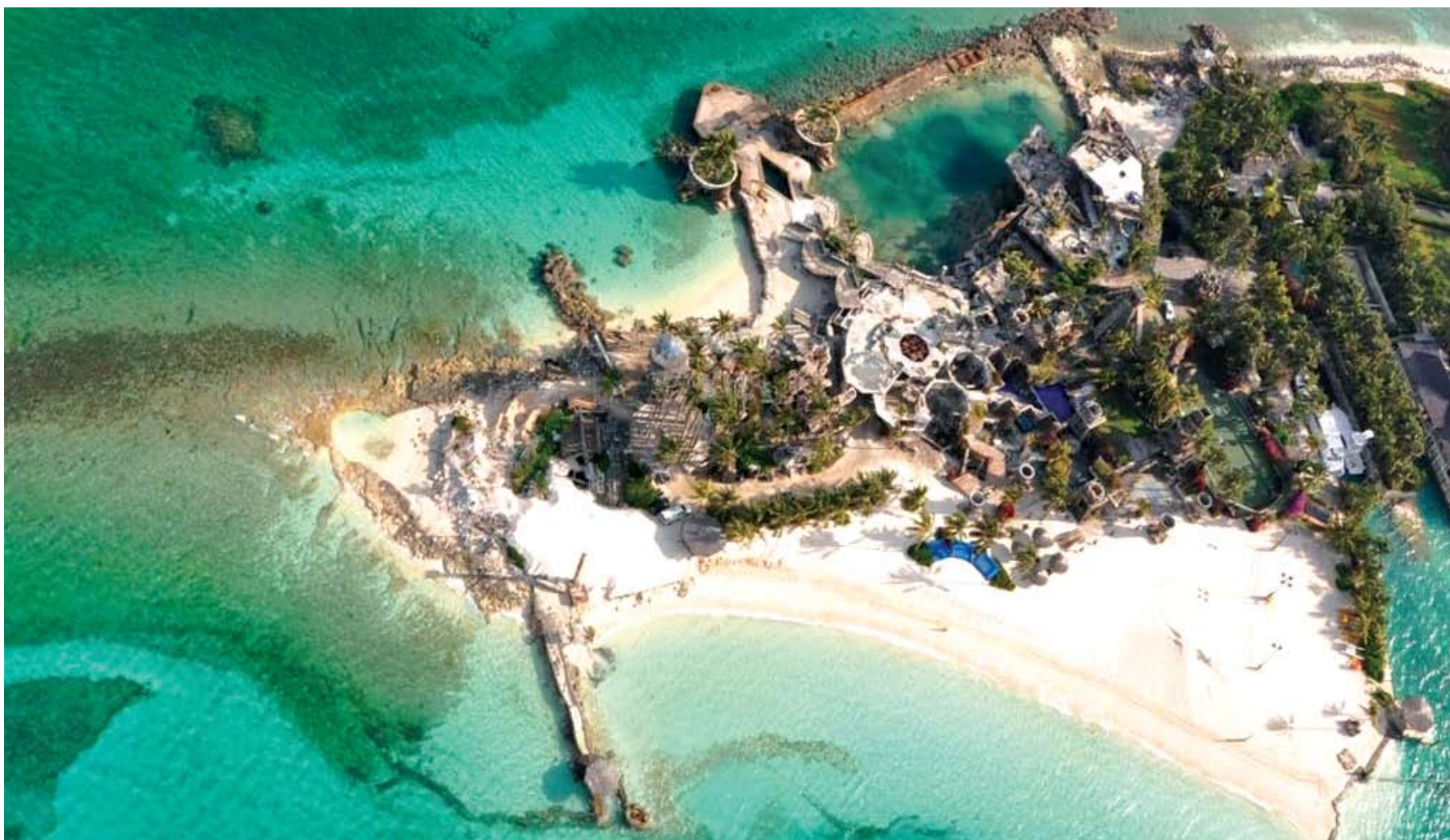
A second, separate artificial reef being constructed near the southeastern end of Simms Point/Nygaard Cay. Simms Point/Nygaard Cay's owner in the white hat is overseeing the reef construction activities.



This 2002 aerial photo shows the long, thin, man-made underwater reef extending west from Simms Point/Nygaard Cay's Clifton Bay dock/jetty. The government alleged that Nygard "constructed groins, seawalls, berms, pylons and other underwater structures designed to act as dams capturing the sand."



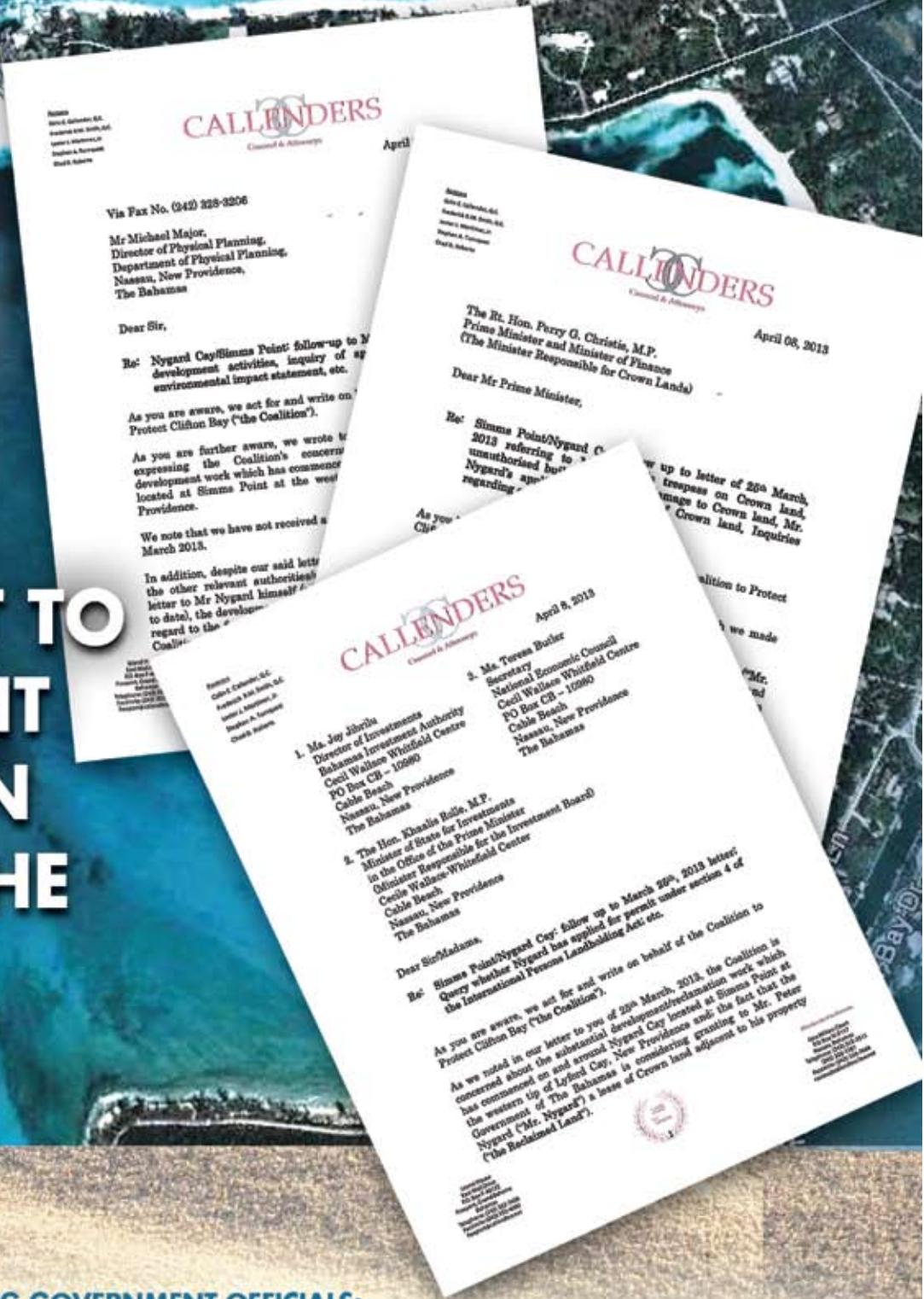
The government alleges "that numerous letters were written for and on its behalf... either asserting the Crown's rights, alleging various incidents of unauthorized dredging and construction works, or of works undertaken outside the authority granted for such works, and requiring the Plaintiff (Nygaard) to cease and desist such activities." Would native Bahamians be able to successfully ignore/resist the government for years on end in this fashion?



Coral reefs to the north (top-right) have been displaced. Sea beds to the south (bottom-left) have been destroyed. Devastated sea beds are littered with plastic debris, steel wires, rock debris, cinder blocks, and polypropylene bags. Above the water line, real estate worth \$25-\$30 million has been created out of Crown lands. Should the government give - or lease - this artificially created real estate to the landowner who caused this devastation to our common marine habitat? What would happen if all Bahamian land owners were allowed to create real estate in this fashion?

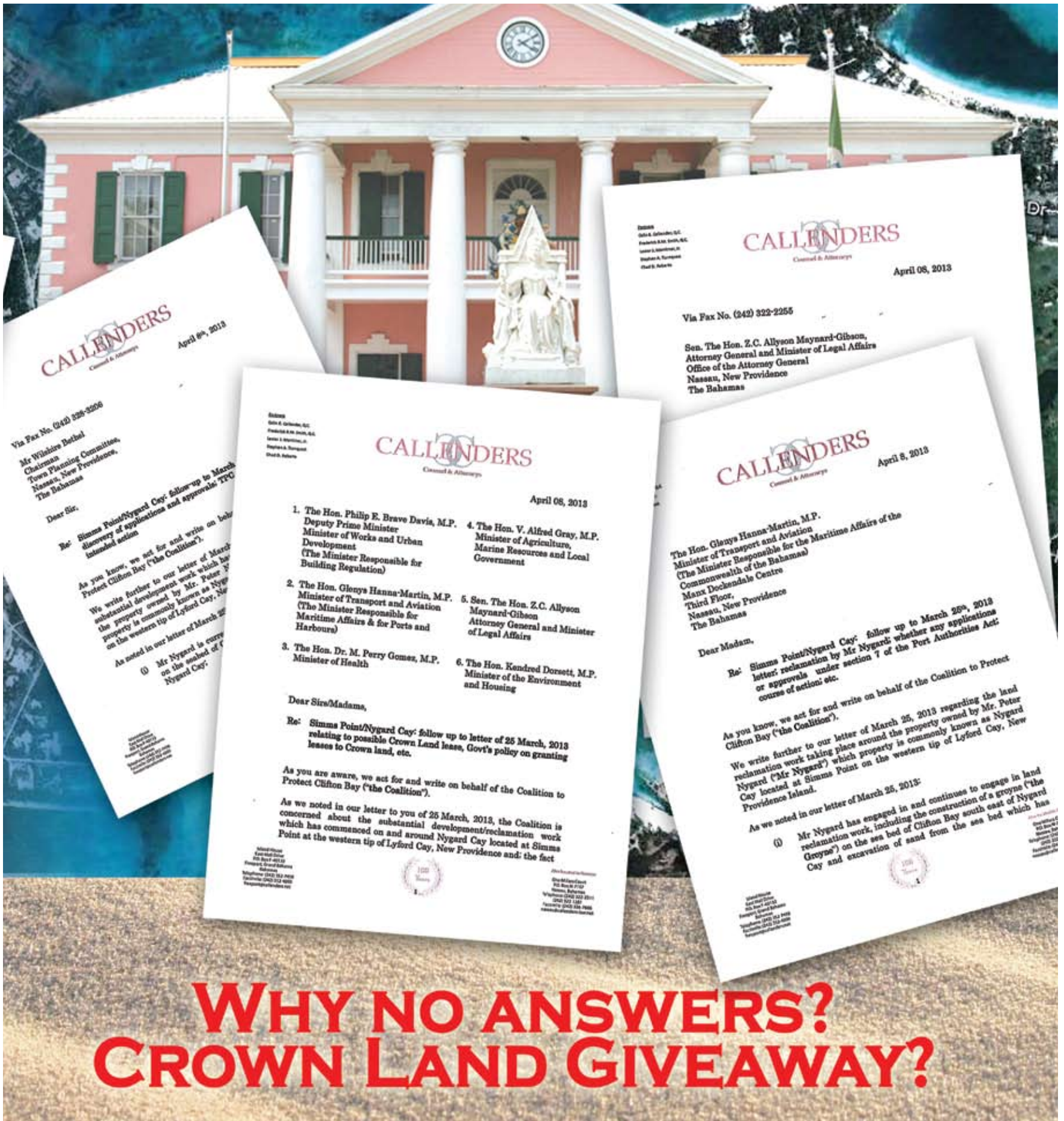


FOLLOW UP LETTERS SENT TO GOVERNMENT OFFICIALS ON BEHALF OF THE COALITION



LETTERS WERE SENT TO THE FOLLOWING GOVERNMENT OFFICIALS:

Rt. Hon. Perry G. Christie - Prime Minister and Minister of Finance, **Sen. Hon. Allyson Maynard-Gibson** - Attorney General and Minister of Legal Affairs, **Hon. Glenys Hanna-Martin** - Minister Responsible for Ports and Harbours, **Hon. Phillip Davis** - Deputy Prime Minister and Minister of Works and Urban Development, **Hon. Dr. Perry Gomez** - Minister of Health, **Hon. V. Alfred Gray** - Minister of Agriculture, **Hon. Kenred Dorsett** - Minister of Environment and Housing, **Mr. Michael Major** - Director of Physical Planning, **Mr. Wilshire Bethel** - Chairman, Nassau Town Planning Committee



Calenders
Counsel & Attorneys

April 8th, 2013

Via Fax No. (242) 328-3206

Mr Wilkins Bethel
Chairman
Town Planning Committee,
Nassau, New Providence,
The Bahamas

Dear Sir,

Re: Simms Point/Nygard Cay: follow-up to March discovery of applications and approvals: TPC intended action

As you know, we act for and write on behalf of the Coalition to Protect Clifton Bay ("the Coalition").

We write further to our letter of March 25, 2013, regarding the substantial development work which has been commenced on the property owned by Mr. Peter Nygard ("Mr Nygard") which property is commonly known as Nygard Cay located on the western tip of Lyford Cay, New Providence Island.

As noted in our letter of March 25, 2013, we are concerned that Mr Nygard is carrying out the proposed development on the western tip of Lyford Cay, New Providence Island.

(i) Mr Nygard is carrying out the proposed development on the western tip of Lyford Cay, New Providence Island.

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Calenders
Counsel & Attorneys

April 08, 2013

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- 1. The Hon. Philip E. Brave Davis, M.P.
Deputy Prime Minister
Minister of Works and Urban
Development
(The Minister Responsible for
Building Regulation)
- 2. The Hon. Glorvyn Hanna-Martin, M.P.
Minister of Transport and Aviation
(The Minister Responsible for
Maritime Affairs & for Ports and
Harbours)
- 3. The Hon. Dr. M. Perry Gomez, M.P.
Minister of Health
- 4. The Hon. V. Alfred Gray, M.P.
Minister of Agriculture,
Marine Resources and Local
Government
- 5. Sen. The Hon. Z.C. Allyson
Maynard-Gibson
Attorney General and Minister
of Legal Affairs
- 6. The Hon. Kandred Dorsett, M.P.
Minister of the Environment
and Housing

Dear Sirs/Madams,

Re: Simms Point/Nygard Cay: follow up to letter of 25 March, 2013 relating to possible Crown Land lease, Govt's policy on granting leases to Crown land, etc.

As you are aware, we act for and write on behalf of the Coalition to Protect Clifton Bay ("the Coalition").

As we noted in our letter to you of 25 March, 2013, the Coalition is concerned about the substantial development/reclamation work which has commenced on and around Nygard Cay located at Simms Point at the western tip of Lyford Cay, New Providence and: the fact

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April 08, 2013

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Via Fax No. (242) 322-2255

Sen. The Hon. Z.C. Allyson Maynard-Gibson,
Attorney General and Minister of Legal Affairs
Office of the Attorney General
Nassau, New Providence
The Bahamas

Calenders
Counsel & Attorneys

April 8, 2013

The Hon. Glorvyn Hanna-Martin, M.P.
Minister of Transport and Aviation
(The Minister Responsible for the Maritime Affairs of the
Commonwealth of the Bahamas)
Mans Dockendale Centre
Third Floor,
Nassau, New Providence
The Bahamas

Dear Madam,

Re: Simms Point/Nygard Cay: follow up to March 25th, 2013 letter: reclamation by Mr Nygard: whether any applications or approvals under section 7 of the Port Authorities Act: course of action: etc.

As you know, we act for and write on behalf of the Coalition to Protect Clifton Bay ("the Coalition").

We write further to our letter of March 25, 2013 regarding the land reclamation work taking place around the property owned by Mr. Peter Nygard ("Mr Nygard") which property is commonly known as Nygard Cay located at Simms Point on the western tip of Lyford Cay, New Providence Island.

As we noted in our letter of March 25, 2013:

(i) Mr Nygard has engaged in and continues to engage in land reclamation work, including the construction of a groyne ("the Groyne") on the sea bed of Clifton Bay south east of Nygard Cay and excavation of sand from the sea bed which has

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WHY NO ANSWERS? CROWN LAND GIVEAWAY?



Join the Fight, Protect Clifton Bay Sign the Petition!



Dear Prime Minister of Our Beautiful Bahama Land!

As you know, The Bahamas is lucky enough to have some of the Most Beautiful Waters on Earth. Our Bahamian Bays are beautiful, truly some of the world's most spectacular natural wonders.

But one by one...throughout Our Beautiful Bahama Land...they are disappearing.

You can make it your Environmental Legacy to Help **Save The Bays** before Paradise is Lost!

The Coalition to Protect Clifton Bay and the Bahamian community call on Your Government to stop harmful development in The Bahamas.

Specifically we ask for positive action to protect against devastating threats to our marine environment and the marine life that depends on it.

1. **Pass an Environmental Protection Act.**
2. **Create a Marine Park at Clifton Bay** so that Clifton Heritage Land site and the Bay can be one unique protected Land and Sea Park for future generations of Bahamians and our guests to celebrate and enjoy, as the start of the West New Providence Marine Managed Area to save our unique and vital Seven Mile Barrier Reef

Marry our Land and Sea Heritage!

3. **Protect our Crown Land and Sea Beds at Nygard Cay** and enforce the Rule of Law. Please do not give away our land and sea and instead stop unregulated and harmful development impacts at the Cay.
4. **Stop Oil Spills** and pass laws to make those who ruin our waters financially and criminally responsible!
5. **Pass Conchervation Laws** to save our depleting national treasure from Extinction!
6. **Pass a Freedom of Information Act** so that you put the Bahamian People In The Know; all true democracies throughout the world enjoy and prosper from this fundamental right.

Now is Your Time to Save The Bahamian Bays!!

Sincerely, *Your Name Here!*



Sign the Petition online
www.chn.ge/15068LY

Spread the word!





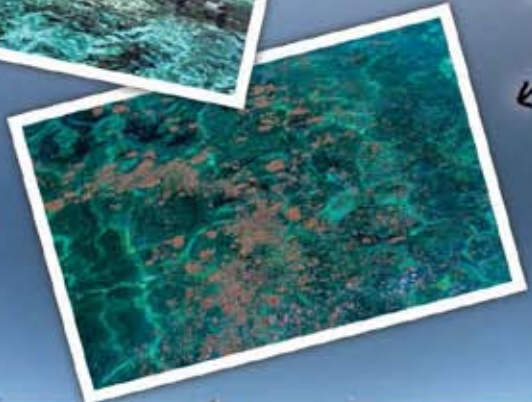
This Cause Matters...

SAVE CONCH FOR OUR CHILDREN AND PROTECT OUR REEFS



STOP UNREGULATED
LAND RECLAMATION
AT NYGARD CAY

STOP OIL LEAKS
& DAMAGE



Sign the Petition online
log on to protectcliftonbay.org

Photo Credit: The Nature Conservancy



About Us

The Coalition to Protect Clifton Bay is a licensed non-profit Bahamian corporation committed to preserving and protecting the delicate environmental, ecological and cultural balance of Clifton Bay and the surrounding community. Particular emphasis is given to encouraging effective land-use decisions and habitat restoration efforts that benefit the natural and human communities of the bay.

OUR MEMBERS ARE:

- Troy Albury**, *President Save Guana Cay Reef*
- Louis Bacon**, *Chairman and Chief Executive Officer, Moore Capital Management, LP*
- Honorable Nicholas F. Brady**, *Former Treasury Secretary of the United States of America*
- Stuart Cove**, *President, Dive Bahamas*
- Manuel Cutillas**, *Retired Chairman of the Board, Bacardi Limited*
- Joseph Darville**, *Vice-President Grand Bahama Human Rights Association*
- Peter Douglas**, *The Andros Conservancy & Trust Bahamas*
- Romauld Ferreira**, *Environmental Attorney and Consultant, Ferreira & Company*
- Tonya Bastian Galanis**, *Principal, Eugene Dupuch Law School*
- David Godfrey**, *Executive Director, Caribbean Conservation Corporation*
- William Hunter**, *General Partner, Cook's Hope, LLC*
- Robert F. Kennedy, Jr.**, *Founder and Chairman, Waterkeeper Alliance*
- Jessica Minnis**, *Associate Professor, College of The Bahamas*
- Fred Smith**, *Managing Partner, Callenders & Co.*
- Kathleen Sullivan-Sealey**, *Associate Professor at the University of Miami, Founder of Recycle Exuma*
- Ronald Thompson**, *Retired Permanent Secretary*
- R. Craig Symonette**, *Symonette Group, Ltd.*



Get Involved -Join the Coalition

Please join us in helping protect Clifton Bay from a number of threats that are compromising the bay's coastline and threatening both marine life and habitat. From increased coastal development and impacts to coral reefs to fishing and boating and oil spills, now is the time to take action.

Register online at www.protectcliftonbay.org to become a Coalition Member – By joining the Coalition to Protect Clifton Bay, you will add your voice to the growing chorus of others calling out for change. Membership is free. By becoming a member, we will keep you apprised of issues important to the bay. We will also alert you to opportunities for you to take action to protect the bay and all that makes it so special.

