REAUTHORIZATION OF THE COASTAL ZONE MANAGEMENT ACT

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS

OF THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

May 24, 2001

Serial No. 107-33

Printed for the use of the Committee on Resources

Available via the World Wide Web: http://www.access.gpo.gov/congress/house
or
Committee address: http://resourcescommittee.house.gov

U.S. GOVERNMENT PRINTING OFFICE

72-578 PS WASHINGTON : 2002

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON RESOURCES

JAMES V. HANSEN, Utah, *Chairman*
NICK J. RAHALL II, West Virginia, *Ranking Democrat Member*

Don Young, Alaska,
Vice Chairman
W.J. "Billy" Tauzin, Louisiana
Jim Saxton, New Jersey
Elton Gallegly, California
John J. Duncan, Jr., Tennessee
Joel Hefley, Colorado
Wayne T. Gilchrest, Maryland
Ken Calvert, California
Scott McInnis, Colorado
Richard W. Pombo, California
Barbara Cubin, Wyoming
George Radanovich, California
Walter B. Jones, Jr., North Carolina
Mac Thornberry, Texas
Chris Cannon, Utah
John E. Peterson, Pennsylvania
Bob Schaffer, Colorado
Jim Gibbons, Nevada
Mark E. Souder, Indiana
Greg Walden, Oregon
Michael K. Simpson, Idaho
Thomas G. Tancredo, Colorado
J.D. Hayworth, Arizona
C.L. "Butch" Otter, Idaho
Tom Osborne, Nebraska
Jeff Flake, Arizona
Dennis R. Rehberg, Montana

George Miller, California
Edward J. Markey, Massachusetts
Dale E. Kildee, Michigan
Peter A. DeFazio, Oregon
Eni F.H. Faleomavaega, American Samoa
Neil Abercrombie, Hawaii
Solomon P. Ortiz, Texas
Frank Pallone, Jr., New Jersey
Calvin M. Dooley, California
Robert A. Underwood, Guam
Adam Smith, Washington
Donna M. Christensen, Virgin Islands
Ron Kind, Wisconsin
Jay Inslee, Washington
Grace F. Napolitano, California
Tom Udall, New Mexico
Mark Udall, Colorado
Rush D. Holt, New Jersey
James P. McGovern, Massachusetts
Anibal Acevedo-Vila, Puerto Rico
Hilda L. Solis, California
Brad Carson, Oklahoma
Betty McCollum, Minnesota

Allen D. Freemyer, *Chief of Staff*
Lisa Pittman, *Chief Counsel*
Michael S. Twinchek, *Chief Clerk*
James H. Zoia, *Democrat Staff Director*
Jeff Petrich, *Democrat Chief Counsel*

SUBCOMMITTE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS

WAYNE T. GILCHREST, Maryland, *Chairman*
ROBERT A. UNDERWOOD, Guam, *Ranking Democrat Member*

Don Young, Alaska
W.J. "Billy" Tauzin, Louisiana
Jim Saxton, New Jersey,
Vice Chairman
Richard W. Pombo, California
Walter B. Jones, Jr., North Carolina

Eni F.H. Faleomavaega, American Samoa
Neil Abercrombie, Hawaii
Solomon P. Ortiz, Texas
Frank Pallone, Jr., New Jersey

C O N T E N T S

	Page
Hearing held on May 24, 2001	1
Statement of Members:	
Davis, Hon. Susan A. a Representative in Congress from the State of California	6
Prepared statement of	7
Farr, Hon. Sam, a Representative in Congress from the State of California, Prepared statement of	36
Gilchrest, Hon. Wayne T., a Representative in Congress from the State of Maryland	1
Prepared statement of	2
Harman, Hon. Jane, a Representative in Congress from the State of California, Prepared statement of	37
Miller, Hon. George, a Representative in Congress from the State of California	11
Prepared statement of	13
Pelosi, Hon. Nancy, a Representative in Congress from the State of California	28
Prepared statement of	30
Saxton, Hon. Jim, a Representative in Congress from the State of New Jersey	4
Prepared statement of	5
Thompson, Hon. Mike, a Representative in Congress from the State of California	8
Prepared statement of	10
Underwood, Hon. Robert A., a Delegate to Congress from Guam	3
Prepared statement of	4
Woolsey, Hon. Lynn C., a Representative in Congress from the State of California, Prepared statement of	125
Statement of Witnesses:	
Burroughs, Dr. Richard, Chairman, Department of Marine Affairs, University of Rhode Island	80
Prepared statement of	81
Claussen, Eileen, President and Chair of the Board, Strategies for the Global Environment	101
Prepared statement of	103
Davidson, Margaret A., Acting Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration	16
Prepared statement of	20
De Luca, Michael P., President, National Estuarine Research Reserve Association	51
Prepared statement of	53
Lawrence, Louise, Chief, Office of Resource Conservation, Maryland Department of Agriculture	58
Prepared statement of	60
Savitz, Jacqueline, Executive Director, Coast Alliance	105
Prepared statement of	107
Tudor, Robert, Deputy Commissioner, New Jersey Department of Environmental Protection	25
Prepared statement of	38
Map of Stafford Township, New Jersey, submitted for the record	47

Page

Statement of Witnesses—Continued
Wyman, Craig, Liskow and Lewis, representing The American Petroleum Institute, et al. 83
Prepared statement of 85

Additional materials supplied:
American Farm Bureau Federation, Statement submitted for the record .. 33
Bush, The Honorable Jeb, Governor, State of Florida, Statement submitted for the record 34
Merrell, Dr. William J., President, The H. John Heinz III Center for Science, Economics and the Environment, Statement submitted for the record 31

REAUTHORIZATION OF THE COASTAL ZONE MANAGEMENT ACT

Thursday, May 24, 2001

U.S. House of Representatives

Subcommittee on Fisheries Conservation, Wildlife and Oceans

Committee on Resources

Washington, DC

The Subcommittee met, pursuant to call, at 9:40 a.m., in Room 1334, Longworth House Office Building, Hon. Wayne T. Gilchrest [Chairman of the Subcommittee] presiding.

STATEMENT OF THE HON. WAYNE T. GILCHREST, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. GILCHREST. The Committee on Fish, Wildlife, and Oceans will come to order.

Good morning, everyone.

We can get started because Mr. Jeffords has just made his statement, so we know what is going to happen.

I would like to welcome our witnesses to the hearing on the reauthorization of the Coastal Zone Management Act. As most of you know, the authorization for this important environmental law expired in 1999. We are here to discuss two pieces of legislation to extend this landmark statute and to examine other coastal management issues.

Our witnesses will represent a broad range of coastal interests, and I am anxious to hear their thoughts and recommendations.

I am disappointed, however, that the Farm Bureau has chosen not to come before the Subcommittee and testify to any concerns they might have as to the reauthorization of this act. They have submitted testimony that we will review, but we were anxious to have a basic exchange with them this morning. But that has not happened.

I represent a coastal district, as do many of the members on this panel, and I have both the bay and the oceanside. Furthermore, I have, as do all the Members on this Committee, a deep and sound commitment to stewardship of our coastal resources and an appreciation of the work of the state coastal management programs and National Estuarine Research Reserves.

The approaching 30th anniversary of the passage of CZMA provides an important opportunity to take a new look at the Act and our progress toward meeting its objectives.

The physical, social, and economic landscape of the coastal zone has changed dramatically since the passage of the original law. And it is imperative that the Act be reassessed in light of these changes.

Coastal population and development has increased rapidly in the last few decades, adding pressure on coastal communities to address competing uses of coastal resources and to conduct more extensive coastal hazards planning.

Furthermore, these coastal communities must provide basic services to a greater number of residents, which may come at the expense of other pressing issues in some cases, especially environmental issues.

Both H.R. 897, introduced by our good friend Congressman Jim Saxton and the discussion draft that was provided to the witnesses require greater involvement in the management of coastal resources at the local level. In addition, both measures call for assessment of the objectives of the Act for the development of a set of performance indicators and measures.

I look forward to hearing from the witnesses this morning and their testimony and their valuable insight into the next stage or phase of the Coastal Zone Management Act, so we can meet all the pressures and be responsible advocates for both our human colleagues that live along the coast and also migrating shore birds that live along the coast.

And I think we can come to a conclusion that, with a greater effort, these two often conflicting issues can be resolved.

[The prepared statement of Mr. Gilchrest follows:]

Statement of The Honorable Wayne T. Gilchrest, Chairman, Subcommittee on Fisheries Conservation, Wildlife and Oceans

Good morning. I would like to welcome our witnesses to this hearing on the reauthorization of the Coastal Zone Management Act. As most of you know, the authorization for this important environmental law expired in 1999. We are here today to discuss two pieces of legislation to extend this landmark statute and to examine other coastal management issues. Our witnesses represent a broad range of coastal interests and I am anxious to hear their thoughts and recommendations. I am disappointed, however, that the Farm Bureau has chosen not to come before the Subcommittee and testify to any concerns that they might have to the reauthorization of this Act.

I represent a coastal district that has both a bay and an ocean side. Furthermore, I have a deep commitment to the sound stewardship of our coastal resources and an appreciation for the work of the state coastal management programs and the National Estuarine Research Reserves. The approaching thirtieth anniversary of the passage of the CZMA provides an important opportunity to take a new look at the Act and our progress towards meeting its objectives. The physical, social and economic landscape of the coastal zone has changed dramatically since the passage of the original law and it is imperative that the Act be reassessed in light of these changes.

Coastal population and development has increased rapidly in the last few decades adding pressure on coastal communities to address competing uses of coastal resources and to conduct more extensive coastal hazards planning. Furthermore, these coastal communities must provide basic services to a greater number of residents, which may come at the expense of other pressing issues in some cases. Both H.R. 897, introduced by Congressman Jim Saxton, and the discussion draft that was provided to the witnesses require greater involvement in the management of coastal resources at the local level. In addition, both measures call for an assess-

ment of the objectives of the Act through the development of a set of performance indicators and measures.

I am looking forward to hearing the testimony of our witnesses and I hope that they will be able to provide us with valuable insight into the reauthorization of this Act, which is the cornerstone of many of our efforts to engage in sound stewardship of our Nation's fragile coastal environment.

Mr. GILCHREST. I yield now to my good friend, Mr. Underwood.

STATEMENT OF THE HON. ROBERT A. UNDERWOOD, A DELEGATE TO CONGRESS FROM THE TERRITORY OF GUAM

Mr. UNDERWOOD. Thank you, Mr. Chairman. My opening remarks will be brief.

But before I begin, I want to, first, commend you, Mr. Chairman, for your leadership in setting forth an agenda for the Committee. And I want to thank you for your cooperative spirit in working with me and the other Democratic Members of the Committee on issues of importance to us.

A good example of just such an issue is coastal zone management. It is not an exaggeration for me to say the reauthorization of the Coastal Zone Management Act will be one of the most important responsibilities of this Committee this Congress.

It is frequently quoted that some 60 percent of America's population live within 50 miles of the coastline. I am happy to report that 100 percent of the people I represent live about—

[Laughter.]

—live about 3 miles from the ocean.

Mr. GILCHREST. You know, in my district, they all live less than 100 miles from the ocean or the bay.

We have something in common, Mr. Underwood.

[Laughter.]

Mr. UNDERWOOD. But we must proceed thoughtfully.

As you know, efforts last Congress to reauthorization the CZMA regrettably ground down into stalemate and some frustration. In a sense, I fear that we may be heading down a similar path this year.

And after reading the background memo for this morning hearing, I am reminded of the quote attributed to Yogi Berra, who said, "This is deja vu all over again."

[Laughter.]

I remain convinced that the best way to avoid a repeat of past frustrations was for the Committee to take a measured pause to gain the benefit of new insights and information.

New threats to coastal resources, such as invasive species, increased management capabilities made possible through a new geographic information systems and satellite technologies, and emerging issues such as marine bio-prospecting and marine protected areas, are very complex. They all deserve the scrutiny of this Committee.

And for the Coastal Zone Management Act to remain relevant in the 21st century, this Committee should not shy away from that investigation.

Mr. Chairman, you know that I would have preferred for the Committee to have first scheduled some general oversight hearings before drafting and considering CZMA legislation. Nonetheless, you

have decided to move ahead with this morning's legislative hearing, and I respect that decision, and I hope that we will reach a positive end on CZMA legislation.

I remain optimistic that by working together we will be able to craft CZMA legislation that addresses the substantial challenges that lie ahead.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Underwood follows:]

Statement of The Honorable Robert Underwood, A Delegate to Congress from Guam

Thank you, Mr. Chairman. My opening remarks will be brief. But before I begin, I want to first commend you, Mr. Chairman, for your leadership in setting forth an engaging agenda for this committee, and I want to thank you for your cooperative spirit in working with me and the other Democrat members of this committee on issues of importance to us.

A good example of just such issue is coastal zone management. It is not an exaggeration for me to say that reauthorization of the Coastal Zone Management Act will be one of the most important responsibilities of this committee this Congress. But we must proceed thoughtfully.

As you know, efforts last Congress to reauthorize the CZMA regrettably ground down into stalemate and frustration. In a sense I fear that we may be heading down a similar path this year. After reading the background memo for this morning's hearing, I was reminded of the quote attributed to Yankee great, Yogi Berra, who said, "This is deja vu all over again.

I remain convinced that the best way to avoid a repeat of past frustrations was for the committee to take a measured pause to gather the benefit of new insights and information. And I ask, "Why not?

New threats to coastal resources such as invasive species; increased management capabilities made possible through new Geographic Information Systems and satellite technologies; and emerging issues such as marine bio-prospecting and marine protected areas are complex. They all deserve the scrutiny of this committee. And for the CZMA to remain relevant in the 21st Century, this committee should not shy away from that investigation.

Mr. Chairman, you know that I would have preferred for the committee to have first scheduled some general oversight hearings before drafting and considering CZMA legislation. Nonetheless, you decided to move ahead with this morning's legislative hearing, and I respect that decision. And while I will continue to urge that we not rush into marking up a CZMA bill, I remain optimistic that by working together we will be able to craft CZMA legislation that addresses the substantial challenges that lie ahead.

Thank you.

Mr. GILCHREST. Thank you, Mr. Underwood.

Mr. Saxton?

STATEMENT OF THE HON. JIM SAXTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

Mr. SAXTON. Thank you, Mr. Chairman.

I have an opening statement, which I will just ask unanimous consent be included in the record to save time.

Mr. GILCHREST. Without objection.

Mr. SAXTON. Thank you.

Just let me say, first, to Mr. Underwood, who I appreciate the great cooperation that we have had over the years, Mr. Gilchrest and I can't do this without you, we promise you.

And we promise you that your fingerprints will be all over this, whether we have a legislative hearing—

[Laughter.]

—to begin with or whether we do oversight hearings. We need you on this very, very much, and your concerns, as far as this Member is concerned. The Chairman can speak for himself, but you are our partner.

Mr. UNDERWOOD. Thank you.

Mr. SAXTON. And just let me say that, of all the things that we do in this Committee, this has to be ranked as one of the most important.

As Mr. Underwood just pointed out, coastal areas are very highly populated areas and, at the same time, extremely sensitive environmentally. And to the extent that we can be good stewards of these highly populated areas, we will be successful in preserving a good place to live for all forms of life for generations to come.

On the other hand, if we fail to act on issues that we know are important, future generations may not be so lucky.

The Coastal Alliance, a real leadership organization on this, has prepared and published a pamphlet or a magazine called "Pointless Pollution; Preventing Polluted Runoff and Protecting America's Coasts." It is extremely well-done and tells a very, very important story.

And so I am very hopeful that this year we will be able to meet and accommodate the needs of all the Members of the Committee, both Republican and Democrat.

And incidentally, this certainly wasn't any fault of the Democrats that we didn't get this done last time.

[Laughter.]

But I hope that we will be able to accommodate the needs of all the Members of the Subcommittee and the Full Committee, and the Transportation and Infrastructure Committee, which will be, I am sure, a very interesting task.

But I am glad that we are starting this process. It is extremely important, and I look forward to working with you, Mr. Chairman, and the Ranking Member.

[The prepared statement of Mr. Saxton follows:]

Statement of The Honorable Jim Saxton, Vice Chairman, Subcommittee on Fisheries Conservation, Wildlife and Oceans

Thank you, Chairman Gilchrest, for holding this hearing on reauthorization of this important Act. I am very pleased to see a broad range of perspectives represented here today, though I too am disappointed that the Farm Bureau chose not to testify.

As a representative of a coastal district in the most densely populated state in the country, I know firsthand the impact of human activities on coastal and ocean resources and the impact of the degradation of these resources on our economy and quality of life. Of particular concern to me is the issue of non-point source pollution. As the leading cause of degradation of our coastal waters, non-point source pollution can have devastating effects on a state's seafood, tourism and shipping industries by closing shellfish beds, closing beaches and clogging major shipping lanes. To begin to address this critical issue, my bill, H.R. 897, requires that states spend the lesser of $10,000,000 or 35% of the funds available for the resource management improvement grants on their non-point source pollution control programs.

Like Maryland, both New Jersey and the nation are dependent upon healthy ocean and coastal resources. Programs such as state coastal management programs and National Estuarine Research Reserves provide the necessary management capabilities and research opportunities to protect our coastal environment. I am fortunate that my own state, New Jersey, is a leader in both these areas, and I am pleased that both Bob Tudor from the New Jersey coastal management program and Mike DeLuca from the New Jersey's Jacques Cousteau National Estuarine Research Reserve are here today to testify to the merits of these programs on behalf of their

respective national organizations. I welcome you both and look forward to your testimony.

As the Chairman explained, my bill also provides for greater involvement in the management of coastal resources at the local level. I believe it is important to engage local communities in this process. These local communities are facing difficult coastal management decisions as a result of the rapid rate of coastal development that they are experiencing and they need to be more fully involved in the state programs.

In addition, my bill calls for the development of a set of performance indicators and measures. Performance indicators and measures will help us determine our progress towards meeting the objectives of the Act and whether we are fulfilling our commitments to our coastal constituents and the Nation.

We must ensure the responsible stewardship of our important coastal resources. The CZMA helps provide that stewardship and deserves our support. I believe a timely reauthorization of the Act will demonstrate our commitment to protect our coastal resources. I too am looking forward to hearing the testimony of our witnesses and I thank Chairman Gilchrest for his leadership on this important issue.

Mr. GILCHREST. Thank you, Mr. Saxton.

Mr. Underwood is a good partner in this effort, and I appreciate it.

We often say, "I appreciate the hard work of my colleague Mr. Saxton," but Mr. Saxton has done yeoman's work over the past several years toward these important endeavors, and will continue to work hard in this effort to make this Act what we think the Act was supposed to do in the first place.

We have two of the four Members present here.

Welcome, Mr. Thompson and Mrs. Davis. We look forward to your testimony.

Mrs. Davis, you may begin.

STATEMENT OF THE HON. SUSAN A. DAVIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mrs. DAVIS. Thank you very much, and I appreciate the opportunity to appear before you this morning, despite the fact that you can tell I have a chest cold.

In the interest of your time, I would like to associate myself with the detailed and written remarks that will be submitted by Representative Farr.

This morning, I would like to present two ideas.

The first one is that the Coastal Zone Management Act is a document representing thoughtful policy that has controlled the interaction of states and the Federal Government for nearly 30 years regarding the management of the outer continental shelf.

This policy, as I think you well know, has been supported by several Presidents who otherwise held differing views.

Congress has yearly prohibited the development of the 36 leased areas off of our coast. Changes should not be made hastily or without time for a complete and informed review.

The second point that I would like to make is that actions that occur off of our shores and which, therefore, could impact the precious coastline in my district in California—and, indeed, the whole state—are of passionate interest to my constituents.

And briefly, may I suggest some basic policy perspectives as you consider changes to the Coastal Zone Management Act.

Number one, we must continue to support Federal consistency. The perspective that it is the rights of states to control their

coastal zones is paramount. Where Federal needs are seen to conflict, the policy of Federalism and respect for a state's views must have a thorough and contemplative review.

Second, change, if it is to be made, needs to be based on clearly identified problems with the act. It was amended over 10 years ago, a period which offers ample time to demonstrate whether or not there are pervasive problems with the language or process of the act.

Third, good public policy establishes a system for review by an agency independent from the parties of the decision. Sufficient time must be allowed for a thorough finding of the facts or issues. And following that, decisions must be made in a timely fashion.

Because of the nature of coastal zone management, it is worth framing this policy issue in the context that decisions about using coastal resources are decisions that, once done, cannot be undone.

Fourth, changes in language must be realistic. Actions taken on the outer continental shelf, by their very nature, will affect the coastline whether that action occurs within the legal limits of the state's boundaries or outside them.

My constituents live along the most southwestern point of the United States, a coastline stretching from the border of Mexico through the towns of Imperial Beach, Point Loma, Ocean Beach, Mission Beach, Pacific Beach, and La Jolla—some of the most photographed and appreciated stretches of sand and scenic backdrops for joy in the world.

Indeed, not only the residents of these communities but the 2 million citizens of San Diego consider them their jewel.

I imagine that some of you who have served in the military and have been stationed at one of the many installations in San Diego—or perhaps you have visited for a convention or family vacation—know the beauty of our coastline.

Not only is this coastline a precious local resource and a foundation of the economy, it is also a national treasure.

So I urge you to keep that vision in mind and your policy practices in place as you consider requests to change the language of the Coastal Zone Management Act and facilitate the exploitation of petroleum resources near our shores.

I want to thank you very much for your work on this issue, and thank you for the time to present this morning.

[The prepared statement of Mrs. Davis follows:]

Statement of The Honorable Susan Davis, a Representative in Congress from the State of California

Thank you for the opportunity to appear before you this morning.

In the interests of your time, I would like to associate myself with the detailed, written remarks that will be submitted by Representative Farr.

This morning, I would like to present two ideas. First, the Coastal Zone Management Act is a document representing thoughtful policy that has controlled the interaction of states and the Federal Government for nearly 30 years regarding the management of the Outer Continental Shelf. This policy has been supported by several presidents who otherwise held differing views. Congress has yearly prohibited the development of the 36 leased areas off of our coast. Changes should not be made hastily or without time for a complete, informed review.

The second is that the actions which occur off of our shores and which, therefore, could impact the precious coastline of my district in California and, indeed, of the whole state are of passionate interest to my constituents.

Briefly, may I suggest some basic policy perspectives as you consider changes to the Coastal Zone Management Act.

1) We must continue to support " Federal consistency —the perspective that the rights of states to control their coastal zones is paramount. Where Federal needs are seen to conflict, the policy of Federalism and the respect for a state's views must have a thorough, contemplative review.

2) Change, if it is to be made, needs to be based on clearly identified problems with the act. It was amended over ten years ago, a period which offers ample time to demonstrate whether or not there are pervasive problems with the language or process of the act.

3) Good public policy establishes a system for review by an agency independent from the parties to decision. Sufficient time must be allowed for a thorough finding of the facts at issue. Following that, decisions must be made in a timely fashion. Because of the nature of Coastal Zone Management, it is worth framing this policy issue in the context that decisions about using coastal resources are decisions that once done can't be undone.

4) Changes in language must be realistic "" actions taken on the outer continental shelf by their very nature will affect the coastline, whether that action occurs within the legal limits of the state's boundaries or outside them.

My constituents live along the most southwestern point of the United States -- a coastline stretching from the Border of Mexico through the towns of Imperial Beach, Coronado, Point Loma, Ocean Beach, Mission Beach, Pacific Beach, and La Jolla -- some of the most photographed and appreciated stretches of sand and scenic backdrops for joy in the world.

Indeed, not only the residents of these communities but also the two million citizens of San Diego consider them their jewel. I imagine that some of you may have served in the military and have been stationed at one of the many military installations in San Diego, or perhaps you have visited for a convention or family vacation. Not only is this coastline a precious local resource and a foundation of our economy, but it is also a national treasure.

I urge you to keep that vision in mind and your policy practices in place as you consider requests to change the language of the Coastal Zone Management Act to facilitate the exploitation of petroleum resources near our shores.

Thank you.

Mr. GILCHREST. Thank you, Mrs. Davis.

I did spend a little time at Camp Pendleton, and the Marines allowed us a great deal of time to soak up the sun on the beach.

[Laughter.]

Beautiful place.

Mrs. DAVIS. Good for you. Please come back.

Mr. GILCHREST. Sure.

Mr. Thompson?

STATEMENT OF THE HON. MIKE THOMPSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. THOMPSON. Thank you, Mr. Chairman and Members.

I would like to thank you for your past record and the history of this Committee in protecting our beautiful coastal resources and would hope that you will continue that in looking at the Coastal Zone Management Act specifically as it applies to the Federal consistency provision and as that relates to offshore oil drilling.

The district that I represent is the entire north coast of California, just north of the San Francisco Bay all the way to the Oregon border. And anything that happens off our coastal—and in particular, oil drilling off our coast—is going to impact my district and the people I represent a great deal.

We have a sport fishing industry that is about a $7 billion annual industry. Tourism of nearly $10 billion. And most of the commercial fishing off the California coast is done in my district.

So the health of our coast and the things that live there directly impact not only the coast but every industry and every business along that coast, and that ripples out throughout California.

A couple of examples are the salmon and steelhead populations off the California coast. Their endangered classification is directly impacting industries such as timber, mining, real estate development, road building; anything at all that would impact the habitat of that fishery is going to spill over into the local economy.

Another example is right before coming to Congress, I was in the state legislature. And one of the last things I had either the pleasure or displeasure of doing was passing legislation that became law that forbid the commercial harvesting of abalone in southern California—passed by a Democratic legislature, signed by a Republican governor.

And it also included a requirement that abalone fishers purchase a stamp, that money going in part to help bring back the species. And it was noted by every scientific mind looking at this that so much as a small oil spill in the two remaining colonies of abalone in southern California would completely wipe out the species forever.

So I think that this is emblematic of the importance of what is happening here. The wrong move on policy will not only hurt California, but it is going to hurt the nation. And any change to the Coastal Zone Management Act that weakens the Federal consistency provisions puts California's coast and our economy in harm's way.

If we take away the state's ability to review Federal activity, that is going to impact our coastline. It is anti-states' rights, and it is big government at its absolute worst.

And to shift the review of state's appeals to Federal activities impacting our coast from Commerce to Interior is devastating. It is tantamount to the proverbial fox watching the chickenhouse.

I just want to add that I don't understand the need for any amendment of this type that would bring about this type of devastation. Current law allows states to review what the Federal Government does along our coast. It fosters cooperation between the state and the Federal Government.

And I don't think there have been any problems. As a matter of fact, the state coastal management plans have agreed with 96 percent of all Federal actions. And since its inception in 1972, there have only been 40 appeals to the Secretary, and this is out of thousands of activities.

So, Mr. Chair and Members, I would hope that you would continue to take into consideration the beauty and the importance of our coastal communities.

And in the case of California, the entire state has spoken repeatedly and consistently against adverse actions along our coast that would hurt both that scenic beauty and the species that live along that area.

So I thank you for the hearing and thank you in advance for your careful consideration of any proposed amendments that may be forthcoming.

[The prepared statement of Mr. Thompson follows:]

Statement of The Honorable Mike Thompson, A Representative in Congress from the State of California

Thank you for giving me the opportunity to comment on the Coastal Zone Management Act (CZMA), specifically on section 307, the Federal consistency provision of the Act as it relates to offshore oil drilling. As a Member of Congress that represents a district that has one of the longest coastlines in the Continental United States, offshore oil drilling is an issue that is very important to me and the people of my district.

Tourism and sport and commercial fishing are very big industries in my district. A 1997 study found that the California coast receives about 43 million visitors a year. Coastal tourism generates about $9.9 billion dollars a year and in some years is the largest economic component of the California economy. According to the California Resources Agency, the economic impact of sport fishing in California is $7 billion and the large commercial fishing industry makes California makes one of the top five seafood producing states in the country.

In addition to industries dependent on healthy coastlines, California's Department of Finance determined that of the 35 million people that live in the state, 85% of them (29 million people) live within two hours of the coast. And the population is rapidly rising. This increase will continue to stress the coast's already limited resources.

The bottom line is, an oil spill off the California Coast would be catastrophic.

In offshore areas currently drilled, there are routine small spills, and periodic major spills, not to mention environmental degradation from business-as-usual operations. According to the Department of the Interior, there have been 73 incidents and 3 million gallons of oil spilled from OCS oil and gas operations in the last 20 years.

An amendment was recently proposed by the oil and gas industry that would strip the Coastal Zone Management Act from one of its most important functions - the right to review Federal activity that would impact a state's coastline. This proposal is a thinly disguised veil to weaken the state's ability to comment on or restrict outer continental shelf leasing.

Another proposed amendment would shift the responsibilities of a state's appeal from the Secretary of Commerce to the Secretary of Interior. This would be a major conflict of interest, effectively giving the same Federal agency (Department of Interior) that approves oil or gas development leases, the authority to override a state's objection to oil and gas leases.

The suggestion of altering the Federal consistency provision is very troubling to me. From the California's Coastal Commission's perspective and mine, the Federal consistency provision is the most significant aspect of the CZMA. It ensures that states have some oversight over what the Federal Government can do to a state's coast. The Federal consistency requirement is a primary reason for states to join the national coastal management program, a program utilized by almost every eligible state. The provision fosters cooperation and coordination between Federal and state activities.

Furthermore, this provision is not one that has created significant conflict between states and the Federal Government. In fact, state coastal management plans have agreed with almost all Federal actions (96% of the time).

Additionally, since the inception of the Act, there have only been 40 cases (out of thousands) where the states have appealed proposed Federal actions to the Secretary. 14 of the 40 have dealt with offshore oil drilling.

Local communities throughout California have repeatedly voiced their strong opposition to oil drilling off of the California coast. California has put a moratorium on off shore drilling in state waters, has adopted a resolution opposing leases in Federal waters, and has recommended the termination of the existing 36 Federal leases. The people of California have spoken. They do not want oil drilling off their coast.

Approximately 300 varieties of fish and shellfish are native to California's 1,000 mile coastline. California's population far exceeds the state's ability to provide for the outdoor recreational needs of its residents and visitors.

An oil spill off of the northern California coast would affect 36 species of seabirds, 17 species of marine mammals, 2 species of turtles and countless species of fish, including endangered salmon species. Given these statistics, it would be grossly irresponsible for us to relax our standards on offshore drilling.

Furthermore, the recoverable oil resources off our coast will certainly not come close to solving our energy crisis. Energy efficiency and conservation will do much more to solve our problems than drilling off our coastline.

In conclusion, states should have the ability to review and comment on Federal actions that would affect their coastal areas, especially off shore oil drilling and especially when the people of the state are so adamantly opposed to it.

Therefore I appeal to the Committee, the Congress and the President—do not weaken provisions that not only protect states' rights but also protect our very valuable coastal resources.

Mr. GILCHREST. Thank you, Mr. Thompson.

Mr. Miller?

STATEMENT OF THE HON. GEORGE MILLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. MILLER. Thank you very much, Mr. Chairman.

I am delighted to be here with my California colleagues to speak to you about the suggestion that we should somehow change or amend—and, I believe, weaken—the Coastal Zone Management Act.

I must tell you, however, I can't think of two better people to testify to, who understand not only the complicated ecosystems of our oceans, but also the connections of our oceans to our lands, to our bays, to our estuary systems, to our wetlands, and others, than my colleagues on this Committee.

I think my California colleagues have made it very clear that our feelings in California are very strong with respect to this issue, as they are in many, many other coastal states in this nation.

I had the opportunity, when I was first in Congress, to serve on the select Committee on the OCS, where we rewrote the OCS Act for this nation to allow and to provide updated provisions for oil drilling off the coastal United States.

I also had the opportunity, under an unfortunate circumstance, after the Exxon Valdez to write the oil spill liability provisions.

I think I am somewhat familiar with this industry. And I must tell you, I have great respect and am held in awe by what this industry is capable of doing. If you read the oil and gas journals, the business pages, to see what this industry can do in the deepwaters, the kind of capital that they bring together and accumulate to provide for deepwater oil drilling today in the Gulf of Mexico, their accomplishments in the North Sea and the environments of offshore Alaska, this is an incredible industry.

It is a very different industry and a very different technology than we in California experienced with Santa Barbara oil spill. But it is not foolproof.

It is not foolproof in any manner. And when things go bad, they go very, very bad.

And it is a fiction to believe that we can clean up an oil spill in the open water. It is simply a fiction.

It is like the escape hatch on the shuttle. It is there so we can say to the public, "Well, they could get out, maybe." You know, we provided them an exit.

We have Clean Bay, and we have all this, a huge investment by the industry to have cleanup facilities all along various coastal areas where there is drilling and where, in my district, there is a huge amount of tanker traffic.

But the fact of the matter is, we have no ability to clean that up. We simply manage oil spills, but they do a huge amount of damage

in the meantime, as they work their way into either the rough coast in Mr. Thompson's district or the beaches of Mrs. Davis's district. And California has all of that.

This is not a partisan issue in our state. We are joined by our colleagues from the other party. We are joined by our colleagues of both parties and nonpartisan officers in every city, in every county, in the state legislature, and in the Congress on this issue.

Some people think this is a position of luxury, that Californians simply don't want to go along with the program. But I must tell you, we are also among the best users of energy in this nation.

I think we are 44th in per capita use. We are using less energy right now, for a number of reasons.

[Laughter.]

But we were using, before that—and this is why we have a little problem with the pricing policy—we are using less now than we were in 1998, but we happen to be paying 10 times as much for it. But that is another issue for another time.

The simple fact is this: You are not going to run over the coastal states in seeking to drill offshore. President Bush knew that. President Carter knew that. President Ford knew that. President Nixon knew that.

This movement is very strong because it is wedded in people's visions and views of their states. And it is not just in liberal California, northern California, it is not just in conservative southern California, but it is in North Carolina and South Carolina and along the Florida coast.

People have made a decision that they have an opportunity to have a much more diverse and sustainable economy and recreational opportunities and quality of life without this production. Other states have made other decisions, and I respect that. And I respect that.

We just finished, last year, because they felt that, in fact, they were taking the risk and they weren't getting rewarded, we just finished, last year, rewarding them more in the CARA act, where Louisiana, Alabama, and other states who were drilling get additional rewards for assumed impacts or whatever. But they are getting rewarded for that.

They made those decisions. California has chosen to do otherwise. We will continue to do that.

But to suggest that we now need to amend and weaken this act, when, as Mr. Thompson pointed out, of some 10,000 actions, 40 have been appealed, and only 7, I believe, have been held up or overturned on appeal.

This Act is working because, in fact, it puts the state and coastal communities and others in a partnership to make these determinations and to come up with the provisions that they think are sufficient.

I don't think this is where the Federal Government should go or the Federal Government is going to want to go in terms of overriding those decisions by millions of Americans who live along the coast of the United States.

We have been willing to make additional sacrifices and we will. And obviously there is a whole debate about energy policy. It is very hard to argue that you want to drill off the coast of southern

California, Santa Barbara, off the Mendocino coast, at a time when it is clear to everyone that we continue to waste that energy without improved CAFE standards.

And, Mr. Gilchrest, I shouldn't be lecturing you on any of this, but it just simply doesn't make any sense at this point. It simply doesn't make any sense at this point.

I realize there is a quest on within this administration to get to the public lands. But clearly, to say that there is an artificial line out there, whether it is 3 miles or 10 miles or 200 miles, that is all interesting, but once the oil is loose on the water, once a mistake is made, once a pipeline breaks coming across state lands, it doesn't know those state lands from Federal lands, Federal waters from state waters.

That is an integrated problem. And that is why we have an integrated system of coastal zone management and consistency provisions.

And we have provided these powers, because if we didn't provide these powers, in fact, we would be in a much worse political situation than we are today.

And so I would hope that this Committee, in its review of these proposals, would give strong consideration to holding on to the current law that provides the states for this voice and for some determinations about their economic and their environmental future.

Thank you very much.

[The prepared statement of Mr. Miller follows:]

Statement of The Honorable George Miller, a Representative in Congress from the State of California

I appreciate the opportunity to testify before the Fisheries Conservation, Wildlife and Oceans Subcommittee. The Coastal Zone Management Act (CZMA) covers numerous issues, including the management of the Outer Continental Shelf. To be clear, I adamantly oppose any changes to CZMA which would weaken protections for California's coast. On Wednesday, the Gas Subcommittee of an Interior Department Advisory Panel recommended that the government begin preliminary exploration activities in five areas where drilling is currently prohibited. In addition, the American Petroleum Institute and the National Ocean Industries Association have proposed amendments to CZMA which would effectively weaken existing protections for California and other protected coastal areas.

California has 1,100 miles of coastline which contribute $50 billion to California's economy. California began efforts to protect its coast line in 1929. Beginning in 1955, the California State Legislature prohibited oil and gas leasing in parts of the state waters. In 1994, the State Legislature approved the Coastal Sanctuary Act which prohibits future oil and gas leasing in state waters.

Executive Orders issued by President George Bush, Sr., and President Bill Clinton have prohibited new leasing in Federal waters. On a year to year basis, Congress has continued to prohibit the development of the 36 leased areas off California's Coast. It should be clear to this Committee and the Bush Administration that Californians do not want to see their coast developed for oil and gas.

This is the precise reason I am so concerned with proposed amendments which would weaken a state's ability to control coastal development. CZMA contains a provision, commonly called Federal consistency, which requires that Federal actions inside or outside the coastal zone must be consistent with state coastal management programs. Ninety-five percent of the time, the state and Federal Government concur. Since 1978, the Minerals Management Service has approved 10,617 Exploration Plans and 6,096 Development and Production Plans. There have been only 14 cases where the oil and gas industry appealed a state's objection to their plan to the Secretary of Commerce. Only 7 of the 14 appeals resulted in the Secretary of Commerce deciding against the oil and gas industry. The current Federal consistency provision works. It allows low impact, non-controversial proposals to move forward while providing a process to resolve higher impact and controversial proposals.

I simply cannot understand why the consistency provision needs to be amended. The American Petroleum Institute and National Ocean Industries Association have proposed amendments which limit the scope and authority of states to review impacts of Federal actions and would short-circuit the appeals process. States should continue to have the authority to review Federal activities in Federal waters impacting the state's coastline. The purpose of the Federal consistency provision is to ensure that Federal actions in Federal and state waters are consistent with a state's coastal management program. States should also have access to all the information in Federal proposals, not just bits and pieces. Also, there needs to be an independent review, outside of the Department of Interior which has to initially approve the Federal activity, when Federal actions are disputed. Changing the appeals process to allow the Department of Interior to hear appeals is like having the fox guarding the hen house. Finally, the current appeals process works. In the rare instances when the Secretary of Commerce hears appeals, it is necessary that the Secretary and other parties have adequate time to submit and review information on coastal impacts.

It should be clear that I am very sensitive to any changes to CZMA which upset the delicate balance between state and Federal interests in the coastal zone. These efforts to weaken the consistency provision combined with the actions of the Department of Interior Advisory Committee put California's coast at risk. I can assure this Subcommittee that efforts to undermine the consistency language or undo the moratorium on leasing in Federal waters will create a huge firestorm in California. I urge this Subcommittee to reject efforts to amend the consistency provisions in CZMA and continue to support the protection of California's coast.

Thank you.

Mr. GILCHREST. Thank you, Mr. Miller.

We don't want to hold on to the current law because we don't think the current law is effective enough in protecting our coastlines.

Certainly, there is no consideration by this Committee or the two proposed bills to do anything to weaken the consistency provisions. If anything, we want to strengthen the consistency provisions.

And there is nothing in any of the legislation—although it was pondered, to see if it would be more effective—to move this authority from Commerce to Interior. But there is nothing in either one of these draft bills to do that either.

We want to make sure that we hold on to the integrity of CZMA. And to do that, you have to ensure that each state and each program has the ability to be seen as an equal player with the Federal Government—and maybe even more so.

So it is our intent to look at the reauthorization of the Coastal Zone Management Act at its next phase. We have certainly planned enough for 30 years; now it is time to implement a lot of the ideas and concepts on the ground, including the more controversial one—of course, the word controversial is a relative term in political circumstances—but the controversial issue of nonpoint source pollution and how we can help strengthen that provision so that the concept of reducing or eliminating that problem will be an effective part of this act.

So we appreciate your testimony, especially from Members from California, who have a long coastline.

And, Mr. Miller, the opening part of your statement where you mentioned the oil industry, the oil and gas industry—and even, to some extent, the oil, gas, and coal industry, or the energy industry in general in the United States—it is a pretty phenomenal, highly technical, sophisticated industry.

They do astounding feats with human ingenuity to provide the amount of resources to the number of people that they do. It is extraordinary.

But one small mistake can be catastrophic. So it is important for us to work with the industry as well, to ensure that they provide the resources that are necessary for the public. I would hope that we can move into a new phase of energy resources in the not-too-distant future.

But we appreciate your testimony. I don't have any questions right now, but I will yield to Mr. Underwood.

Mr. UNDERWOOD. Thank you, Mr. Chairman.

And thank you for your testimonies today. The spirit and the commitment that you have displayed will go a long way toward protecting the consistency provisions.

And I don't think either of the legislations that are proposed deal with those specific issues.

I do want to indicate that I am also struck by Mr. Miller's statement about the role of technology in this.

There is always the attempt to convince people that technical expertise and technical know-how can overcome almost any problem. And they can overcome a lot of problems, but you have to balance against the potential damage of any one of these incidents of things that go wrong with oil spills.

Again, I just want thank you for your testimony.

I would take the time, if I could, Mr. Chairman, just to acknowledge the presence of one of my colleagues from Guam, who was a former senator in the Guam legislature, Carlotta Leon Guerrero, who is now with the Pew Trust.

Could you stand up, Carlotta?

And just to indicate that she has taken a great deal of interest in fisheries issues and coastal management issues. She is a Republican—

[Laughter.]

—so it is a very bipartisan effort.

I just wanted you to know.

Mr. GILCHREST. Lose one, gain one.

[Laughter.]

Mr. UNDERWOOD. That's right.

I resisted the temptation to say, "Thank you, Jim," earlier as we heard the chant on TV.

[Laughter.]

Mr. GILCHREST. Thank you, Mr. Underwood.

Mr. Saxton?

Mr. SAXTON. I am not sure I have anything to add except to say, "Me, too."

[Laughter.]

I guess I would just say this, that together on east coast—I am from New Jersey—and on the east coast of New Jersey, we have worked together— former Congressman Bill Hughes, former Congressman Jim Howard, Congressmen Frank Pallone, Frank LoBiondo, Chris Smith—we have worked together as a delegation to try to move forward on various issues which had an adverse effect on our coastal waters.

For many years, for example, New York City and northern New Jersey dumped sewage sludge 12 miles offshore, and then later, 106 miles offshore. And together, our delegation got it stopped. It took a long time.

There was an outfall pipe from a Ciba-Geigy chemical plant that went into the ocean in my district, where the Chairman's father lives, incidentally, in Toms River, and we got that out of the ocean.

And we got all chemical dumping in the ocean offshore waters stopped.

We got a practice that we called wood burning stopped offshore, because it was detrimental and harmful to the environment.

All of these things were point sources of pollution. We haven't done squat about nonpoint source pollution, and that is where the problem is. And sooner or later, we are going to be successful in doing it.

And so, in our discussions in trying to determine how to move forward with this, I said I guess this is just like going swimming: You have to jump in and see where we swim to.

But this is an extremely important issue. And I will also just say, parenthetically, that there is no way that I am going to support any effort to weaken the consistency provisions of this legislation, this law, either.

Mr. THOMPSON. Thank you.

Mr. SAXTON. So, thank you for your testimony. We look forward to working together to move this issue forward.

Mr. MILLER. Thank you.

And as I said, I think there are no three people that we could testify before who had more knowledge and experience in dealing with our coastal zones and our oceans than you three. And we appreciate the opportunity to testify here this morning.

Mr. GILCHREST. Thank you very much, Mr. Miller, Mr. Thompson, Mrs. Davis.

Our next panel will be Ms. Margaret Davidson, Assistant Administrator for Oceans, Coastal Zone Management, National Oceanic and Atmospheric Administration; Mr. Robert Tudor, Vice Chairman, Coastal States Organization; Mr. Michael P. DeLuca, President, National Estuarine Research Reserve Association; Ms. Louise Lawrence, Chief, Resource Conservation, Maryland Department of Agriculture.

Thank you very much. We look forward to your testimony. We appreciate your travel here this morning.

Ms. Davidson, you may begin.

STATEMENT OF MARGARET DAVIDSON, ASSISTANT ADMINISTRATOR FOR OCEANS, COASTAL ZONE MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Ms. DAVIDSON. Good morning, Mr. Chairman.

Mr. GILCHREST. Good morning.

Ms. DAVIDSON. Congressman Underwood, Congressman Saxton, Congressman Miller, we appreciate the opportunity to testify before you today on the reauthorization of the Coastal Zone Management Act.

My name is Margaret Davidson. I am the acting assistant administrator for ocean and coastal services for the national ocean service

component of NOAA, or as they said on "West Wing" last week, "N-O-A-A."

[Laughter.]

We are here today to talk to all three panels about the Coastal Zone Management Act (CZMA). And it is timely to do so. I am particularly pleased because 25 years ago as a law student, I actually worked on the original coastal legislation for the State of Louisiana.

[Laughter.]

So for me, it is a particular pleasure to be here today.

We are going to focus on three major issues in my quick testimony: the success of the CZMA; the emerging coastal management issues across our country that challenge our Federal, state, territorial, local, and tribal governments; and I also want to talk with you about proposed alternatives for addressing those emerging issues.

CZMA, as has been testified, was actually passed in 1972, which was nearly 30 years ago. And in the beginning of CZMA, we focused on a couple of key things, one of which was, actually, establishing state coastal programs.

One of the beauties of CZMA, as Mr. Miller has pointed out, is that it is a highly participatory program with the states; the feds provide the national framework, and state government can choose to participate in coastal zone management as they wish to do so.

And it is a state plan, and it is state authorities that actually guide coastal management in each of the individual states. In fact, I view it as one of the first enacted pieces of states' rights legislation in this country.

And the central tenet of CZMA is to balance conservation concerns with economic development issues. NOAA provides the framework at the national level. We also provide some funding. And the states choose whether to participate. In the last 25, 30 years, 33 out of 35 possible states and territories have chosen to participate.

In fact, the 34th of those states, that program plan is under development in the State of Indiana. And I have just been informed this week that the State of Illinois wishes to talk to us as well about participating in the coastal zone management program.

In which case, all states and territories that would wish to participate are coming on board. So national framework was a very important thing.

In addition, CZMA also provides for the National Estuarine Research Reserves (NERRS), which has been a very successful program. We now have 25 NERRS sites, as we refer to the acronym, in 21 states. And there are two in the pipeline that have been requested by states and local governments and await adequate resources and processes.

I would like to just quickly point out to you some examples in some of the states that have been undertaken over the last few years, as well as the fact that even USA Today saw fit last summer to run a series over several weeks that really talked about the kinds of issues that the Committee and the legislation grapples with on a regular basis.

In the State of California, the San Francisco Bay Development and Conservation Commission, which is actually a regionally authorized coastal management program, has had a particular focus over the last two decades on the issue of reversing wetlands loss in San Francisco Bay, which has been a very significant issue for them, with the result that in 1970, they were losing about 2,300 acres of wetlands in San Francisco Bay on an annual basis. And that loss has now been reduced to somewhere around four acres per year, which is a very significant issue. And, indeed, there has been fairly significant wetlands restoration undertaken with the bay.

The State of Maryland, which I might mention was, the first state to step forward to address nonpoint source issues under the 6217 nonpoint provisions that were enacted in 1990. And Louise Lawrence will be testifying in a little bit about a variety of Maryland issues.

Maryland was the first nonpoint program in the country, and one of their great areas of emphasis and success has been to focus on issues associated with the tremendous boating population on the bay.

As you well know, Mr. Chairman, this is not just the residents of Maryland who like to boat on the bay. There is a great number of people, not only from Virginia and Maryland but from some other geographies in the immediate region. And so the issue of housing boats is a significant one. And the State of Maryland Clean Marina Committee has worked very closely with Maryland's Department of Natural Resources and really works with marina operators to address a variety of issue associated with the active boating population.

In the State of New Jersey, coincidentally, there is a National Estuarine Research Reserve on the Mullica River. And it has been one of our most active NERRS sites. They have had workshops to support local decisionmaking process. They are focused on issues of local watershed supply, as well as indicators for successful wetlands restoration within the watershed.

In addition, as all of NERRS' sites do, they have focused very much on education issues as well. They have a program called the Marine Awareness Resources Education Program, which has literally trained hundreds of teachers and thousands of students across nine school districts in the State of New Jersey.

I think these are just really sort of very typical examples of what is taking place across our state and local governments to address coastal management issues.

So, what are some of our emerging issues? And what are the ways to address them?

In the last three decades, since the original passage of CZMA, the coastal population has grown from 89 million to almost 123 million, which is a gain of 34 million or about 37 percent.

In the Department of Commerce, we also have this agency referred to as the Census Bureau, and recent data out of the Census Bureau suggests to us that this trend continues relatively unabated, except for portions of the Southwestern U.S.

As I frequently joke, as soon as they find out that they are out of water, they will probably be in your district, Mr. Miller.

There have been many great strides, but clearly, as these population trends continue unabated, the issues remain in the coast, and we will continue to have many challenging and vexing conflicts or concerns at our state and local governments.

So what I would like to turn to now is to talk about three emerging areas that we think that the bills as proposed, with a little discussion, will help us to address those issues even more significantly.

Within NOAA, the agency that provides the national framework, we really have been thinking about this in three ways, Mr. Chairman. We have been thinking about the challenge of creating prosperous coastal communities; how we do a better job of conserving and restoring our coastal watersheds; and measuring success of coastal zone management at all levels.

Coastal communities are directly addressed in the bills. And clearly, it is particularly at the local level that our coastal communities are dealing with these challenges and frequently don't have enough tools to address the challenges that confront them.

I am fond of pointing out to people, many of our challenges are not DC issues; they are not even statehouse issues. They are increasingly local planning and zoning issues, and permit decisions that are made on a daily basis.

So what we propose to do, along with you and H.R. 897, is to revise CZMA to help our local communities improve waterfronts, to address the particular issues related to coastal brownfields, to continue to protect and enhance public access, and to work with our coastal communities as well as other agencies to address and mitigate damages and costs associated with coastal hazards.

As I have mentioned, H.R. 897 is a good beginning to address these issues which are national issues, national concerns, but that are best addressed at state and local levels.

We believe that H.R. 897 provides a good step toward a new approach with a distinctive program that will engage the states, the territories, and the communities, and the tribal governments, to undertake needed community vision and community revitalization efforts.

I think what is really the important part is that we all want to see us bring together the right resources to help local communities chart their own futures.

Coastal watershed, Mr. Chairman—

Mr. GILCHREST. Ms. Davidson, are you almost—

Ms. DAVIDSON. Yes, sir.

Mr. GILCHREST. We are going to try to keep relatively close to 5 minutes.

Ms. DAVIDSON. Okay. I will do so.

Let me touch on coastal watersheds for a moment: an expanded approach to working with communities on the creation of watershed conservation and restoration plans, and provide the technical assistance that is needed, and work more closely with coastal America.

Finally, we want to, as you proposed, develop a better national system of performance measures, not look at outcomes but actually address our successes.

We intend to work with the Heinz Center in cooperation with the Coastal States Organization, as well as propose to produce a new periodic state-of-the-coast report.

With that, Mr. Chairman, I will close. I apologize for taking more time.

[The prepared statement of Ms. Davidson follows:]

Statement of Margaret A. Davidson, Acting Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce

INTRODUCTION

Good morning, Mr. Chairman and members of the Subcommittee. I am Margaret A. Davidson, the Acting Assistant Administrator for Ocean Services and Coastal Zone Management for the National Oceanic and Atmospheric Administration (NOAA). Thank you for this opportunity to testify on the reauthorization of the Coastal Zone Management Act, or CZMA. The CZMA has benefitted the Nation, the States, and the citizens of our country since its enactment in 1972. The CZMA recognizes a national interest in our coastal and ocean areas, and establishes a partnership between the States and the Federal Government, in which States determine at the local level how best to balance conservation of the coastal environment with human uses that depend on coastal resources.

My testimony will focus on three areas: the success of the CZMA to date; emerging coastal management issues that need increased attention by Federal, State, Local, and Tribal Governments; and alternatives for addressing these needs.

THE SUCCESS OF THE CZMA

In 1972, Congress created the framework and incentives that generated a unique partnership among States, local governments and the Federal Government to "preserve, protect, develop, and where possible, to restore or enhance the resources of the Nation's coastal zone for this and succeeding generations." Through their Federally-approved Coastal Management Programs, States were given the responsibility to balance conservation of the coastal environment with human uses that depend on the coastal zone. Each program must address a wide range of national goals, including: protecting coastal development and lives from erosion and storms; maintaining and restoring the natural beach and dune systems; providing for appropriate coastal development; protecting and restoring ecologically important coastal habitats; furthering the national interest in the siting of energy facilities; controlling polluted runoff; improving public access and recreational opportunities in coastal areas; revitalizing local waterfronts; and ensuring that Federal actions are consistent with State Coastal Management Programs.

The best testament to the success of this voluntary Federal–State partnership is the fact that 33 of 35 eligible coastal States, Commonwealths, and Territories have received Federal approval of their coastal management plans, and that one more State, Indiana, is seeking to join the national program. This strong partnership also includes the 25 Federally-designated National Estuarine Research Reserves (Reserves) in 21 coastal States and Commonwealths, with two additional reserves in California and New York pursuing designation. Reserves now protect over one million acres of estuarine lands and waters and conduct important research, monitoring, education and stewardship activities.

PRESSURES ON THE COASTS

Our Nation's coasts are densely populated and getting more crowded every day. Presently, our coastal areas host 53% of the total U.S. population living on only 17% of the Nation's land area. The projected increases in the number of people living in our coastal areas are dramatic. Between 1994 and 2015, coastal population is projected to increase by 28 million people (20%), compared to a 22 million increase (18%) in non-coastal areas.

From 1960 to 2015, the population density in all coastal counties (excluding those in Alaska) will have grown from 187 to 327 persons per square mile - roughly three times the national average. Counties located directly along a tidal shoreline are popular locations for residential and commercial development. In fact, an average of 360 people live within every square mile of land in these coastal counties.

Our coastal regions are also critical to the economy and the environmental health of the United States. The 425 coastal counties generate $1.3 trillion of the GNP, and coastal industries account for more than 28 million jobs, over one-third of the national employment. In 1995, just under a billion tons of cargo worth $620 billion

moved through coastal ports and harbors. Coastal estuaries are among the most biologically-productive regions in the Nation, as well as providing recreational opportunities for more than 180 million Americans each year.

The United States is not alone in its efforts to balance coastal conservation and development. Almost half of the world's population lives within 100 miles of the coast, and problems that we find in the U.S. are similar to those in other coastal nations. About half of the world's coastal nations have undertaken some activities to develop coastal management programs. Many of these efforts are patterned after the CZMA, which remains at the forefront of coastal management planning and implementation.

THE ROLE OF STATE COASTAL MANAGEMENT PROGRAMS

State Coastal Management Programs and Reserves provide the framework necessary to sustain the economic and ecological value of the coastal areas. The balance is achieved through various State and local programs that allow for the orderly development, conservation, and recreational use of the lands and waters in the coastal zone.

The incentives given to the States and include funding for developing and implementing coastal management programs and reserves, and a unique type of Federal–State coordination called "Federal Consistency." This incentive requires Federal agencies to be consistent to the maximum extent practicable, and those applying for Federal approvals and funding to be fully consistent with the approved State Coastal Management Programs. The Federal Consistency provision has worked well, as States have concurred with more than 95 percent of the projects reviewed under Federal Consistency. Of the remaining five percent, of all the thousands of Federal actions reviewed there were only 40 instances where an applicant for a Federal approval appealed a state's objection to the Secretary of Commerce. Of that total, approximately 14 appeals were associated with proposed Outer Continental Shelf (OCS) oil and gas exploration and/or development activities.

In light of the Administration's recent National Energy Policy Report and Executive Order 13212 (Actions to Expedite Energy–Related Projects), requiring agencies to expedite their review of permits and other Federal actions related to energy-related project approvals, we will work closely with the Department of the Interior, other Departments, and State governments to re-examine the current Federal legal and policy regime (statutes, regulations, and Executive Orders) to determine if changes are needed regarding energy-related activities and the siting of energy facilities in the coastal zone and the OCS.

BENEFITS OF THE CZMA

The CZMA has provided numerous benefits to the Nation, to the States, Territories and to the citizens living, working and recreating in our coastal communities. Over the years, the CZMA has received near-unanimous bipartisan support within Congress, and the wide-spread support of State and local governments, interest groups and the public. The benefits of the CZMA can be seen in the effectiveness of the national system of State coastal management programs, the growing network and use of estuarine research reserves, the vitality of our coastal economies, and the protection and sustainability of important coastal resources and habitats. I would like to highlight a few examples:

Reversing Wetlands Loss -- The San Francisco Bay Conservation and Development Commission, a Federally-approved CZMA program, has reversed wetland loss from 2,300 acres per year to only 4 acres per year.

Reducing Risks from Coastal Hazards -- The South Carolina coastal program used funding under section 309 and a NOAA Coastal Management Fellow to refine and implement a procedure for conducting damage assessments following coastal storms. This computer based program allows State managers to better understand the relationships between damaged habitable structures, natural beach features and erosion control structures.

Improving Access to Coastal Resources -- Under section 306A of the CZMA, the Coastal Resource Improvement Program, States have used Federal and State funds to substantially increase public access to natural and cultural coastal resources. Estimates indicate that States have developed more than 1,000 coastal access and resource protection projects since 1985. The States have spent more than $50 million in Federal funds, equally matched with State and local funds, on these efforts. The Maryland CZM Program worked with the Town of Federalsburg on a public access project to construct a boardwalk that links two greenways—the Marshyhope Creek Trail and the Federalsburg Riparian Restoration Nature Trail. This project helped complete a 1.5 mile trail system in a "river walk park," including a number of recreational features. The park also includes an education component that explains to

the public the functions of the river systems and the impacts to the rivers and coast of the adjacent urban area. In addition, the North Carolina coastal program has improved or developed 57 coastal water accesses and boardwalks since 1996. During the next year, the Texas coastal program will be working with two local governments to develop coastal accesses. These projects will use $150,000 of Federal funds and will be matched by nearly $300,000 of local funds.

Supporting Economic Development -- State coastal management programs have provided support to numerous coastal communities for environmentally-sound waterfront revitalization. The City of Wilmington, North Carolina used CZMA funds to develop a riverfront plan that served as a catalyst for $4 million in public investment and $100 million in private investment along the Cape Fear River. This project restored the Wilmington waterfront into a vibrant economic and social center. The State of New Jersey has also expanded its total acreage of waters available for shellfish harvesting for 11 years in a row. This is attributed to better water quality due to NJDEP's watershed management approach, designation of No Discharge Zones in the Manasquan and Shark Rivers, and improved efforts to control nonpoint pollution. In 1998, the State set the record for the fewest beach closings, according to an NRDC report. NJDEP is also the lead agency on a new program to site aquaculture development zones within State waters to further facilitate the production of shellfish.

Controlling Polluted Runoff -- In 1999, Maryland became the first coastal State to receive full approval of its coastal nonpoint pollution control program by NOAA and the Environmental Protection Agency. Development of the coastal nonpoint program was accomplished through strengthening the links among existing State and Federal management programs that protect water quality. The coastal nonpoint program was directly responsible for the Clean Marinas Initiative, a program that recognizes marinas for voluntarily putting into place best management practices that reduce pollution from boats and marina facilities. Maryland's program has served as a national model for other coastal States.

Providing Research and Education -- The National Estuarine Research Reserves have developed a uniform system-wide water quality monitoring framework at 22 reserves. This information helps scientists, managers, and coastal communities understand natural and human-induced changes in estuaries around the country. The impacts of farming methods and habitat restoration on water quality is a key issue studied at numerous sites.

The Jacques Cousteau National Estuarine Research Reserve in New Jersey conducts education programs especially designed to improve science instruction to all students while improving environmental awareness and academic excellence. Through the Marine Awareness Resources Education (MARE) Program, the Reserve trains hundreds of teachers each year, reaching 27 schools, nine school districts, and thousands of students. In addition, the reserve provides science-based training to adult coastal decision makers. Workshops such as those on water supply issues in New Jersey's coastal watersheds and ecological indicators for salt marsh restoration help bring sound science to environmental professionals.

Eutrophication, caused by nitrogen loading from human and other activities in the watershed, is the most challenging management issue for Waquoit Bay National Estuarine Research Reserve in Massachusetts. This problem is shared by shallow coastal bays along the northern Atlantic coast. Research at the reserve has shown that septic systems contribute a significant percentage of the nitrogen in Waquoit Bay. Current activities at the reserve focus on educating local decision-makers and citizens in the Waquoit Bay watershed about alternative on-site disposal systems.

Under section 315 of the CZMA, the National Estuarine Research Reserve System, States have used Federal funds to protect more than one million acres of coastal lands and waters for the purposes of long-term research, education, and resource stewardship. Reserves also have conducted research on the best methods to use for restoration projects and have restored over 100,000 acres of degraded estuarine habitat.

The benefits of the reserve system reach far beyond the protection of 25 sites. Education and training programs provide sound, science-based information to teachers, students, State and local government officials and many other coastal decision makers, resulting in better stewardship of coastal resources. These outreach activities make the Reserves critical components in the implementation of the State coastal management programs. For example, since 1998, nearly 5,000 people have participated in workshops on coastal issues, and approximately 25,000 school children participate in reserve educational programs each year.

EMERGING COASTAL MANAGEMENT ISSUES

While there have been great strides in managing the Nation's coastal zones, much remains to be done. Management of the nation's coastal zone through State coastal management programs, estuarine research reserves, and NOAA requires management programs to address increasing pressures on coastal and ocean resources. Pressures on coastal and ocean resources are increasing dramatically, and so are the resulting management challenges. For example, the projected increase in coastal population of 28 million people between 1994 and 2015 will be accompanied by increases in solid waste production, urban runoff, losses of green space and wildlife habitat, water quality declines, and other stresses on the coastal and marine environment.

We have identified three emerging issue areas that warrant consideration during this reauthorization: Creating Prosperous Communities, Conserving and Restoring Coastal Watersheds, and Measuring Success.

Coastal communities are facing increasing challenges. Increasing numbers of people are moving to our coasts, and many communities do not have the ability to plan for or respond to new pressures on the coastal zone. The CZMA could provide a focus to help coastal communities respond to this population growth by revitalizing urban waterfronts and water-dependent economies, restoring and redeveloping coastal brownfields, providing for increased public access to waterfronts and waterways, and minimizing the threat to lives and property associated with coastal storms.

Coastal watersheds provide the fresh water and habitat needed to support our coastal economies, since recreation and tourism depend on healthy natural resources. A new focus on watershed conservation and restoration is needed to identify areas for conservation as well as areas that are suitable for development. Our experience with estuarine reserves and coastal management programs reveals that improved information is needed about the status of coastal resources, potential threats (such as impacts of coastal hazards) and potential compatible uses. This information will enhance our ability to manage these areas to meet national, as well as local and tribal, interests. The result would be new projects to revitalize the coast through restoring, conserving and protecting coastal waters and habitats, and encouraging compatible uses in areas with high resource values.

Program reporting and assessment could be substantially increased. While the CZMA requires periodic evaluations of State programs and reserves, there is a need to develop a national system of performance measures (indicators) to assess the health of the natural, cultural and economic resources of the coastal zone. There is also a need to continue programs to measure the success of a variety of Federal, State, tribal and local coastal management efforts. A truly successful evaluation system must periodically examine the performance of all of the parties contributing to coastal management, regardless of their authorizing statute or funding agency.

ADDRESSING EMERGING COASTAL MANAGEMENT ISSUES

Communities. One alternative is to create a distinct program to encourage States, communities and tribes to undertake community revitalization and restoration projects. Project development funding is available only through section 306A of the Act, which is geared toward direct implementation of the approved State coastal management plan. A new emphasis could look at developing projects to address coastal issues in local communities. H.R. 897 provides a good basis for revitalizing coastal communities by creating a community initiative and authorizing funding to states and communities that will allow local communities to chart their own futures.

Watersheds. A similar effort could be undertaken to support the creation of coastal watershed conservation and restoration plans. These plans could lead to the development of projects that would improve coastal water quality, ensure adequate coastal habitat, and promote compatible uses of lands and waters in the coastal area.

An option for effectively addressing emerging coastal issues at both the local community and watershed scales is to create new technical assistance and education initiatives. Changes to Section 310 of the CZMA could provide for new education, technical assistance, and technology development and transfer programs. It could also encompass other NOAA programs that provide critical tools and technologies to coastal zone management programs. Education initiatives under this section could focus on the general public and the business community as well as on local decision-makers.

The CZMA could better address watershed needs by developing a greater focus on the outreach and education capabilities of the National Estuarine Research Reserves. These enhancements could look at expanding the reserve system-wide monitoring program, developing new reserves to include all of the coastal bio-geographic

regions, and increasing opportunities for training coastal decision makers in all of the coastal States and Territories. This would enable the reserve system to build on the successes already achieved in these areas.

Performance measures and reporting. To ensure that coastal management efforts are directed to the most pressing and important issues, a national effort has been initiated to determine the change of conditions over time and to develop a set of performance measures on the effectiveness of management programs on coastal resources. This effort could be based on the experiences of some States, such as Florida and New Jersey, that have developed performance indicators and measures under State requirements and initiatives. A study that NOAA commissioned in 1996, The U.S. Coastal Zone Management Effectiveness Study (1998), concluded that the monitoring and evaluation of State management measures is possible, yet has not been done in any systematic fashion. A regular report on the status of coastal resources and the effectiveness of management programs could supplement or replace the current biennial report, which is more directly related to program administration.

CONCLUSION

Our Nation's coasts are incredible places - that is why so many of us live, work, and play along the shore. Balancing economic prosperity and environmental conservation continues to be an important challenge. The Coastal Zone Management Act is an important part of our efforts to achieve that balance in a manner that benefits all the citizens of the Nation. The Coastal Community Conservation Act of 2001 (H.R. 897) would improve an already effective relationship between the State coastal management programs, the National Estuarine Research Reserves, and the Federal government. The CZMA is an effective statute, but there are a number of improvements that could be made. At the request of Chairman Hansen, the Department is currently working on additional written comments on H.R. 897 for consideration by the Committee. I look forward to working with you and our partners on this challenge. Thank you.

Mr. GILCHREST. That is all right, Ms. Davidson. Thank you very much for your testimony.

I will yield to Mr. Saxton to introduce the next witnesses.

Mr. SAXTON. Thank you, Mr. Chairman.

A few minutes ago, I mentioned the great progress that we have made in New Jersey in addressing many of our coastal management and environmental pollution problems. And two people are with us today that have been really central to that entire effort.

First, deputy commissioner of the Department of Environmental Protection, Bob Tudor on the right, who will testify next. Bob is director of our coastal management program and, as such, has a very busy schedule and has a done a great job. I would like to welcome Bob here today.

And also, someone who is really no stranger to this Subcommittee, Mike DeLuca, who is officially with Rutgers University but is here to represent today the Coastal States Organization.

I think you are President of the Coastal States Organization?

Mr. DELUCA. NERRA.

Mr. SAXTON. National Estuarine Research Reserve Association. I am sorry.

[Laughter.]

And he also is the Director of the Institute for Marine and Coastal Studies at Rutgers University and has had everything to do with the Jacques Cousteau National Estuary Research Reserve on the Mullica River, which Margaret Davidson mentioned a few minutes ago, and is also Director of our Leo XV, which we are very proud of, and which Mike is, along with a couple of other people, primarily responsible for.

And just by way—not talking too long, but to just let everybody know that Leo XV is the first, real-time undersea observatory in the world, connected to shore by fiber optic and gives people all over the world, via satellite communication, the ability to do real-time studies of ocean currents, sand movement, wave height, salinity, and others.

Mike, welcome to you today as well.

Mr. GILCHREST. If I could interrupt just for a second, I need to ask unanimous consent for the gentleman from California, George Miller, to sit on the dais.

Mr. MILLER. No objection.

[Laughter.]

Mr. GILCHREST. Hearing no objection, so ordered.

Mr. MILLER. Thank you, Mr. Chairman.

Mr. GILCHREST. Welcome, Mr. Tudor.

STATEMENT OF ROBERT TUDOR, VICE CHAIRMAN, COASTAL STATES ORGANIZATION

Mr. TUDOR. Thank you. Good morning.

Chairman Gilchrest, Delegate Underwood and Members of the Subcommittee, I am Bob Tudor, deputy commissioner of the New Jersey Department of Environmental Protection, and vice chair of the Coastal States Organization.

Thank you for the opportunity to testify this morning on behalf of the CSO on reauthorization of the Coastal Zone Management Act.

The CZMA has long enjoyed widespread bipartisan support in Congress and public support out in the states. CSO looks forward to working with you to complete reauthorization this year.

I also would like to acknowledge the leadership of my home state representatives on the Subcommittee, former chair Jim Saxton and Frank Pallone, for the strong support of coastal resource management and protection.

The overall objective of coastal management's collective efforts is simple: to protect and improve the quality of life for the people who live near and visit the coast, and to protect and restore the natural resources upon which that quality of life depends.

In New Jersey, we are seeking to implement coastal management by working with local communities to integrate state and regional planning, extensive statewide land acquisition, and watershed management into local action.

Congress can best assist these efforts by reauthorizing the CZMA and by amending the Act to do four things.

First, there should be expanded support for existing state coastal zone management programs so that all states can benefit from increased appropriations.

Second, provide specific authorization in addition to base coastal programs for states to assist communities to support efficient, well-planned growth and to protect and restore critical habitats.

Third, continue to support the flexible, collaborative Federal-state CZMA partnership with an increased accountability. This is where it relates to the performance indicators.

Fourth, we support the testimony we just heard on the first panel to maintain support for consistency review of Federal activities that affect state coastal resources and uses.

CSO strongly supports the intent of both the proposed discussion draft and H.R. 897 to increase program support, place an expanded emphasis on implementation and support for community-based projects, and development a cost-effective set of performance and outcome indicators.

We would like to work with the Subcommittee to revise the proposals to ensure they do not undercut existing program priorities and commitments. More detailed recommendations are provided in my written testimony.

Our work to protect the nation's coast is far from done. Reauthorization and increased support for implementation of the CZMA can make a significant difference.

As illustrated by charts attached to my testimony, population density along the coast is already five times the national average. More people are moving to the coast every day, and coastal recreation and tourism is booming. Development pressures and demands on coastal resources are increasing at an even faster pace.

For example, in the Delaware estuary, while population is forecast to grow 10 percent over the next 30 years, from 1990 to 2020, land development is projected to increase by 36 percent. Despite these trends in increased population density and development pressure, we are making significant progress toward achieving national objectives.

I would like to direct your attention to just a few New Jersey examples to illustrate this.

The first is a little schematic here talking about the progress in New Jersey, even though population has increased and there has been significant growth of development in our coastal area, in terms of our back-bay waters that are open for shellfish harvesting.

When we go back to 1976, we had about 74 percent of the waterways that were open for shellfish harvesting. Right now, we are at a level of about 88 percent. We have a clear, overarching umbrella goal that everybody in our agency works toward: to achieve 90 percent harvestable by the year 2005.

And we think by working upon the successes we have had in controlling point source pollution, focusing more efforts on nonpoint source pollution, as articulated by Congressman Saxton, that we will be able to achieve this goal of 90 percent of our shellfish waters open for shellfish harvesting by the year 2005.

We would like to be able to—as the Coastal States Organization, working with NOAA NOS and this idea of performance indicators—is to be able to report out to you in future years across a whole range of issues about how effective the state-Federal partnership is in affecting these resource-improvement types of outcomes.

Another thing that we are proud of in New Jersey—and Congressman Saxton made reference to this as well: In the early 1990's, we had problems in terms of our ocean and bay beaches being swimmable, in part due to floatable issues or discharge of sludge materials. We no longer have floatable materials in New Jersey.

And our beach closings have a downward trend line, so that, last year, out of our 179 ocean-front beaches, only 11 beaches experienced closure, and eight of those were in one place. And we have specific action plans to deal with that, because we have a focused approach to make sure we have zero beach closures in the next year or two.

Similarly, we have made significant progress in closing bay beaches. In that case, we have 139 beaches, and we are now down to, in the past year, seven beach closures. And we have taken steps in those areas to reduce specific sources of nonpoint source pollution, so that we don't have the excess bacteria counts that would lead to those closures.

Lastly, dealing with a living resources example, again, we were talking about significant increases in population, significant increases in housing and commercial development in the coastal area. But we have been able to influence the pattern of development and the kind of performance standards that they adhere to, so that, in this case, we are able to have a very significant upward trend in terms of not only viable nests for the bald eagle population in the State of New Jersey but the habitat that is necessary in terms of feeding and foraging to ensure the success of those different nesting sites in the State of New Jersey.

CZMA can also provide a mechanism for resolving issues of national significance, such as the exploration of oil and gas in offshore waters. Issues regarding energy production vary among the states and can be very emotional. CZMA provides a framework for states to work through these issues based on their individual needs consistent with national policies.

In Maryland, the coastal program has funded development of sensitive area inventories, modeling of growth scenarios, GIS mapping, and development of plans to support local governments' efforts under the state's economic growth resources protection and planning act.

In Louisiana, the state coastal program is preparing to examine pipeline corridors for oil and gas transmissions with the intent of establishing corridors where such lines can be installed with minimal environmental disturbance through an expedited permitting process.

The CZMA establishes a unique Federal-state partnership to achieve the goal of minimizing sustainable economic and environmental objectives. Through voluntary participation, states promote a national interest based on state and local priorities to protect fish and wildlife habitat; support compatible coastal development to mitigate coastal hazards to protect lives and property; coordinate the siting of energy, commercial, and industry facilities; improve access to the shore; and restore and develop waterfronts.

CSO recommends the following CZMA changes:

Eliminate the cap and increase state grant support under CZMA Section 306. Equitable funding increases are needed so that all states and territories can share equitably in funding increases, maintain commitments to implement coastal zone management programs, and grow to meet new challenges.

Funding for the states' grants to administer and implement their coastal programs have been capped at the $2 million level for the

past 9 years. As a result, many states have received no increases in 306 since 1991.

Fifteen of the 35 eligible states have reached the cap and—

Mr. GILCHREST. Mr. Tudor, we have a vote on.

I hate to do this, but I will have to interrupt you.

Mr. TUDOR. Okay.

Mr. GILCHREST. We will come back after the vote.

But Ms. Pelosi is in the room. And if you wouldn't mind, we will have Ms. Pelosi testify. And then what we will do is recess, go to the vote, and then come back.

Mr. TUDOR. Okay.

Mr. GILCHREST. Thank you very much.

Welcome, Ms. Pelosi. We will give you about 5 seconds to catch your breath.

Ms. PELOSI. That is okay. It is the life we lead.

Mr. GILCHREST. Yes, ma'am.

STATEMENT OF THE HON. NANCY PELOSI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. PELOSI. Mr. Chairman, thank you so much for the extraordinary courtesy you have extended to me by taking out of turn here—

Mr. GILCHREST. You are welcome.

Ms. PELOSI. —especially on our way to vote.

And to the distinguished Ranking Member, thank you also, and Members of the Committee, Mr. Miller.

Thank you to the panel, the inconvenience to them, as well.

I appear before you to discuss a matter of utmost concern: the need to maintain and enhance the critical role of our coastal states and the stewardship of our nation's coastal environment.

Mr. Chairman, I am going to stick to my notes, because then I will be briefer.

Mr. GILCHREST. All right, fine.

Ms. PELOSI. As J.D. Salinger said, if I had more time, I would have written you a shorter letter. So this is the shorter letter.

[Laughter.]

First, I would like quickly to paint a picture for you of the marine treasures that lie off the shores of the San Francisco Bay area. We are fortunate to have three national marine sanctuaries to help protect these resources.

The Gulf of the Farallones sanctuary contains the largest breeding concentration of sea birds in the continental U.S.; 33 marine mammal species, including endangered blue and humpback whales; and breeding grounds for 20 percent of California's harbor seals. The sanctuary hosts nurseries and spawning grounds for commercially valuable species such as Dungeness crab, Pacific herring, and rockfish, and supports many commercial fisheries.

The Cordell Bank National Marine Sanctuary encompasses an underwater mountain perched near the edge of the continental shelf, where a unique combination of undersea topography and ocean currents create an amazingly productive marine environment.

Monterey Bay, the largest marine sanctuary, stretches all the way up to San Francisco and includes a rich array of marine habitats that abound with life.

Although these areas have been designated as sanctuaries, they are very much affected by human activities on land and sea. To protect them, we must remain committed to protecting the coastal environment through the Coastal Zone Management Act and other policies.

In 1972, as you know very well, Mr. Chairman, Congress enacted the Coastal Zone Management Act—not because you were here, Mr. Chairman, but because you have been such a leader on these issues—which encourages states to adopt a high national standard in exercising their stewardship of the fertile and fragile zone. Congress provided incentives in the law to induce coastal states to adopt their own coastal zone management plans and obtain Federal certification of these plans.

The Act gives the opportunity to participate in a thoughtful decisionmaking process to determine which activities are consistent with their coastal zone management plans. When a difference of opinion arises between the coastal states and the Federal Government over specific activities within the coastal zone, the Secretary of Commerce is the ultimate arbiter.

With energy issues in the stoplight, the CZMA will play an important role in decisions on addressing America's energy needs. The administration's energy plan emphasizes exploration for and extraction of oil and natural gas, and calls for a reexamination of policies that restrict energy-related activities in the coastal zone and the outer continental shelf.

Another report released yesterday by a Subcommittee of the outer continental shelf advisory board recommends selecting five locations within the moratorium areas for a pilot project on natural gas extraction.

Mr. Chairman, as a Member representing a coastal district, I assure you that my constituents strongly oppose any efforts to resume oil and gas leasing in the moratoria areas. In the context of this new pressure to increase offshore drilling, the protections provided by the CZMA become all the more important to coastal states.

Representatives of the petroleum industry are promoting a wish list of amendments to the CZMA that would significantly weaken the role of states in coastal management. Several proposed amendments would severely limit the scope and authority of coastal states to review activities that could significantly affect the state's coastal uses and resources.

Mr. Chairman, this proposal to weaken CZMA is unacceptable. The CZMA is not broken; it is working well, providing a balance between preservation and development decisions, and should not be weakened in any way.

There is one area in which the CZMA should be strengthened, and that is in the act's ability to empower states to address water pollution from nonpoint sources.

I encourage the Committee to prevent erosion of this important statute and to address of coastal nonpoint source pollution during the reauthorization process.

I thank you for the opportunity to present my views.

And I make this presentation on a regular basis to the Appropriations Subcommittee on Commerce, Justice, State for the funding for the CZMA. I served on there at one point. It is a priority for many of us.

And as I look at the makeup of the Committee there, I feel that we are in our mother's arms, as Phil Burton would say.

[Laughter.]

[The prepared statement of Ms. Pelosi follows:]

Statement of The Honorable Nancy Pelosi, a Representative in Congress from the State of California

Chairman Gilchrest, Mr. Underwood, and Members of the committee, thank you to for the opportunity to testify today.

I appear before you to discuss a matter of utmost concern: the need to maintain and enhance the critical role of our coastal states in the stewardship of our nation's coastal environment.

First I would like quickly to paint a picture for you of the marine treasures that lie off the shores of San Francisco. We are fortunate to have three National Marine Sanctuaries to help protect these resources.

The Gulf of the Farallones sanctuary contains the largest breeding concentration of seabirds in the continental U.S., thirty-three marine mammal species including endangered blue and humpback whales, and breeding grounds for twenty percent of California's harbor seals. The sanctuary hosts nurseries and spawning grounds for commercially valuable species such as Dungeness crab, Pacific herring, and rockfish, and supports many large commercial fisheries.

The Cordell Bank National Marine Sanctuary encompasses an underwater mountain, perched near the edge of the continental shelf, where a unique combination of undersea topography and ocean currents create an amazingly productive marine environment. Monterey Bay, the nation's largest marine sanctuary, stretches all the way up to San Francisco and includes a rich array of marine habitats that abound with life.

Although these areas have been designated as sanctuaries, they are very much affected by human activities on land and sea. To protect them, we must remain committed to protecting the coastal environment through the Coastal Zone Management Act (CZMA) and other policies.

In 1972, Congress enacted the Coastal Zone Management Act, which encourages states to adopt a high national standard in exercising their stewardship of the fertile and fragile zone. Congress provided incentives in the law to induce coastal states to adopt their own Coastal Zone Management Plans and obtain Federal certification of these plans.

The Act gives states the opportunity to participate in a thoughtful decision-making process to determine which activities are consistent with their Coastal Zone Management Plans. When a difference of opinion arises between coastal states and the Federal Government over specific activities within the coastal zone, the Secretary of Commerce is the ultimate arbiter.

With energy issues in the spotlight, the CZMA will play an important role in decisions on addressing America's energy needs. The Administration's energy plan emphasizes exploration for and extraction of oil and natural gas, and calls for a reexamination of policies that restrict energy-related activities in the coastal zone and the outer continental shelf.

Another report, released just yesterday by a subcommittee of the Outer Continental Shelf Advisory Board, recommends selecting five locations within the moratorium areas for a pilot project on natural gas extraction.

Mr. Chairman, as a Member representing a coastal district, I assure you that my constituents strongly oppose any efforts to resume oil and gas leasing in the moratoria areas. In the context of this new pressure to increase offshore drilling, the protections provided by the CZMA become all the more important to coastal states.

Representatives of the petroleum industry are promoting a wish list of amendments to the CZMA that would significantly weaken the role of states in coastal management. Several proposed amendments would severely limit the scope and authority of coastal states to review activities that could significantly affect the state's coastal uses and resources.

Mr. Chairman, these proposals to weaken the CZMA are unacceptable. The CZMA is not broken. It is working well, providing a balance between preservation and development decisions, and should not be weakened in any way.

There is one area in which the CZMA should be strengthened, and that is in the Act's ability to empower states to address water pollution from non-point sources. I encourage the committee to prevent erosion of this important statute, and to address the issue of coastal non-point pollution during the reauthorization process.

Thank you again for this opportunity to present my views.

Mr. GILCHREST. Thank you.

Ms. PELOSI. Thank you, Mr. Chairman, for the opportunity to testify.

Mr. GILCHREST. Thank you, Ms. Pelosi. You have nailed down this testimony.

Any questions?

Thank you very much.

The Subcommittee will stand in recess for about 15 minutes.

[Recess.]

Mr. GILCHREST. The Subcommittee will come back to order.

I was about to apologize when I came back here, rushing back here, to all the witnesses and the people in the hearing room, for the fragmented congressional time schedule and making you all wait. But when I got back here, it looked like everybody was having a great time.

[Laughter.]

This is the number two highly visited area in Washington for tourists, the Resources Committee hearing room.

[Laughter.]

I ask unanimous consent that a statement of Dr. William Merrell, from the John Heinz Center for Science, Economics and the Environment, be entered in to the record; and a statement of the American Farm Bureau be entered into the record; and also for Members that had statements, for their statements to be submitted to the record.

[The prepared statement of Mr. Merrell follows:]

Statement of Dr. William J. Merrell, President and Senior Fellow, The H. John Heinz Iii Center for Science, Economics and the Environment

Good morning, Mr. Chairman and members of the Subcommittee. I am William Merrell, President of The H. John Heinz III Center for Science, Economics and the Environment. While serving as president of The Heinz Center, I am on leave of absence from the Texas A&M University, where I am professor of oceanography and marine sciences. I am pleased to testify on the reauthorization of the Coastal Zone Management Act (CZMA). My testimony will include brief comments on the CZMA and will focus specifically on a Heinz Center study on coastal management performance indicators and measures that would complement the implementation of the proposed performance evaluation system in H.R. 897.

We all recognize the importance of our coastal areas to the economic vitality and biological diversity of the United States. Marine-related economic activities in the coastal zone and coastal ocean account for some 2 percent of the U.S. Gross National Product and are comparable in scope to other important sectors of our economy. At the same time, our coastal areas are under considerable pressures. Population growth and its associated impacts may be the most critical issue. About half the nation's population now lives in the narrow fringe of coastal counties, and by 2015, projections suggest that the coastal population will number 155 million. Coastal communities need support to plan for and manage growth and development in their coastal areas, and the Coastal Zone Management Act enhances and encourages proactive coastal zone management.

Since 1972, when Congress enacted the Coastal Zone Management Act, the Act has provided a national framework for improved management of the coastal lands

and waters of the nation's coastal zone. The Act's origins can be traced to the recommendations of the Stratton Commission in its final report, Our Nation and the Sea, that explicitly urged the passage of Federal coastal zone management legislation to assist the states in managing coastal resources and to require Federal programs and activities to conform to state coastal policies. The major features of the 1972 Act are still in effect: The states have the lead in developing plans; the program is voluntary, with no sanctions imposed on states choosing not to prepare CZM programs; Federal grants aid state governments in developing and implementing plans; and Federal agencies must assist states in the CZM process. Coastal zone management programs and activities involve all levels of government Federal, state and local and that three-tier system is a stable element of this voluntary program.

The CZM program has been very effective in diffusing coastal zone management practices to practically all the U.S. coastal zone in the coastal states and territories. After 30 years, 33 of 35 eligible coastal states, commonwealths, and territories participate in this voluntary program (only Indiana, which is presently developing a program and Illinois do not participate). The network these 33 states have established for implementing coastal programs is extensive, spreading coastal zone management considerations widely within the state and local governance structure. More than 97 percent of the U.S. shoreline is now subject to CZM programs, and no state or territory has dropped out of the program in its three decades of operation. CZMA stimulated coastal management actions in the states and territories, where, in most cases, none had existed before.

Even after 30 years of success, CZMA must be seen in a larger context. Are the nation's environmental programs working? Are we getting the benefits from them that our time and effort should bring? These questions are being asked by program managers, legislatures, and the public, and the answers are not clear.

Quantitative evaluation of the impacts of the CZM program is difficult at best, and relatively little information of this kind now exists. Most assessments to date have involved the use of process indicators (number of new state laws and regulations, strength of enforcement, better mapping, and so on), and not indicators of program performance. Developing a set of on-the-ground measures and indicators is a high priority at all levels of government.

To effectively and efficiently protect and improve the management of coastal resources, coastal managers must be able to assess the performance of their programs. Such performance measures will enable managers to monitor the success of implemented management strategies. To meet this need, The Heinz Center, working collaboratively with NOAA's National Ocean Service, will convene a panel of experts from the four sectors government (all levels), industry, academia, and environmental organizations 'to develop a common framework and a consistent set of measures, or performance indicators, to evaluate the effectiveness of state coastal zone management programs in achieving the objectives specified in the Coastal Zone Management Act. This framework will provide information on regional and national trends or issues affecting the coast, will assist coastal managers to improve internal management of their programs, and will showcase accomplishments and potential needs of specific state programs. In addition, such a framework and suite of indicators will provide a mechanism for coastal decision makers to assess program effectiveness in achieving desired goals, to make policy adjustments, and to allocate or reallocate resources. The panel will also consider the role of the National Estuarine Research Reserves, as specified in Section 315 of the 1972 Act, in developing performance measures and indicators.

The Heinz Center will review the issues being addressed by state coastal programs and the current use of performance indicators and measures. Regional multisector roundtables will be held in California, Texas, and the Great Lakes area (possibly Michigan), to gather public input on the need and value of such an evaluation strategy.

The Heinz Center study will identify common goals and threads among the state coastal programs that can serve as a framework of performance measures and indicators to measure the health of the natural, cultural and economic resources of our nation's coast. This framework must be flexible enough to allow the states to continue to develop measures and indicators that are specific to their individual programs. This framework will enhance the effective partnership between the states and the Federal Government that exists through the CZMA and at the same time will provide a wealth of information on our Nation's coastal resources and their management.

I believe that The Heinz Center's Coastal Management Performance Measures and Indicators Study will enhance the effectiveness of the Act in protecting and managing the nation's coastal resources. Thank you for giving me the opportunity to contribute to your deliberations on the reauthorization of this important Act.

[The prepared statement of the American Farm Bureau Federation follows:]

Statement of The American Farm Bureau Federation

The American Farm Bureau Federation represents more than five million member families in all 50 states and Puerto Rico. Farm Bureau is looking for, and will be supportive of, the right mix of public policy tools that will enable farmers and ranchers to improve net farm income, enhance their economic opportunity, preserve their property rights and enhance the nation's environment. The Coastal Zone Management Act needs to be supportive of agriculture's needs and goals for water quality protection.

America depends on a strong and sound agricultural policy. American agriculture provides food security for this nation and much of the rest of the world. We contribute to our national economic security by running a positive balance of trade and generating off-farm employment. We also contribute to the world's environmental security. In this specific area we can, with the proper incentives, do much more.

Increased regulatory costs on all levels—Federal, state and local—are placing a heavy burden on individual farmers and ranchers as well as distorting the traditional structure of our industry. Farmers and ranchers understand the importance of protecting the environment. Their livelihood depends on it. However, the expenses that are incurred to meet compliance are taking a heavy toll on farm incomes and forcing farmers and ranchers to spread the cost of increased regulation over more units of production. The unintended consequence is the inability of small- and medium-sized family farms to compete in a highly charged regulatory environment.

Farm Bureau believes there is a need for a new environmental policy framework. We need to move beyond the current debate over whether the public has the right to mandate features and/or farming practices in the rural landscape. We are at that proverbial fork in the road and have concluded that mandates are not only counterproductive but more important, inefficient. Our members understand that there is need for a different set of tools and farm policy options. We believe market forces and government programs can work together to enhance the nation's productivity and environmental objectives.

The existing environmental policy framework is not equipped to function in a way that is most efficient in achieving the policy objectives we are faced with in the future. Command and control mechanisms do not provide an attractive incentive for farmers and ranchers to produce the things that the public wants. A new, more efficient and effective approach should be developed to assist farmers and ranchers in providing the public with what it wants. It should be voluntary, provide sufficient economic incentives and clearly define the benefits that society at large derives from agriculture.

We believe that the reauthorization of the CZMA should affirmatively support a preference for voluntary, incentive-based programs for water quality protection for agriculture. The costs of planning and regulatory water quality actions for nonpoint sources will impact agriculture in the coastal zone. The costs of permits, plans and potential production restrictions will be a burden that will put the affected farmers at a competitive disadvantage within their industry. The coastal zone program should be looking to enhance and support agriculture for its contributions to open space, wildlife habitat, and the local economy. Ultimately, increased resources must be made available to landowners if we are to make continued progress in improving water quality.

Existing programs such as the Environmental Quality Incentives Program (EQIP), the Conservation Reserve Enhancement Program (CREP), the Wetlands Reserve Program (WRP) of USDA and the Section 319 nonpoint grants program of EPA provide resources for landowners to improve water quality. In the next farm bill we support efforts to continue and expand the opportunities for farmers to increase their environmental protection with cost and technical assistance through voluntary, incentive-based approaches.

Farm Bureau policy states that the next farm bill should:

- Continue to improve the environment through expanded incentives to encourage voluntary soil conservation, water and air quality programs, and advance technological and biotechnological procedures that are based on sound science and are economically feasible;
- Improve the quality of rural life and increase rural economic development;
- Provide willing producers with additional voluntary incentives for adopting and continuing conservation practices to address air and water quality, soil erosion and wildlife habitat.

Bridging the gap between where we are now and where we want to be in the future requires an expanded public investment in agriculture. Increases in conservation incentives are needed to lay the base today for responsible growth in our industry.

Our vision is to capture the opportunity and efficiencies of providing producers with additional conservation incentives for adopting and continuing conservation practices to address air and water quality, soil erosion and wildlife habitat. The Coastal Zone Management Act should support this approach for agriculture.

[A statement submitted for the record by The Honorable Jeb Bush, Governor, State of Florida, follows:]

Statement of The Honorable Jeb Bush, Governor, State of Florida

Chairman Gilchrest, Representative Underwood and Members of the Committee, thank you for allowing the State of Florida to submit written testimony to the Committee as you consider re-authorization of the Coastal Zone Management Act (CZMA). This legislation has proven critical in assisting Florida in developing and implementing a coastal management program that comprehensively manages and balances the competing uses of, and impacts to, the nation's coastal resources.

The entire state of Florida is designated a coastal zone as part of the Florida coastal management program. There are over 8,460 miles of coastline and no inland location more than 60 miles from either the Atlantic Ocean or the Gulf of Mexico. Of Florida's 16 million residents, 75 percent live in the state's 35 coastal counties. Our environmental, economic, and cultural coastal resources are as diverse as our population—sandy beaches, coral reefs, mangrove thickets, maritime-related industries and port facilities, military and space exploration complexes, historic lighthouses and shipwrecks. Coastal resource management is essential for Florida's present and future.

Florida utilizes two key components of the legislation to implement its coastal management program—Federal funding to assist in implementation of our state program and the requirement that various activities carried out by Federal agencies be consistent with Federally approved coastal management programs.

Florida provides Federal coastal management funding directly to local governments for a variety of activities. These range from water quality monitoring in sensitive estuaries and bays, master plan development for unique local resource areas, and hazard mitigation planning by local governments to sea turtle monitoring, dune walkovers with handicap access, and public education materials. Federal funding has been used to partner on a variety of remarkable activities such as creation of a statewide "virtual" Florida Maritime Heritage Trail on the Internet to make Florida's coastal cultural resources accessible to those planning a visit and to those for whom visiting these special places is impossible. The program has provided funds to implement a beach water quality pilot project, to support planning and protection efforts in the Everglades, and to develop a performance indicator system unique among the coastal states to assess our coastal management efforts.

The Federal consistency provisions allow coastal states to review Federal actions affecting any land or water use or natural resource of their coastal zone for consistency with the enforceable policies of the state's coastal management program. Specifically, coastal states review: 1) activities conducted by or on behalf of a Federal Government agency; 2) activities which require a Federal license or permit; 3) activities conducted pursuant to an Outer Continental Shelf Lands Act lease; and 4) Federally funded activities.

In Florida, these activities are reviewed in conjunction with notices received under Presidential Executive Order 12372, the National Environmental Policy Act, the Outer Continental Shelf Lands Act and certain Federal permit applications. To avoid duplication, consistency reviews are integrated with reviews under the above laws.

Because the Coastal Zone Management Act requires Federal agencies to consider state laws and policies when implementing Federal projects and programs, it is an important means to resolve potential conflicts and to gain state and public support for proposed Federal actions. Early consultation and cooperation between parties maximizes the probability of a smooth and expeditious permit review. Early resolution of issues helps to avoid costly last-minute changes to projects in order to comply with state regulatory requirements. The larger net result is that nationwide, Federal agencies are supporting better management of coastal resources through effective state-Federal partnerships.

The Coastal Zone Management Act has allowed Florida to review thousands of Federal projects under the Federal consistency provision since the state's program was approved in 1981. The consistency process has enabled Florida to work with its Federal partners at the Environmental Protection Agency (EPA), United States Army Corps of Engineers (Corps), U.S. Department of the Interior (DOI), the U.S. Department of Transportation (DOT) and other Federal agencies to review projects expeditiously, identify potential problem areas and, most importantly, to reduce impacts and/or improve the environmental benefits of Federal activities and decisions affecting Florida's environment, economy and quality of life.

The overwhelming majority of projects reviewed under this provision have received the state's approval, deeming them consistent with Florida's Coastal Management Program (FCMP), although there have been notable exceptions. For example, the state reviews Outer Continental Shelf lease sales, exploration plans and development and production plans that affect Florida's coastal resources for consistency with the FCMP. The consistency process has enabled the state to ensure that Florida's marine and coastal resources are adequately protected from the adverse effects of offshore oil and gas activities. In one case, Florida found Chevron, U.S.A., Inc.'s plan to produce natural gas south of Pensacola inconsistent with the state's coastal management program. This finding was based on the potential for substantial harm to important marine coastal resources which support the state's primary industries such as recreation, tourism and commercial and recreational fishing. Chevron's appeal of the state's objection is currently under consideration by the Secretary of Commerce.

The following further exemplify how Florida has used its consistency concurrence to protect our unique natural resources:

Federal consistency is the basis of the state's coordination with the EPA and the Corps on the siting and management of Ocean Dredged Material Disposal Sites. Through consistency coordination, the state has redirected this program toward marine resource protection and cooperative state-Federal management of activities at the numerous sites off of Florida, both in state and Federal waters.

Working through the consistency process in conjunction with Gulfstream Natural Gas Systems LLC during the siting of a natural gas pipeline resulted in significant reductions in impacts to sensitive offshore biological resources and fisheries habitat. This was achieved through the realignment of the pipeline to avoid approximately 50 acres of fisheries habitat and an agreement to conduct extensive mitigation and monitoring to offset unavoidable impacts.

Raising concerns to the Corps regarding the proposed disposal of dredged beach-quality sand offshore, rather than onto adjacent beaches, the Corps agreed to bring the project into compliance with state law by depositing the sand on the beach. Consistency is an important coordination mechanism for all Federal navigation, flood control and beach stabilization projects.

The Florida Gas Transmission company was alerted to a possible conflict with state sovereignty concerns (encroachment on state-owned and managed lands) during a natural gas pipeline expansion and consulted with the appropriate parties to determine an acceptable route.

Florida reviewed the Corps nationwide permit program for consistency with state laws and regulations. By fashioning regional conditions that conform to state regulations, we have been able to concur with the use of the nationwide permits in Florida.

During the design and siting of artificial reefs in Federal waters adjacent to our state, consistency ensures that adequate marine resource protection is included.

During the project design phase of proposed bridge replacements, consistency has ensured there is adequate mitigation for impacts to natural resources (including important commercial oyster habitat). It is also an important coordination mechanism for all other DOT projects in the state.

Mr. Chairman and Members of the Committee, the intent of the Coastal Zone Management Act has always been to foster partnerships between the Federal and state governments. Nowhere are those partnerships flourishing more than in Florida, and we look forward to continuing them well into the future.

[The prepared statement of Mr. Farr follows:]

Statement of The Honorable Sam Farr, a Representative in Congress from the State of California

Because of the widespread agreement on this issue within the California delegation, I am submitting this single written testimony with the support of my colleagues Susan Davis, Mike Thompson, and Lois Capps.

Thank you for the opportunity to submit this testimony. I have prepared this statement to express my adamant opposition to several amendments proposed by the oil and gas trade associations that would undermine the Coastal Zone Management Act by weakening the right of the states to review Federal activities inside or outside their coastal zone and ensure that they are consistent with their coastal management programs.

By enacting the Coastal Zone Management Act in 1972, Congress gave the States unprecedented authority and responsibility to manage their coastal zones. In California, we take this responsibility very seriously. Through the California Coastal Commission, we have been managing our coastal resources with a comprehensive statewide plan since 1965, seven years before the Coastal Zone Management Act was enacted. The success of these endeavors is evident to anyone who has visited the California coast.

Although California currently implements its coastal management plan with the lowest per capita Federal funding of any state, our commitment to coastal management has served to protect some of this nation's most valuable natural assets. Nearly 8% of the entire U.S. Population lives in the coastal counties of California and have benefitted from this management. California is the most visited state in the nation hosting 282 million visitors every year. Our beaches contribute $14 billion dollars of direct revenue to the national economy. In 1999 there were $150 million worth of fish caught in California fisheries. Our waters also contain four of the nation's 13 national marine sanctuaries which protect some of the world's most diverse, and sensitive marine ecosystems.

Considering the success that we have achieved in California in managing our own coastal zone, it is shocking that anyone would propose to "fix" the Coastal Zone Management Act by removing the states from the process of deciding what is best for our nation's coasts. This, however, is precisely what the oil industry proposes to do with these amendments.

In their suggestion to amend the definition of "enforceable policy" to apply only to activities occurring "within the boundaries of the State", the oil industry is clearly attempting to exempt outer continental shelf exploration from state consistency review. Because these activities have the obvious potential to significantly impact the coastal zone, the only rationale for such a change would be that the states are incapable of making informed decisions about the risks and benefits of offshore exploration. Such an assumption is contrary to the fundamental principles of the Coastal Zone Management Act and would undermine the foundations upon which it was created.

In fact, the Coastal Zone Management Act provides a mechanism for the Federal Government to override decisions by the states to allow an activity that would contribute significantly to the national interest. This appeal process, administered by the Secretary of Commerce, has been both effective and fair. In the case of oil industry appeals, of which there have only been 14, the Secretary of Commerce has been sympathetic to 7. The industry amendments, however, would attempt to change this process and give this authority to the Secretary of Interior. Although the Secretary of Interior might weigh in favor of their appeals more frequently, implementing this change would bifurcate the consistency process, and create a clear conflict of interest for the Secretary of Interior. There is simply no reason to confuse and complicate a process that works effectively.

I am confident that this subcommittee will see the accomplishments of California, and the Coastal Zone Management Act as compelling evidence that the consistency provisions within the Act should only be strengthened if they are to be changed at all. I, along with my colleagues from California, feel very strongly about our coasts and our state's right to make the decisions concerning their protection. California has done an exceptional job of managing and protecting its coastal zone. Clearly the reauthorization of the Coastal Zone Management Act should move in a direction that helps us continue to make progress. I look forward to working with this subcommittee throughout the process to ensure that the Act is strengthened and improved.

[The prepared statement of Ms. Harman follows:]

Statement of The Honorable Jane Harman, A Representative in Congress from the State of California

Mr. Chairman and Ranking Member Underwood. Our coastal areas are one of our nation's most precious resources and must be protected against unnecessary offshore drilling.

The proposed amendments to the Coastal Zone Management Act Consistency Provisions are an assault on a State's right to protect and manage its coastal resources. In California, State and Federal agencies have a long history of working together to preserve our coastal areas. These amendments jeopardize that relationship.

Part of maintaining a healthy coastal zone is ensuring that the surrounding areas, be it the Outer Continental Shelf or "up stream" areas, are also managed responsibly. Restricting the State's ability to review non-Federal activity in these sensitive areas undermines years of preservation efforts at the state level.

Information is an invaluable component of good resource management. Two of the proposed amendments limit the information available to States performing environmental reviews under CZMA—seriously handicapping thorough examinations of development proposals. In particular, States should not be limited to information requested by the Secretary of the Interior.

Another amendment transfers jurisdiction over Outer Continental Shelf oil and gas activities from the Secretary of Commerce to the Secretary of the Interior. This is an unnecessary change that will give the same Federal agency that approves offshore drilling permits, the authority to override States' permit objections—significantly weakening the appeal process.

The final amendment reduces the period of time the Secretary of Commerce has to review appeals under CZMA. Requiring the Secretary to decide on appeals before obtaining all necessary information is reckless and not conducive to sound policy creation.

Our coastlines are one of our most precious resources and protecting them is a top priority. The aforementioned amendments do not address this priority and hopefully will not be adopted.

Mr. GILCHREST. I feel bad about making people rush through their statements. And that is just the way it works to get all this done, with everything else that we have to do. And I apologize for the lights and all those things.

But we did sort of jump away from Mr. Tudor's last 60 seconds or so.

[Laughter.]

So, Mr. Tudor, if you have any wrapup statement that you would like to make?

Mr. TUDOR. Just to reinforce the four recommendations of the Coastal States Organization.

One was to eliminate the cap and increase state grant support under CZMA Section 306.

Another one was to authorize state grants to assist local communities and decisionmakers, and I had provided a little aerial photograph of a town in Congressman Saxton's district called Stafford Township that showed land-use/land-cover change over a 10-year period that has been very instructive to mayors.

And we have sent that kind of a tool to all municipal officials in New Jersey to give them a feel for impervious cover linkage to nonpoint source pollution. So I just wanted you to be aware of that.

Third was that the CSO is very supportive of this concept of indicators, specifically indicators focused on environmental improvement outcomes, those kinds of things. And we are working closely with NOAA NOS as part of an integration Committee and the Heinz Center.

And lastly that we feel strongly that we should maintain support for state consistency review, the same kind of testimony you heard from the California delegation.

Thank you.

[The prepared statement of Mr. Tudor follows:]

Statement of Robert Tudor, Deputy Commissioner, New Jersey Department of Environmental Protection, and Vice Chair of the Coastal States Organization

Introduction

Chairman Gilchrest, Delegate Underwood and members of the Subcommittee, I am Bob Tudor, Deputy Commissioner of the New Jersey Department of Environmental Protection and Vice Chair of the Coastal States Organization (CSO). Thank you for the opportunity to testify this morning on behalf of CSO and the nation's 35 coastal states and territories.

Since 1970, CSO has represented the collective interests of the coastal states and territories along the Atlantic and Pacific Oceans, Gulf of Mexico, and Great Lakes. CSO is an advocate for states working for sound and balanced management, protection and restoration of our nation's natural and economic coastal resources.

I would also like to acknowledge the efforts of my home State Representatives on the Subcommittee—former Chair, Representative Jim Saxton, and Representative Frank Pallone, for their leadership and support of coastal resource management and protection.

CZMA has long enjoyed widespread bipartisan support in Congress and public support out in the states. CSO looks forward to working with Congress to complete reauthorization this year.

Summary of Key Recommendations

CSO's reauthorization objectives and recommendations can be summarized as follows:

- It is critical that Congress raise the funding for state coastal program grants and the cap on allocations of Section 306 grants so that all states can share equitably in the funding increases needed to address the increasingly complex challenges facing our nation's coastal communities. The cap, which has been in place for the last 9 years, restricts funding to 15 of the 33 states with approved programs. Increased program support is needed to enable states and communities to keep pace with increasing development, population growth, expanding coastal tourism, and land and water use changes in the coastal zone. We recommend that funding for these programs be set at $80 million in fiscal year 2002, consistent with the proposed budget recommendations and be increased in the out years.
- Additional funding for grants to states to provide assistance for coastal communities initiatives to accommodate growth efficiently and protect and restore critical open space, habitats and coastal resources. Coastal community funding should be in addition to, and not compete with, funding for implementing existing state coastal program components and commitments. Community assistance grants should be available for a broad range of uses , including characterization, assessment and planning and studies, as well as acquisition and specific projects. We recommend that funding be set at a minimum of $40 million in fiscal year 2002 for assistance and increased substantially in the out years to provide increased emphasis on implementation efforts and sustained support for communities and conservation.
- While it is essential that states retain the flexibility under the CZMA to establish their own priorities for designing and implementing coastal programs consistent with national objectives, CSO also supports changes to the CZMA that would improve accountability through the development of appropriate outcome indicators that can be used track the effectiveness of the CZM programs.
- Finally, the CZMA consistency provisions, which require Federal activities, licenses and permits to be consistent with Federally approved state coastal policies, are the cornerstone of the Federal/state partnership under the CZMA. Coastal states and territories will oppose any proposals that seek to weaken states' rights under CZMA's consistency provisions to review activities that affect coastal resources and uses.

The CZMA: A Cooperative Framework for Improving the Quality of Life Along the Coast

The overall objective of state coastal management's collective efforts is simple—to protect and improve the quality of life for the people who live near and visit the coast and to protect and restore the natural resources upon which that quality of life depends. It is increasingly clear that to achieve this objective in the face of continuing growth of population and increasing conflicts among people and businesses dependent on the coast will require an increased commitment shared by all levels of government in partnership with local communities and the private sector. Past mistakes need to be remedied and future ones avoided.

Since colonial times, development has been concentrated along our nation's coasts and we have depended on the coasts for commerce, transportation, fishing and recreation. Until passage of the Coastal Zone Management Act (CZMA) in 1972, decisions affecting coastal resources were made in piecemeal fashion with little consultation or coordination between the Federal, state and local governments. The CZMA recognizes that integrated planning and management, and the coordination of multiple agency efforts and conflicting mandates are important to successful conservation of coastal resources while accommodating economic growth.

In New Jersey, we are seeking to implement this comprehensive management regime by working with local communities to integrate state and regional planning, state-wide land acquisition and habitat characterization initiatives, and watershed management into local action. An integrated plan for America's coasts through CZMA supported Federal-state-local partnerships can provide an excellent framework for balancing competing interests and uses along our nation's coast; protecting coastal ecosystems; redeveloping shorelines and urban waterfronts; and enhancing the economic vitality of coastal communities and the nation.

A Flexible, State–Based Framework: The CZMA establishes a Federal-state partnership to achieve the goal of maximizing sustainable economic and environmental objectives. The CZMA provides a flexible framework to develop collaborative, innovative community-based strategies. The CZMA incorporated the essential principles of the "sustainability" and "stewardship" more than twenty years before the terminology came into vogue. Congress was prescient in 1972 when it adopted CZMA to provide incentives:

> to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve the wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for compatible economic development programs. (16 U.S.C. 1452(2))

In developing their coastal management programs, states in consultation with local communities, determine the right mix of incentives, cooperation, regulation, and education needed to address coastal management priorities.

A Federal-State Partnership: Through the CZMA, Congress provides incentives to states to develop comprehensive programs to balance the many competing uses of coastal resources. The CZMA provides incentives to the states to identify their own coastal management priorities consistent with broad national objectives. All Federal funds are required to be matched by the states dollar for dollar, and leverage significantly more investment from the local partners and the private sector. There is no greater testament to the success of the state/Federal partnership forged by the CZMA than the fact that 34 of 35 eligible coastal states have chosen to participate in the program. Through their voluntary participation, states promote the many national interests cited in the CZMA--protecting fish and wildlife habitats; managing coastal development in hazardous areas; coordinating the siting of energy, commercial and industrial facilities; improving public access to the shore; restoring and redeveloping waterfronts; streamlining permitting procedures; and involving the public and private sector in decision-making.

Ensuring Consistency with State Programs: In enacting the CZMA, Congress recognizes that unless Federal agency actions and permits were consistent with Federally approved state CZM plans, the national goals of the CZMA would never be reached. Once state programs are Federally approved, Federal actions impacting state resources, including licenses and permits, are required to be consistent with state program policies. The CZMA provisions under section 307 focus on the need for coordination and consultation, and include adequate review of state actions and full consideration of the national interest.

NERRS—Living Laboratories and Classrooms: The CZMA also established the National Estuarine Research Reserve System (NERRS.) NERRS currently consists of a network of 25 state operated coastal and estuarine areas. Two more are under development. NERRS are set aside as sites to enhance coastal stewardship,

monitoring, research and education. These sites provide areas for intensive study of the estuarine ecosystems that typify the biogeographic regions of the United States, so that coastal managers and local decision-makers can be provided with a better understanding of the biological, chemical and geophysical dynamics which must be taken into account if our efforts at coastal and estuarine restoration and protection are to succeed.

The Challenges Ahead

In the nearly 30 years since the enactment of the CZMA, the Clean Water Act and other landmark environmental statutes we have addressed many of the immediate problems along the coast. The challenges that lie ahead are more difficult and complex. They cut across political and ecological boundaries, the public policy spectrum, and all levels of government, as well as non-governmental and private sector interests. In order to address these challenges effectively, we need to take advantage of the inherent strengths of the CZMA to:

(i) coordinate decision-making across programs and levels of governments;
(ii) transcend specific mandates to address multiple resource management objectives; and
(iii) utilize the best available information to develop consensus and support implementation of locally-designed solutions that take into account broad landscape and ecosystem management goals.

The population density of coastal counties are already five times the national average, and coastal areas are becoming more crowded every day. (See chart attached as Appendix A) From 1996–2015, coastal population is projected to increase from 141 million to 161 million. Increased development pressures inevitably follows population growth. For example, in the Delaware Estuary, population is projected to increase 10.9 percent, from 4.9 million in 1990 to 5.3 million in 2020; while developed land forecast to increase 36 percent from slightly over 700 acres in 1990 to almost 1000 in 2020. (See chart attached as Appendix B.)

In addition, coastal tourism is one of the fastest growing segments of the US economy. In 1999, tourism in New Jersey generated an all time high of $127.7 billion in revenues and supported nearly 500,00 jobs. The nation's economy is increasingly dependent upon the international trade that in 1995 moved cargo valued at $620 billion through our nation's ports. Coastal management programs in California, Massachusetts, Texas, South Carolina, Delaware and many others are working with port communities to identify suitable long term disposal and management of dredged material and to assess the impacts of planned port expansion on local communities and harbor uses.

While we have made significant progress in reducing the loss of coastal habitats and the pollution of coastal waters, much remains to be done. In 1998, there were approximately 7,200 beach closings and advisories in coastal and Great Lakes waters, about 30 percent of the nation's shellfish-growing areas are closed or have harvest restrictions. In New Jersey, between 1986 and 1995 we experienced a net loss of agricultural lands, forest lands and wetlands. Pressures are particularly acute in coastal areas in New Jersey and other states. Increasing outbreaks of harmful algal blooms, the expansion of the dead zone in the Gulf of Mexico, and threat of sea and lake level rise are a few of sobering reminders that many of our most intractable coastal challenges lie ahead.

CZMA can also provides a mechanism for resolving issues of national significance such as the exploration of oil and gas in offshore waters. In Louisiana the state coastal management program is getting preparing to examine pipeline corridors for oil and gas transmission lines with the intent of establishing corridors where such lines can be installed with minimal environmental disturbance through an expedited permitting process. While issues regarding energy production vary among the states and can be very emotional, we must remember that these activities, conducted using environmentally sound technology, are important to our nation and are important to the economies of several coastal states. CZMA provides a framework for states to work through these issues based their individual needs but within the national policies.

CZMA Reauthorization Recommendations

CSO, working with its Delegates and state CZM and NERRS program managers, has identified the following recommended changes to the CZMA that will support more effective implementation of the nation's coastal and NERRS programs to meet future challenges.

(1) Eliminate the "cap" and increase state grant support under CZMA Section 306. Equitable funding increases are needed by all states and territories to assure the maintenance of existing state commitments to implement CZ program activities and

administration. Despite increasing population, conflicts in the coastal zone, and pressures on coastal resources, funding under CZMA section 306 for state grants to administer and implement their coastal programs under 306 have been capped at the $2 million for the past nine years by the Appropriations Committee. As a result, many states with have receive no increases in 306 grants since 1991, and 15 of the 35 eligible states have reached the cap level in fiscal year 2001. (The states currently at the maximum include Alaska, California, Florida, Louisiana, Maine, Maryland, Massachusetts, Michigan, New Jersey, New York, North Carolina, South Carolina, Texas, Virginia and Washington.)

These grants will provide support for critical coastal watershed management, interagency-coordination, habitat characterization and restoration, hazard mitigation and public access activities. For example:

- In Louisiana, where 25–35 miles of wetlands are lost each year, a 50-year plan for coastal restoration has just been completed. This provides a comprehensive blueprint for action needed to protect these wetlands which are important to Louisiana and the nation. The coastal program also recently introduced an innovative a Permit Information Center where permit applicants can meet a permitting expert for assistance in preparing applications.
- The Massachusetts CZM program provided support for the four towns abutting Pleasant Bay on Cape Cod, a state Area of Critical Environmental Concern (ACEC), to develop local consensus around a resources management implementation plan, the state does not have sufficient funds to support plans in the remaining 13 ACEC's in the coastal area.
- Guam's coastal management program is working in partnership with the University of Guam and Guam EPA to develop a strategy for managing dredge activities associated with contaminated sediments.
- North Carolina has awarded almost $9 million in state and Federal funds since 1982 for public beach and waterfront access projects.

(2) Authorize state grants to assist local communities and decision-makers. These grants should be in addition to state program administration and implementation funding and be targeted to assist local communities to understand, plan and undertake actions that will accommodate growth and support conservation and restoration of critical coastal open space, habitats, protective shorelines and other natural coastal features.

Technological advances, such as the development of computer generated geographic information systems (GIS), have greatly expanded the ability to assess the impacts of infrastructure placement in relation to existing development, future growth patterns and natural resources. However, local community officials and planners in many cases do not have the resources to get past the entry-level threshold to make use of these tools, or do not have the information they need to consider the impacts of their local decisions on a broad landscape and regional ecosystem scale.

For example:

- In New Jersey, we are expanding efforts to provide the technical tools and information needed for informed, adaptive coastal management at the state and local level through development of key environmental data on land use and land cover change and coastal monitoring, assessment and impact projection tools that will be available to local communities.
- The Maryland coastal program has funded development sensitive area inventories, modeling of growth scenarios, GIS mapping, and development of plans to support local governments efforts under the state's Economic Growth, Resource Protection and Planning Act.
- Louisiana is supporting the efforts of its 19 coastal parishes to develop and adopt local coastal management plans, and is supporting a web-based tracking system that will allow permit analysts and the public view data on projects and affected habitats.
- North Carolina has established the Population, Development, Resource Information System, a comprehensive database of information related to population growth, economic development and natural resources which assists in local watershed management efforts.

(3) Support ongoing review and enhancement of state coastal programs to address CZMA goals. Under CZMA, between 10–20 percent of the state grants are set aside under section 309 for states to enhance their coastal management programs. Under 309, states review the coastal management programs every five years to assess how they can be improved to address the national goals of the CZMA more effectively. As an incentive, no cost-share is required to match this portion of the state grants. These enhancement grants are particularly effective in supporting state efforts to support local community to improve their management efforts.. Congress should

consider expanding eligibility for enhancement grants beyond the incorporation of specific "program changes" to include support for innovative projects or other activities that will significantly improve the management of coastal resources. State enhancement efforts under section 309 should be linked with CZMA program review provisions under CZMA 312 and the development of coastal programs outcome based performance indicators (see discussion below.)

(4) Direct NOAA to provide and coordinate management-oriented research supporting state coastal management efforts by states and NERRS. The technical and scientific issues relating to coastal management are increasingly complex. NOAA can do a much better job in moving beyond development of research, tools and technology products to assure the availability of information and tools in a form and at a scale that is usable by coastal decision-makers. Communities and states must look to new technology and tools that will increase the ability of coastal decision-makers to assess, monitor cumulative and secondary impacts on coastal resources.

Congress should consider amending CZMA section 310 to direct NOAA to work with states and the National Estuarine Research Reserve System, to identify management-oriented research priories and annual work plans for research that address state and regional priorities, and to maintain a clearinghouse of research, information and technologies that will assist states and communities to improve the management of the nation's coastal resources. These efforts should be coordinated with other Federal agencies and support implementation of the Integrated Coastal Monitoring and Research Strategy, recently published jointly by EPA, NOAA, USGS and other agencies.

The lack of adequate information is perhaps the greatest impediment to state and local coastal management. In conducting required assessments under the CZMA section 309 enhancement grants program, two recurrent themes were apparent.

- The methodologies and data for determining cumulative impacts, such as from recreational boating, need to be further developed.
- Data is lacking to assess trends and the effectiveness of state programs.

NOAA has the capability to fill many of these gaps. Section 310 needs to be amended to ensure that the expertise, resources, products and services of NOAA are delivered to state and local decision-makers. These efforts need to go beyond demonstration projects. The results of successful demonstration projects need to be transferred to other states.

(5) Increase support for the National Estuarine Research Reserve System (NERRS) through CZMA section 315. CZMA reauthorization should include the specific technical amendments and reauthorization recommendations of the National Estuarine Research Reserve Association (NERR). CZMA reauthorization should retain the current cost-share ratio and, at a minimum, provide the funding necessary to support the existing system of 25 NERRS sites and future funding to support the planned growth of the system to fill current state and eco-regional gaps. Language should be added to provide funding without match specifically to support national education initiatives, including the Coastal Training Institutes Initiative and the System–Wide Monitoring Program (SWAMP.)

(6) Support development of cost-effective, outcome and Coastal Program Effectiveness Indicators. CSO supports strengthening the accountability of CZM programs. The development of indicators that can be used to track the effectiveness of coastal management programs in supporting state program objectives and national goals of the CZMA. The provision should require that appropriate outcome indicators for the program be developed in consultation with and participation with State representatives, be flexible enough to address the variations among state program priorities, and be cost-effective and not unduly burdensome to implement. Funding should be provided to the state to support the development of state specific indicators and the necessary collection and analysis of data to assess program effectiveness.

Additional Specific Comments on the CZMA Reauthorization Discussion Draft and H.R. 897

Adjustment of the Cap on State Grant Allocations:

CSO Recommendation: CSO supports for the language in the Discussion Draft clarifying that all states should share equitably in funding increases under CZMA Section 306.

Comments: This language clarifies the Congressional intent that a cap should not be imposed that limits states from sharing in programs funding. The current cap of $2 million on state Section 306 grant allocations has been imposed annually in the appropriations process for the past nine years. Sixteen of the 33 states with approved coastal programs are currently at the cap and do not share in any appropriations increases for the program.

Allocation of 50 Percent of State Grants to Eligible Coastal Community Projects:

CSO Recommendations: CSO supports increased authorization of funding to states that can be directed to assist local communities to address critical growth management, habitat protection and restoration needs. CSO cannot support the 50 percent set aside of grants as proposed in the Discussion Draft. The set aside would effectively reduce grants to many states to administer ongoing coastal program commitments. CSO recommends that the Subcommittee consider a separate additional authorization for state grants to assist communities as provided in H.R. 897 and S. 328.

Comments: CSO agrees with the intent of both the Discussion Draft and H.R. 897 to increase support for grants to states to assist coastal communities. However, the approach proposed in the Discussion Draft has a potential to undermine both state and local efforts. When combined in a single line item, the allocation of 50 percent of a state's grant to local assistance could severely impact the implementation of ongoing state programs. Funding for community grants should be in addition to, not reduce, the funding currently available to states under Section 306 to implement and administer CZM programs. Continued support for these state program activities is important to local efforts to accommodate growth and protect resources even when the assistance is not provided as funds given directly for the local projects.

CZM Funding Levels

CSO Recommendation: CSO recommends that a minimum of $80 million be authorized in fiscal year 2002 for CZMA program implementation under current Section 306/306A and 309, and an additional $40 million for coastal community grants. Funding in succeeding years should be increased to provide for additional funds as needed.

The $80 million authorization of appropriations levels proposed in the Discussion Draft, falls far short of what would be needed to hold currently program need whole and provide the additional assistance needed to provide the 50 percent envisioned for proposed Coastal Community Projects initiative. The $80 million level proposed by CSO is consistent with the fiscal year 2001 budget recommendation for current CZM program needs, including coastal nonpoint pollution. An additional authorization $40 (50 percent of the proposed authorization level in the Discussion Draft) should be included in the to initiate the coastal community projects initiative

Eligibility for Coastal Community Projects

CSO Recommendations:

(1) The Subcommittee should community project eligibility criteria based on the recommendations of S. 328 and H.R. 897 that includes support for development of local plans and which focus on accommodating growth and restoring and protecting critical open space and habitats.

(2) Provisions of the Discussion Draft and H.R. 897 requiring that eligible projects must be done "in conjunction" with local governments should be clarified. States should be able to undertake projects in coordination with and for the benefit of local governments.

(3) Eligibility should include land acquisition, easements and other methods for land conservation and protection currently eligible under Section 306A. The eligibility requirements should be reviewed to assure they include the project categories and types currently eligible under Section 306A

(4) The Discussion Draft should be amended to clarify that individual projects do not need to be submitted to the Secretary but, rather, eligible community projects should be consistent with implementation of the state coastal management plans and submitted by the state CZM agency as part of the state's annual CZM implementation plan.

Consolidation of CZMA Grants and Elimination of Section 309 Enhancement Assistance

CSO Recommendation:

(1) Maintain CZMA authority to set aside a portion of the state grant, without match, as an incentive to states to enhance CZM program effectiveness in addressing national coastal program goals and objectives.

(2) Expand eligibility for 309 grants beyond incorporation of technical program changes to include innovative activities and projects that will significantly improve state or local coastal management efforts to further national goals.

Comments: The proposed Discussion Draft would consolidate state coastal management grants into a new Section 309, and eliminate grants to states to enhance their programs to address national objectives and emerging issues. While CSO

agrees with the goal of simplifying and consolidating grants and would like to work with the Subcommittee to develop appropriate language, it should not come at the expense of current section 309 incentives for states to improve their programs. Continuation of the enhancement program and its link to national goals is also consistent with the recommendation of both the Discussion Draft and H.R. 837 that outcome indicators be developed to determine the effectiveness of coastal management programs in supporting the national goals of the CZMA.

Section 309, in its current form, was added to the CZMA in 1990 to provide states with no match Federal assistance to upgrade their programs in areas identified in the section as national priorities. The section requires states to perform periodic assessments of the adequacy of their programs to meet these national priorities and develop strategies for improving their programs. Consideration should be given to expanding eligibility beyond incorporation of specific "program changes" to encourage innovation projects and activities by the states and local communities that will significantly improve the effectiveness of coastal program management.

The development of enhancement strategies is important both to the states in assuring a regular evaluation of program effectiveness in addressing national goals and to the Federal Government in providing incentives to states to upgrade their programs on an ongoing basis to address ever changing coastal challenges. The section 309 enhancement program has ensured that at least some of a state's share of the annual grant allocation is dedicated to improving the program where it would otherwise be devoted to meeting the immediate demands for program implementation and local assistance.

Proposed Elimination of Technical Assistance under Section 310

Recommendation: Retain CZMA Section 310, and amend to require annual coordination with the states and NERRS in identification of results-based coastal management research priorities, and strengthen the accountability of NOAA to provide a clearinghouse and work with other agencies to expand research and technical support for coastal management.

Comments: CSO believes that one of the centerpieces of this reauthorization should be the reinvigoration of results-based research and technical assistance by NOAA consistent with section 310. The need for information and research at a scale relevant to the states and focused on priority coastal management issues, is also important to the development of coastal effectiveness indicators. NOAA has a vast array of expertise, services and products which have not been fully utilized in assisting states with the on-the-ground efforts to address coastal issues. The current NOAA leadership is to be lauded for their efforts to improve NOAA's technical assistance to states and a revised section 310 should provide the needed directives to reinforce these efforts..

Federal Consistency Provisions under Section 307

Recommendation: CSO is pleased to see that no changes have been proposed in neither H.R. 897 nor the discussion draft to the provisions of section 307 of the CZMA.

Comments: The title of section 307 Coordination and Cooperation " is not a misnomer. The history of the implementation of section 307 by states, NOAA and the Secretary of Commerce refutes any claims that the provisions of the CZMA which encourage Federal actions to be consistent with state programs have been exercised in an arbitrary and impudent manner. Of the thousands of consistency determinations that have been made under the Act, only a handful have generated controversy. Even those subject to state review authority under the CZMA consistency provisions agree that the process has the effect of serving as an early warning system of potential problems and encourage states and applicants to work out potential problems before they manifest. The independent review of appeals of state denials of consistency ensures that the overriding national interest is preserved when necessary for the national interest. CSO would strongly oppose any changes to the CZMA which would substantially alter section 307.

Eligibility of Non–Profits to Implement Community / 306A Projects

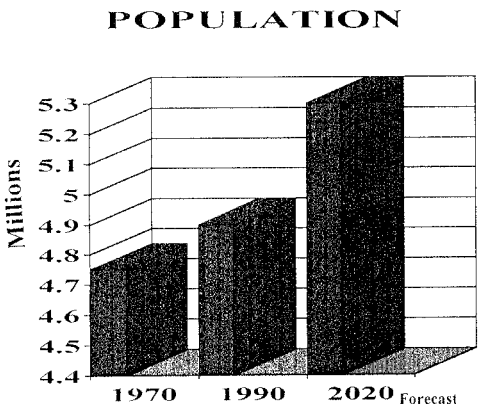
Recommendation: CSO proposes that Section 306A(e) be amended to make it clear that funds can be allocated to "not-for-profit organizations.

Comments: Such grants should be available only to undertake the objectives of section 306A and not directly to benefit such groups. In some cases. states have identified local non-for-profit groups as the best suited to undertake projects or activities eligible under the Coastal Resource Improvement Program under Section 306A.

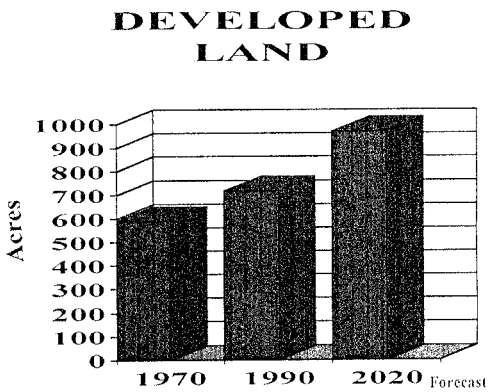
Appendix A

Persons Per Square Mile
350
300
250
200
150
100
50
0
Year
1960
1970
1980
1990
2000
2010
2015
Coastal
Non-Coastal

Delaware Estuary
Developed Land vs. Population



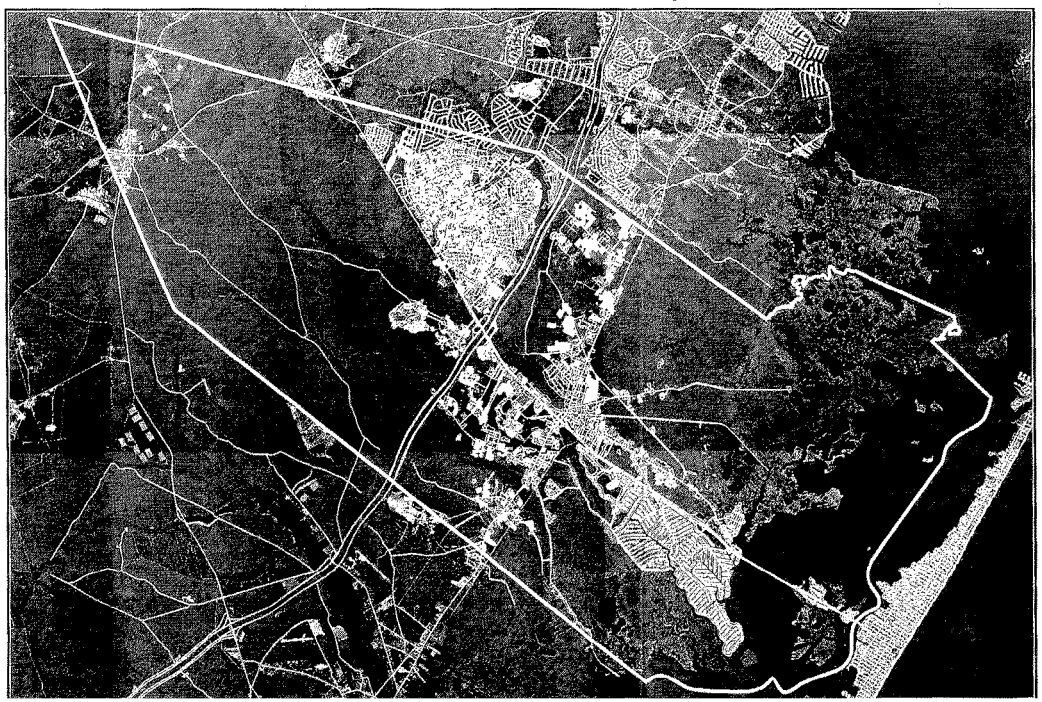
1970-1990: **1.2% change**
1990-2020: **10.9% change**



1970-1990: **19.6% change**
1990-2020: **36.0 % change**

Stafford Twp, New Jersey

Showing Growth in Developed Use Areas from 1986 to 1995/97



The yellow outlined areas delineate areas that were developed as of 1986. The solid yellow areas have been developed between 1986 and 1995/97. The total area of impervious surface (buildings, sidewalks, driveways, parking lots, etc.) is about 1,425 acres. About 230 acres of this total were added since 1986. The total area of impervious surface constitutes 5% of the total (30,577) acres in the municipality.

N
W E
S

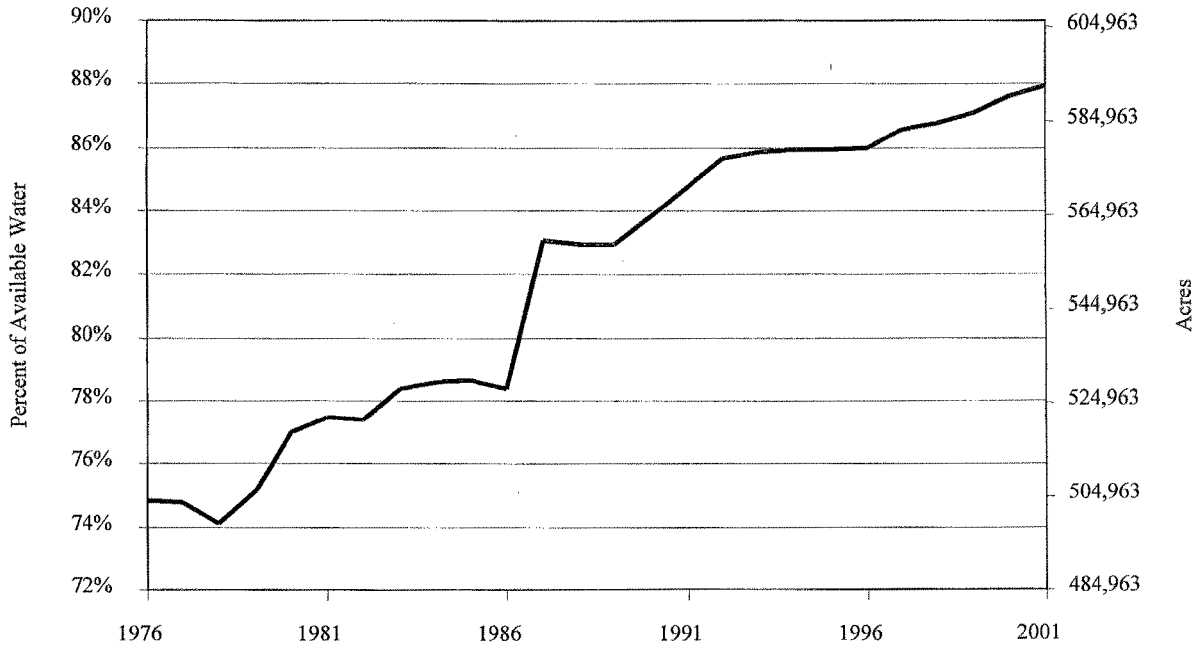
4000 0 4000 8000 Feet

Legend

- Municipal Boundary
- Roads
- Streams
- Lakes
- Developed Areas In 1986
- Developed Area Growth from 1986 to 1995/1997

Note: Developed areas include residential, commercial and industrial land uses

Shellfish Waters Open for Harvesting

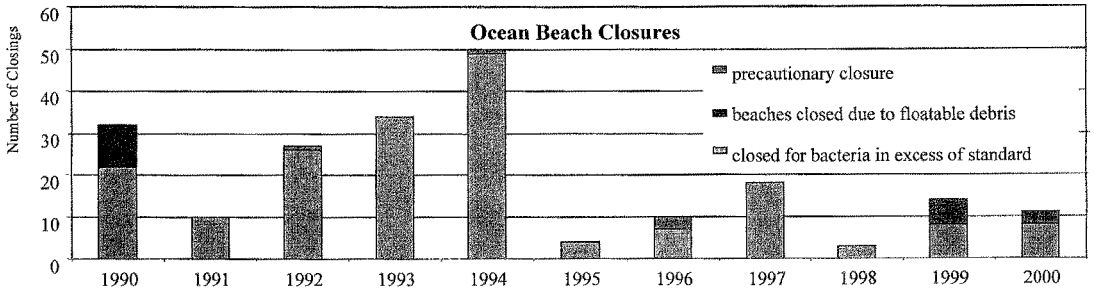


Goal: 90% Harvestable by 2005

Data Source: NJDEP Water Monitoring Management

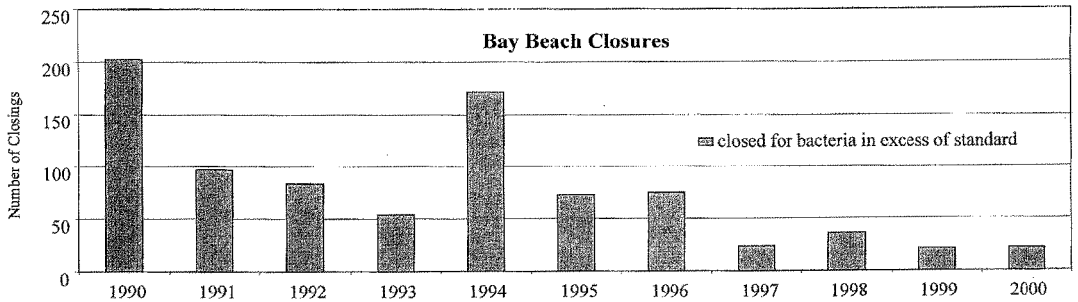
Ocean and Bay Beach Closings

1990 - 2000



Total number of ocean beaches: 179

11 different beaches closed (8 in the Wildwoods) in 2000

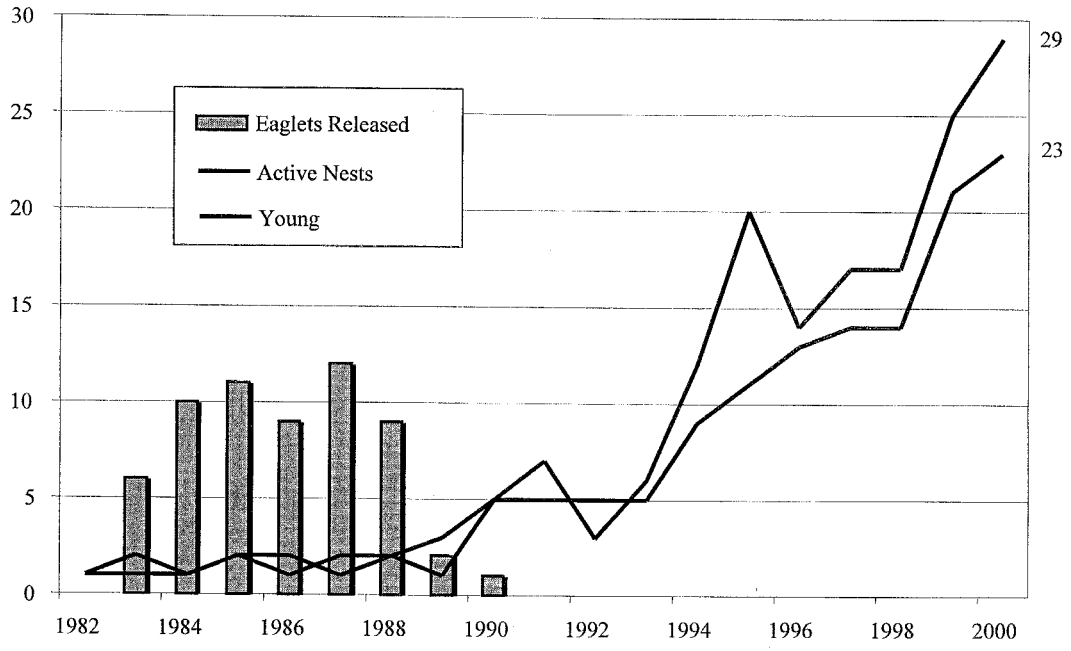


Total number of bay beaches: 139

7 different beaches closed in 2000

Data Source: NJDEP, Cooperative Coastal Monitoring Program

Bald Eagle Nests and Young



Data Source: NJDEP Division of Fish and Wildlife

Mr. GILCHREST. Yes, sir, thank you very much.

I yield to Mr. Saxton to introduce the next witness.

You did that?

Mr. DeLuca, you may begin, sir.

STATEMENT OF MICHAEL P. DE LUCA, PRESIDENT, NATIONAL ESTUARINE RESEARCH RESERVE ASSOCIATION

Mr. DELUCA. Thank you, Mr. Chairman.

I serve as the President of the National Estuarine Research Reserve Association, and my testimony is presented on their behalf today.

What I would like to do in the interest of time is to forego the majority of my remarks and kind of get to the chase here.

Mr. GILCHREST. Your full statement will be entered into the record.

Mr. DELUCA. Thank you very much.

But before I do so, I would like to acknowledge the support of the membership of this Committee on behalf of CZMA in the past, and certainly a special acknowledgement to Congressman Saxton, who has been an ardent supporter of coastal management programs in New Jersey, including the Cousteau reserve.

NERRA is dedicated to science-based management of our nation's estuaries and coastal systems, and serves as the primary advocate for the reserves, a network of 25, soon to be 26, regionally based programs that represent very diverse coastal estuarine systems.

What I would like to do is just point out a few examples of the partnership that exists between the reserves and state coastal zone management programs, identify very briefly two initiatives that are under way, and then wind up with some comments on the reauthorization.

The NERRS and coastal zone management programs represented by my colleague from New Jersey, and certainly by Margaret Davidson here, contribute to informed use of estuarine-dependent resources through an integrated program of research, education, stewardship.

For example, at the Chesapeake Bay, Maryland, reserve, that site and the Maryland coastal zone management program partnered to develop a restoration plan for submerged aquatic vegetation.

In Massachusetts, the Waquoit Bay reserve partnered with their state coastal zone management program and a variety of other agencies to reduce nitrogen loading to the surrounding watershed through a combination of land acquisition and management strategies.

It is generally recognized that local and regional land-use decisions continue to contribute to degradation of water quality, habitat loss, and wetland losses. Yet, the individuals responsible for making decisions on these issues—local elected officials, planners, government agencies, agricultural interests—are often asked to do so without sufficient information regarding potential consequences and downstream effects.

To meet these challenges, the reserves have developed several systemwide programs, including a systemwide monitoring program,

a graduate research fellowship program, and an item known as coastal decisionmaker workshops.

In addition to these core programs, the reserve system over the past few years has conducted a planning process to identify national initiatives in response to increasing demand in the coastal management community for expanded reserve products and services. These include a coastal training initiative and an expansion of the systemwide monitoring program, which is the only one its kind devoted to estuaries in the nation today.

The coastal training initiative enhances existing NERRS training delivery systems to provide the best available science-based information, tools, and techniques to individuals and groups that are making important decisions about resources in coastal watersheds, estuaries, and near-shore areas.

With respect to the second item, that of estuarine monitoring capability, we are proposing to expand the monitoring program. This is aimed at adding to the current system of environmental observations made at NERRS sites. This is primarily a water quality monitoring program, and we are planning to expand it to look at biological indicators and land-use change in estuaries.

Finally, I would like just to mention that we do enjoy a very strong partnership, the reserves, with NOAA, our parent agency. This has been recently strengthened by senior NOAA leadership, including Margaret Davidson, who has instituted or created a coastal coordinating council to foster integration between reserves and many coastal program elements of NOAA.

And also, Laurie McGilvray, who is here, the Director of the Estuarine Reserve Division—through that division, we have been receiving training materials and assistance to help reserves do their jobs better.

The Coastal Services Center and also the Cooperative Institute for Coastal Environmental and Estuarine Technology are also very helpful here.

With respect to the CZMA, NERRA recommends that amendments to the Act should provide effective mechanisms to assess the technology and information needs of coastal communities, strengthen the capacity of the state-Federal partnership to support research and monitoring, and improve the access and delivery of science-based information.

I have five specific recommendations with respect H.R. 897.

And that is, we certainly applaud the efforts of the Committee and Mr. Saxton to recognize the role of reserves in a separate title. We are very supportive of that. We would suggest that two initiatives be codified in that section as well, the coastal training initiative and the expansion or build-out of the systemwide monitoring program.

Secondly, there is a provision in there dealing with match requirements. Only recently has Federal funding for the NERRS begun to increase. We agree that coastal states need to provide strong support for the reserves, but that the current cost share works well for the foreseeable future.

Third, we recommend that the current name remain in place. Much discussion has been held on this issue over the past. We commend the efforts of this Committee with the suggestion to rename

the program, but keeping the name and "research" in the name are well-suited to the program.

And then, of course, we certainly strongly endorse suitable authorization levels, including support for construction acquisition in the bill.

I will end my remarks there. I would like to thank the Chair and the Committee for the opportunity to testify today.

[The prepared statement of Mr. De Luca follows:]

Statement of Michael P. De Luca, President, National Estuarine Research Reserve Association

Summary of Comments on Reauthorization of the CZMA

NERRA is dedicated to science-based management of our nation's estuaries and coastal systems, and serves as the primary advocate for the National Estuarine Research Reserve System (NERRS), a network of 25 (soon to be 26) regionally-based programs representing diverse estuarine and coastal ecosystems throughout the U.S. and its territories. Through a state-Federal partnership codified in the Coastal Zone Management Act, the reserves play a critical role in national efforts to sustain healthy estuaries and coastal communities.

Reauthorization of the CZMA provides an opportunity to strengthen the capabilities of coastal communities to address issues of coastal development, protection, and habitat restoration. Of particular importance to the NERRS, is the framework provided by the CZMA to meet the need for informed decision-making at the Federal, state, and local levels.

Amendments to the Act should:

- Provide effective mechanisms to assess the technology and information needs of coastal communities at local and regional scales
- Strengthen the capacity of the state-Federal partnership to support research and monitoring relevant to local and regional needs, and
- Improve the access and delivery of science-based information to coastal communities, and evaluate the performance of the state-Federal partnership in support of informed coastal decisions.

Specifically, NERRA offers the following recommendations in support of CZMA Reauthorization.

- Incorporate the Coastal Training Initiative and expansion of the System–Wide Monitoring Program as key provisions of a separate title devoted to NERRS.
- Maintain the existing cost-sharing levels for state (30%) and Federal (70%) funding.
- Maintain the name of the program as the National Estuarine Research Reserve System.
- Authorize the NERRS at an initial level of $17 million, plus $1 million per out year of the authorization period.
- Authorize a level of $15 million per year for NERRS construction and acquisition.

Introduction

Good morning. My name is Mike De Luca and I am the President of the National Estuarine Research Reserve Association. I also serve as Manager of the Jacques Cousteau National Estuarine Research Reserve and as the Senior Associate Director of the Institute of Marine and Coastal Sciences at Rutgers University. I'd like to thank the Chair, Mr. Gilchrest, and members of the committee for the opportunity to provide comments on reauthorization of the Coastal Zone Management Act in general, and on H.R. 897—the Coastal Community Conservation Act of 2001 introduced by Mr. Saxton.

My testimony today is presented on behalf of the National Estuarine Research Reserve Association or NERRA. NERRA is dedicated to science-based management of our nation's estuaries and coastal systems, and serves as the primary advocate for the National Estuarine Research Reserve System (NERRS), a network of 25 (soon to be 26) regionally-based programs representing diverse estuarine and coastal ecosystems throughout the U.S. and its territories. Through a state-Federal partnership codified in the Coastal Zone Management Act, the reserves play a critical role in national efforts to sustain healthy estuaries and coastal communities.

National Estuarine Research Reserve System (NERRS)

The National Estuarine Research Reserve System (NERRS), established under section 315 of the CZMA, is designed to promote informed coastal decisions through site-based estuarine research, education, and stewardship. This represents a relatively unique collaboration among the scientific, management, and education communities working together on a daily basis on local and regional coastal issues. NERRS sites have been selected on the basis of biogeographic regions that share geophysical and biological characteristics. Coastal states are responsible for management of reserve sites, in cooperation with the National Oceanic and Atmospheric Administration (NOAA).

Since the enactment of the CZMA in 1972, 25 estuaries have been designated as part of the reserve system including Alaska and Puerto Rico, with an additional site (San Francisco) expected to be designated later this year. Reserves serve as regional centers of excellence where coastal communities can access a broad array of coastal products and services:

- training to promote informed environmental decision-making,
- a national monitoring program for estuaries is maintained, and
- training opportunities for the next generation of coastal researchers, educators, and managers.

With these key elements, the reserve system is in the unique position of serving the national interest while responding to local needs.

Estuaries, dynamic regions where rivers meet the sea, constitute an important interface between land use and coastal resources. Considered to be among the most biologically productive ecosystems on Earth, healthy estuaries are essential to the preservation of robust coastal communities. Estuaries support vital nurseries for economically important fish and shellfish, provide essential habitat for wildlife, create opportunities for ecotourism, and serve as ports for maritime commerce. The NERRS and Coastal Zone Management Programs contribute to the informed use of these estuarine dependent resources through an integrated program of research, education, and stewardship, as well as implementation of state coastal zone management plans. For example, at the Chesapeake Bay–Maryland NERR, the Reserve and Maryland CZM Program partnered to develop a restoration plan for submerged aquatic vegetation. In Massachusetts, the Waquoit Bay NERR partnered with the state CZM Program and other agencies to reduce nitrogen loading to the surrounding watershed through a combination of land acquisition and management strategies. In Rhode Island, the Narragansett Bay NERR partnered with the state CZM Program to provide assistance in response to oil spills and conduct damage assessments. In Maine, the Wells NERR has a specific mandate to provide science support for the state CZM program, a partnership that promotes daily collaboration between the scientific and management communities.

Local and regional land use decisions continue to contribute to degradation of water quality and loss of wetland habitat. Land use in watersheds, ranging from agriculture and development to water resource allocation and flood control, are becoming increasingly important factors coastal and estuarine management. Local elected officials, land use planners, government agencies, and agricultural interests are often asked to make land use decisions without sufficient information regarding the potential consequences to downstream effects.

To meet these challenges, the NERRS have developed several system-wide programs to place reserves in a strong position to detect environmental change, respond to pressing research needs at the local and regional scale, and to provide technical training for the coastal stakeholder community:

- The NERRS System–Wide Monitoring Program is designed to provide standardized monitoring and assessment capabilities at each Reserve to detect changes in water quality, biological indicators, and land use change at the watershed scale.
- The NERRS Graduate Research Fellowship Program supports two graduate research projects at each Reserve annually on coastal management topics of concern to local and regional stakeholders. Research topics range from stormwater management and restoration ecology to invasive exotic plants and fishery habitat requirements.
- The NERRS Coastal Decision–Maker Workshops target individuals involved in local planning and management. Workshops provide science-based information on topics responsive to local needs such as polluted runoff, watershed management, water supply, and restoration science.

In addition to research, monitoring, education, and technical training, Reserves are developing resource stewardship and coastal restoration programs that address both site-specific and watershed-scale information needs. For example, the Rookery Bay NERR partnered with 70 local researchers and 100 coastal managers and local

officials to establish restoration science priorities for one of the largest watersheds in Florida.

Resource stewardship is an essential component of the NERRS mission and ensures that site conditions remain suitable for long-term research and education programs. Stewardship activities include the control of invasive species, restoration of natural hydrologic processes, and the conduct of prescribed burns in fire-dependent plant communities. NERRS staff also has built strong partnerships with local agencies, organizations, and landowners to develop watershed management strategies, and Best Management Practices that mitigate disturbance to water quality and habitat structure.

NERRS Initiatives

Over the past several years, the NERRS conducted a planning process to identify national initiatives in response to an increasing demand from the coastal management community for expanded reserve products and services. With the recent increase in appropriations, two of these initiatives are now advancing toward implementation a Coastal Training Initiative and expansion of the System–Wide Monitoring Program.

Coastal Training Initiative

One of the most significant challenges in managing the nation's coasts today is the need to link science-based information to local coastal communities. Decisions made by coastal communities can have profound, long-term consequences for estuarine and coastal environments. Elected officials, land use planners, regulatory personnel, coastal managers, and agricultural and fisheries interests are key decision makers who often do not have adequate access to relevant science-based information, training, or available technology to make informed decisions affecting the coast. Building on past success with services for coastal decision-makers (such as workshops on global climate change sponsored by the Chesapeake Bay–Maryland NERR or the transfer of management-oriented research by the North Carolina NERR to coastal decision-makers in many states using an interactive format via the Internet), the National Estuarine Research Reserve System (NERRS) has developed a Coastal Training Initiative to fill this need.

The Coastal Training Initiative (CTI) enhances existing NERRS training delivery systems to provide the best available science-based information, tools, and techniques to individuals and groups that are making important decisions about resources in coastal watersheds, estuaries, and nearshore waters. Programs have taken the form of workshops, seminars, distance learning, technology applications and demonstrations. Opportunities for information exchange and skill training are expanding coastal management networks and collaboration across sectors, and improving local understanding of the environmental, social, and economic consequences of human activity in the coastal zone. These programs also make use of field experiences, relevant research and monitoring, and facilities provided by the site-based reserves.

The CTI was designed to increase the current capacity of Reserves to deliver technical training services to under-served constituent groups. Reserve staff continue to work closely with State coastal programs and others to identify critical issues in the region and key coastal decision-makers that could benefit most from relevant science and training. Participants in CTI have included state and local elected and appointed officials, agency staff, volunteer boards, members of NGOs, business organizations, and state and regional professional associations whose daily decisions impact coastal resources.

Reserve staff are implementing the CTI in partnership with national and local organizations. At the national level, NOAA's Estuarine Reserves Division provides strategic and budget planning and support in partnership with NOAA's Coastal Management Programs, Sea Grant, and the Coastal Services Center. At the local and regional levels, individual Reserves are developing CTI partnerships with State coastal programs, Sea Grant programs, local universities and researchers, professional organizations, local government agencies, non-profit organizations, and a variety of others with expertise, skills, training sites, and logistical support. For example, at the Waquoit Bay NERR in Massachusetts, the Reserve has partnered with the Sea Grant Program at the Woods Hole Oceanographic Institution and the state CZM Program to advance their Coastal Training Initiative.

Expansion of the System–Wide Monitoring Program

Estuaries are highly variable, complex systems where the variability in water movement, water quality, habitat, and human use vary over a wide variety of spatial and temporal scales. Because of this variability, it is often difficult to separate natural change from those changes influenced by human use of our coasts and

estuaries. Two approaches are necessary to address this issue. First, targeted research is needed to determine the cause and effect relationships of human influence on estuarine variability, and second, a long-term monitoring program is needed to characterize the natural variability that governs the structure and function of estuarine systems. The reserve system has begun building the capability to meet this management need.

As noted above, the NERRS is addressing the first need through a graduate research fellowship program where students across the nation compete to work on priority needs of the coastal management community. Almost 50 graduate students per year receive support from this program and present results of their research at national, regional, and local meetings where information is transferred to other researchers, coastal managers, and those individuals responsible for making daily decisions with respect to our coastal and estuarine resources. Student projects address such topics as habitat restoration, invasive species, non-point source pollution and biodiversity. For example, at the Elkhorn Slough–California NERR, a student is exploring how seagrass can be restored by carbon dioxide enrichment; at the Chesapeake Bay–Maryland NERR, a student is linking anthropogenic nutrient inputs to microbially mediated nutrient cycling; and at the Padilla Bay NERR, students are looking at the invasion potential and consequences of a non-indigenous cordgrass.

In addition to the graduate research program, reserve sites are being actively promoted as sites for long-term research by many granting agencies such as the National Science Foundation, Environmental Protection Agency and, of course, NOAA. This promotion directs researchers from throughout the country to conduct long-term studies in estuarine research reserves.

With respect to the second need, that of a long-term, estuarine monitoring capability,

The NERRS operates the only national monitoring program for estuaries in the U.S. The system-wide program is designed to identify short-term variability and long-term trends in coastal environmental quality and health at national, regional, and local levels. The program focuses efforts on three critical areas: estuarine water quality, estuarine biodiversity, and estuarine land use change. Environmental data collected at NERRS sites are managed and accessed via a central repository and made available to state and Federal agencies, universities and others via the World Wide Web.

Expansion of the SWMP effort is aimed at adding to the current system of environmental observations made at NERR sites. This will be addressed through spatial expansion of the water quality monitoring program, and the addition of new parameters such as nutrients. Periodic syntheses of data are expected to serve as one of the mechanisms by which coastal managers can inform their decision-making responsibilities.

Partnerships

The NERRS enjoy a strong relationship with its Federal partner, the National Ocean Service at NOAA. This relationship is being strengthened by senior NOAA leadership, which recently created a Coastal Coordinating Council to foster integration between reserves and many coastal program elements of NOAA including Sea Grant. The state-Federal partnership, a hallmark of the NERRS, is strong. Two years ago, NOAA created a separate Estuarine Reserves Division to support NERRS. NOAA also has been increasing its service to the NERRS, especially training, materials, and assistance with site profiles from the Coastal Services Center, GIS capacity building with assistance from the Cooperative Institute for Coastal and Estuarine Environmental Technology and the Coastal Services Center, and by providing opportunities for the Reserves to play a larger role in coastal science programs at the agency.

Reserves also leverage significant resources on behalf of coastal research, education and management through partnerships with government agencies at local, regional, and Federal levels, private industry, and academia. For example, the Hudson River NERR received approximately $2 million in funding from the state of New York, Columbia University, and the Hudson River Foundation to characterize the benthic habitat of the Hudson River. The Jacques Cousteau NERR received more than $1 million from Federal, state, and private sources to investigate coastal processes at a Long-term Ecosystem Observatory, and to develop science enrichment programs for the precollegiate community based on this field program. At the Elkhorn Slough NERR, a partnership with the Elkhorn Slough Foundation, National Audubon Society and the Monterey County Planning Department is gathering critical resource information for a regional watershed plan. The plan will be used to guide future land use in the watershed surrounding the Reserve. A partnership between the North Carolina NERR and private industry has developed an innovative

educational program known as Estuary Live, an interactive, Internet-based field trip for students throughout the country. This program received awards from USA Today and the Governor of North Carolina. The Narragansett Bay NERR partnered with Sea Grant, EPA, the University of Rhode Island and many others to convene a Bay Summit that focused attention on a broad range of coastal issues. The summit was attended by representatives of all but two municipalities and resulted in a formal partnership to protect bay resources.

Reauthorization of the Coastal Zone Management Act

Reauthorization of the CZMA provides an opportunity to strengthen the capabilities of coastal communities to address issues of coastal development, protection, and habitat restoration. Of particular importance to the NERRS, is the framework provided by the CZMA to meet the need for informed decision-making at the Federal, state, and local levels.

Amendments to the Act should:

- Provide effective mechanisms to assess the technology and information needs of coastal communities at local and regional scales
- Strengthen the capacity of the state-Federal partnership to support research and monitoring relevant to local and regional needs, and
- Improve the access and delivery of science-based information to coastal communities, and evaluate the performance of the state-Federal partnership in support of informed coastal decisions.

Specifically, NERRA offers the following recommendations in support of CZMA Reauthorization.

NERRA applauds the effort to recognize the role of Reserves in coastal research, education, and stewardship with the addition of a separate title in H.R. 897 devoted to NERRS. This provides a strong base with which the NERRS can leverage resources through partnerships on behalf of informed coastal management. NERRA recommends that this recognition be extended to include and codify the primary research and education elements of the NERRS. These are the Coastal Training Initiative and the Buildout of the System–Wide Monitoring Program. These elements require a long-term commitment to ensure that reliable, accurate, and timely information supports informed coastal management.

NERRA recommends that the existing match funding requirements remain in place. Only recently has the Federal funding for the NERRS begun to increase. This has required the coastal states and Reserves to add significant new match funding to the program. Much needs to be done to support basic operations at each site, as well as to implement the two initiatives now underway (CTI and SWMP Expansion). NERRA certainly agrees that the coastal states need to provide strong support for Reserve programs, but the current cost-share (70% Federal–30% state) works well for this unique state-Federal partnership and should remain in place at this time.

NERRA recommends that the current name, National Estuarine Research Reserve System, remain in place. Much discussion has been held over the past several years on the name of this system. The challenge had been to come up with a name that represented the research roots of the program, but enabled individuals outside the program to pronounce and understand what an estuarine research reserve is or what an estuary is. With the recent growth in the Reserve budget and hence Reserve awareness, this has become less of an issue. Further, funds have been used to construct visitor/interpretive centers at many of the reserves that have resulted in greater public awareness and recognition of the NERRS. Finally, research is one element that distinguishes the NERRS from other parks, reserves, and sanctuaries. NERRA commends the efforts of this committee with the suggestion to rename the program in H.R. 897, but keeping the name and keeping research in the name are well suited to the program.

With respect to authorization levels, NERRA recommends that a stable base for each Reserve site is $500K to support basic operations plus additional funding to support the two primary initiatives (CTI and SWMP). Thus, NERRA supports a 5-year reauthorization beginning at $17 million and increasing by $1 million per year to accommodate new sites, expansion of products and services, and cost of living increases.

NERRA strongly endorses incorporation of funding for construction and land acquisition into the Reauthorization measure as stated in H.R. 897. The NERRS have established procedures for setting priorities for construction and land acquisition, and recently assembled long-term plans to meet construction and land acquisition needs. Incorporation of funds for these purposes ($15 million per year) into the CZMA will provide a stable, long-term source of funding for the NERRS to maintain facilities in support of research, education, and stewardship programs, as well as to acquire key land and water areas for watershed management.

Closing

I'd like to thank Chairman Gilchrest and members of the Committee for the opportunity to present testimony on behalf the Reauthorization of the Coastal Zone Management Act. I will be pleased to answer any questions the Committee may have at this time.

Mr. GILCHREST. Thank you very much, Mr. DeLuca.

Our next witness is from Maryland, representing the State Department of Agriculture. Ms. Lawrence, welcome.

Ms. LAWRENCE. Thank you.

Mr. GILCHREST. We look forward to your testimony.

STATEMENT OF LOUISE LAWRENCE, CHIEF, RESOURCE CONSERVATION, MARYLAND DEPARTMENT OF AGRICULTURE

Ms. LAWRENCE. Good morning. I wanted to thank the Chairman and Members of this Committee for granting this opportunity for me to speak today.

My name is Louise Lawrence. I am Chief of the Office of Resource Conservation with the Maryland Department of Agriculture. My section is responsible for agricultural soil conservation, water quality, and natural resource protection programs.

My involvement with coastal zone issues is illustrated by my service on the Chesapeake Bay Critical Area Commission, the Maryland Interagency Nonpoint Source Coordination and Grants Committee, the Coastal Bays Implementation Committee. And I have been the liaison for my agency for coastal zone programs since 1985.

The coastal zone program in Maryland is implemented in 16 counties that cover two-thirds of the state. We get about $2.5 million in Federal funds for coastal zones in Maryland every year.

Our program is networked. And what this means is that it is implemented by an array of agencies. My agency is one of them. It implements many elements of the program.

It also means that we use all sources of funds to implement the program, not just the Federal money, but there is a lot of state and local effort and funds and staffing resources to implement it.

We also have a number of programs that supplement or support coastal zone on the Federal and local and state levels. Some of these are the Chesapeake Bay Program, the National Estuary Program, the coastal bays program, and the Clean Water Act Section 319 nonpoint source program.

All of these programs have somewhat similar objectives, but all of them have a little different emphasis in terms of how they want their money to be spent and what types of measurable results they expect to see in the end.

And for all these Federal programs, we get about $8 million worth of funding to implement the requirements.

In state fiscal year 2000, the state put in over $97.5 million, so you can see that leveraging of Federal funds is pretty significant in Maryland. We are very committed financially and with our programs to implement objectives and goals that are consistent with the Coastal Zone Management Act.

Despite its commitment to coastal zone, I did mention the need to maintain flexibility in how we implement that program. Because

we have several agencies who are responsible for implementing at the state and local level, as well as the Federal level, we tend to use Federal money to fill in gaps that we have.

One example I would like to use is that in the 1980's, the State of Maryland put a lot of emphasis on the Chesapeake Bay Program, and so our department got a lot of staff resources, but they had to be targeted in the Chesapeake Bay watershed.

In the mid-1990's, we got approval for a national estuaries program, and that part of our state was not part of the Chesapeake Bay watershed. We were really not allowed by policy to target staff to that area to do agricultural programs, so we used a CZM grant to do that.

That cost about $30,000 a year. We had a technical position that worked at a local soil conservation district office, helped farmers to develop and implement best-management practices.

We do have a state cost-share program that helps fund these practices. We provide about 87.5 percent of the cost of them. So between 1995 and 2000 when CZM funded that position, at about $30,000 a year, the amount of cost-share money the state contributed to actually implement those programs was over $565,000.

So you can see how that one position leveraged state money to allow farmers in that watershed that wasn't previously captured by some of the state technical assistance programs to achieve coastal zone management goals.

One other comment that I wanted to make that has been made before relates to the cap that is placed on 306 funds. As that currently stands, despite modest national increases in funding to coastal zone programs, there are several states, and Maryland is one them, whose funding has been capped. Our funding has been capped for 8 years.

And the draft language bill goes a long way toward addressing this need. What we would like to see is language that allowed all eligible coastal states to receive increased funding in years when the appropriation increases.

I guess the final point that I would like to make, that I tried to illustrate with my example, is the need for flexibility in programs. I think that when you try to earmark funds to specific things, it ties the hands of the states from being more creative in the way that they administer their programs.

In Maryland, that is especially important because of the way that we have networked it through a number of agencies, and we try to mix and match results.

So I have included in my written testimony a couple suggestions about ways that we could assure that local communities have adequate funds to implement goals consistent with their needs as well as achieve the goals of the Committee in targeting local community work.

Again, I would like to thank you all for allowing me to speak. I think several people have made the comment that we are loving the coastal zone to death as bigger and bigger parts of our population are migrating there. And I encourage you and commend you for your efforts to protect the fragile and important resources of our coastal zone areas. Thank you.

[The prepared statement of Ms. Lawrence follows:]

Statement of Louise Lawrence, Chief, Office of Resource Conservation, Maryland Department of Agriculture

Introduction

Thank you, Chairman Gilchrest and members of the Committee, for providing me the opportunity to speak here today. My name is Louise Lawrence and I am the Chief of the Office of Resource Conservation at the Maryland Department of Agriculture. My section within the Department of Agriculture has responsibilities related to agricultural soil conservation, water quality and natural resource protection programs. We coordinate program delivery and implementation through a network of local, state and Federal cooperating agencies. I serve on the Chesapeake Bay Critical Area Commission, Maryland Coastal Bays Implementation Committee, Maryland Interagency NPS Coordination and Grants Committees and have been the liaison for Coastal Zone Management programs for my agency since 1985. I am here to provide comments on the reauthorization of the Coastal Zone Management Act.

Coastal Zone Management Act in Maryland

The coastal zone in Maryland covers two-thirds of the state, encompassing 16 of our 23 counties. Although the state's total physical area is not large compared to a number of coastal states, Maryland's extensive shoreline and burgeoning population place it with 15 out of 35 states whose 306 program funding is currently capped. Federal coastal zone management support to Maryland averages $2.5 million annually.

Maryland's Coastal Zone Management Program is a networked program. This cooperative approach applies both to program implementation responsibilities and program funding. Maryland Department of Natural Resources acts as the lead agency coordinating the program. A number of local and state agencies carry out implementation. For example, one of the responsibilities of the Maryland Department of Agriculture is implementation of agricultural soil conservation and water quality programs. Technical assistance for this program element is delivered through local soil conservation district personal. CZM grants will support four technical positions in 2001 to assist to farmers in targeted watersheds. The Maryland Department of Agriculture will provide up to 87.5% of the cost of installing best management practices implemented by farmers to control erosion, reduce nutrient movement and manage animal waste. This is just one example of how CZM programs are coordinated and Federal funds leveraged to achieve program goals.

Program Coordination and Funding Flexibility

The coastal zone program has been the precursor and, in many cases, the catalyst for this coordinated approach being applied in a number of programs to expand water quality protection, habitat enhancement, living resources protection and community partnerships statewide.

- 1983: Maryland's Chesapeake Bay Initiatives emphasized nutrient reduction and water quality objectives to improve habitat and protect fisheries resources. The program was applied to Maryland's portion of the Chesapeake Bay watershed encompassing all or part of every county.
- 1985: The Chesapeake Bay Critical Area Protection Program created the framework for locally developed land use policies for the fragile area within 1000 feet of tidal waters. Implementation is through community partnerships within 16 CZM counties and over 60 local jurisdictions. Coastal zone management funding has provided crucial support to local efforts to implement these requirements.
- 1989: Section 319 of the Clean Water Act required states to address non-point source pollution in a comprehensive statewide plan. An interagency team continues to coordinate and implement these programs.
- 1992: Implementation of practices to achieve Chesapeake Bay Program goals is delineated by watershed and community input and ownership through Tributary Strategy Implementation Teams fostered.
- 1996: Maryland received funding under the National Estuary Program and began a coordinated approach to develop strategies to address water quality, fish and wildlife, recreation and navigation measures and community and economic development through local, state, Federal and community partnerships in Maryland's Coastal Bays watersheds. Program implementation through a networked approach began in 2000.
- 1997: Section 6217 emphasized the importance of addressing non-point sources of water quality in the coastal zone and created a number of management measures to be implemented. Maryland's networked program was the first to be approved nationally.

- 2000: Renewal of the Chesapeake Bay Agreement, in addition to strengthening commitments to nutrient reduction and water quality, places new emphasis on sediment control and habitat protection and enhancement.

For all their similarity of objectives, these programs also have slightly different emphasis expressed by the strings attached to the Federal funding they provide and the performance measures they use to assess progress. Maryland receives approximately $8 million in combined Federal funds from the Coastal Zone Management Program, Non-point Source Protection Program (Section 319 of the Clean Water Act) and the Chesapeake Bay Implementation Program . In state fiscal year 2000, state agencies implementing strategies to achieve these programs' objectives spent $97.5 million in state funds. This budget does not include all staff and funding resources provided by the network of local, regional and Federal partnerships engaged in achieving program objectives.

The current financial commitment to coastal and non-point programs is not adequate to meet the challenge posed by these complex natural resource management issues. Funding is a fraction of what has been dedicated to address the more easily targeted and measurable point source issues. Estimates of what it will take to achieve the new and ambitious Chesapeake Bay Program goals are simply expressed by the motto: Big Ideas, Big Policy, Big Money.

Maryland, despite its significant financial commitment to coastal zone management program objectives, depends on the resources brought to the table by Federal grants and the technology transfer accomplished by collaborations engendered by these networked programs. We count on Federal funds to help us fill in program needs or gaps that are not supported with state money. For example, Maryland's instituted a policy in the mid–1980's which prioritized agricultural staff resources to activities in the Chesapeake Bay watershed. In the mid–1990's when the state budget was static, we were able to use Coastal Zone Management funding to provide a technical position at the local soil conservation district to help farmers implement best management practices in the Coastal Bays. Adding this essential piece to a puzzle that already included adequate state cost share for BMP installation, allowed Maryland to accelerate agricultural BMP implementation in the Coastal Bays by filling a gap that would have otherwise gone unaddressed.

It is important that the Coastal Zone Management Program maintain the flexibility necessary to allow states to fill in gaps and adapt resources available to their specific budgetary puzzle.

Recommendations

It is important that the Coastal Zone Management Act be reauthorized to assure accomplishments and ongoing efforts to protect coastal resources and communities continue to be promoted by support at the Federal level. The goals, objectives and strategies of the Coastal Zone Management Program are still appropriate for the issues we face in 2001. I commend efforts to translate these accomplishments to measurable results that the public can understand. I urge you to make the process of developing these measures interactive and flexible so states who implement coastal zone and related programs can maintain consistency among varied program efforts.

Foremost in terms of need is funding. As previously noted, the resources available do not begin to match the enormity of the undertaking necessary to achieve program goals. If strides are to continue in the face of increasing pressure on the resources in coastal areas, additional financial resources will have to be allocated.

A related concern is the current cap placed on 306 funding. Despite modest national funding increases, Maryland funds have been flat over the past 8 years because of a funding cap place on states with large populations and extensive shoreline. This year, the funding cap will limit available resource support to 15 of the 35 coastal states. The language in the draft bill will help address this issue by ensuring that all eligible coastal states receive increased funding in years where the appropriation increases.

Finally, I'd like to reiterate the need to maintain the flexibility currently built into the program so states can continue to coordinate Federal funds and fill in gaps to achieve program objectives. Earmarking or restricting the use of funds will impact base program activities and reduce our ability to transition programs and test drive new ideas. I respectfully suggest the committee consider one of the following ideas to support local communities within the CZM Program:

1. Support to local communities can be achieved without a direct earmark. This can be accomplished not limiting the definition of local community support to direct project implementation. In Maryland we have provided mapping resources, planning resources and staff support to assist local communities in implementing coastal

programs. All of these efforts were targeted to fill an unaddressed need and achieved program objectives.

2. Include support to local communities as an objective within the performance evaluation system. This would encourage states to utilize all funding sources to assure objectives supporting local government are implemented.

3. Split out the local government section as the Senate Bill does so that is has its own dedicated funding source that will not compete with base funding.

Conclusion

In conclusion, I would like to reiterate Maryland's support of reauthorization of the Coastal Zone Management Act. Coastal states have come a long way in understanding and addressing this moving target of coastal resources issues. We must build flexibility into our programs and innovation and creativity into our collaborative approaches to resolve the complex issues presented by coastal resource protection. More must be done to protect these fragile resources for the environmental health and economic well being of coastal communities. Thank you.

Mr. GILCHREST. Thank you very much, Ms. Lawrence.

The cap that a couple of you have mentioned has not been put in the existing legislation or the authorization, but it is done in the Appropriations Committee. So we will certainly pass your concerns along to them.

I wanted to ask each of you, if you care to comment, both drafts of the reauthorization propose that a certain percentage of the authorization be earmarked or be spent for implementing nonpoint source pollution programs.

Ms. Lawrence, you just mentioned for the need of flexibility to deal with a whole host of problems in Maryland based on the Chesapeake Bay program and the coastal zone management program that is not in the Chesapeake Bay watershed.

Could each of you briefly comment on the proposal to spend a certain percentage of the dollars that you get through the grant program on implementing nonpoint source pollution programs or systems?

Who would like to go first?

Ms. LAWRENCE. Well, I am on a roll.

Mr. GILCHREST. One is about 10 percent required; the other on is about—I think, Jim, yours is 35 percent?

One is 35 percent; one is 10 percent. That money would have to be spent on implementing nonpoint source pollution programs on the ground.

Ms. LAWRENCE. Just to sort of reiterate my remarks, I guess, in general, I think nonpoint source control is very good because that is primarily what my agency does in terms of working with the agriculture community. So we would love to have additional money.

But I guess from a more practical standpoint, I do believe that it is important to keep flexibility. And what we have seen in some of the 319 funding is they also want to have money spent directly on in-the-ground projects, and I fully support that concept.

What I would like to suggest is that same objective could be achieved if you used some of the measurable-results accounting system that is proposed in the bills to say that states have to show that they have a certain percent in the ground but not make them spend just Federal money on that.

In Maryland, we spend a lot of money on in-the-ground projects, so we sometimes need help with things like planning and mapping and other things that state money doesn't provide for us.

So if we have the flexibility to mix and match and still meet whatever your objective is to fund some percent, with all our programs, I think that would be more consistent with how Maryland could best function.

Mr. GILCHREST. I see.

Mr. Tudor?

Mr. TUDOR. Yes, I would reinforce that perspective. I think the general idea is flexibility but with accountability. And we should have to report back to you how we are making a difference.

In my state, we don't think of nonpoint source just in the context of a little box with coastal zone management. I like to leverage all the resources that are available. So we have millions of dollars that are available from corporate business tax; we have Clean Water Act monies; we have Department of Agriculture monies in the form of what they call the EQIP program; and we have the coastal zone management monies.

And what we like to do is, on a watershed basis, focus on particular problems. So for me, it is not a particular issue. If 10 percent was allocated to nonpoint source, we could move forward to do that. But what we would like to be able to do is be able to have our base programs be kept intact.

There is a big emphasis in the Coastal Zone Management Act on enforceable policies, so we have a significant permitting and enforcement capability that relates to new development in the state. And so, if we start getting from 10 percent to 50 percent allocated to community assistance or nonpoint source, then that would significantly bite into our capability to implement the base program.

Mr. GILCHREST. I see. Thank you.

Ms. Davidson?

Ms. DAVIDSON. Mr. Chairman, I really think that it is appropriate in some ways to defer to the states, because they are the people charged with implementation. But I think the lower number is an appropriate number because of not only the flexibility issues, but there are a variety of things.

Ms. Lawrence specifically referenced, as did Mr. Tudor, watershed planning and bringing to bear things like geographic information system tools. Increasingly, local and regional governments are concerned with planning issues, and they also want to bring forward a lot of other data.

We have been pushing with NOAA to collaborate between coastal programs and the Sea Grant programs on something called nonpoint education for municipal officials, in which we bring together satellite imagery and GIS kinds of tools and help them to chart their own future in the ways that they want to best address these land-based sources of pollution.

And it is not always a regulatory approach. The local government chooses.

Mr. GILCHREST. I see. Thank you.

Mr. DeLuca?

Mr. DELUCA. I would also concur with my colleagues on the panel here and opt for flexibility.

There are many ways that we can begin to address the nonpoint source issue, certainly through some additional research but also through training and education. At my site, we have been putting

some funds into developing build-out scenarios for watersheds and enabling planners to envision their communities 20 and 50 years from now. And it is a very, very powerful tool.

In this process, we have been able to leverage a very modest amount of reserve dollars into larger dollars for research, training, and education programs from our partners.

So I would certainly opt for the flexibility to continue to leverage investment in these programs.

Mr. GILCHREST. It sounds like the panel doesn't want an earmarked percentage of dollars.

I am not sure who on the panel might know the answer to this, but based on the—this will be my last question, and the I will yield to the gentleman from Guam.

Since the Coastal Zone Management Act has been put in place, does anybody know how many acres of wetlands have been protected, restored, enhanced, or created? And that is a part of the whole nonpoint source issue. Do we have that data?

Ms. DAVIDSON. Mr. Chairman, I think that burden falls on me. And the exact number is a little hard to discern because it is not just a NOAA-related number. There are other agencies; Department of Agriculture, for instance.

What we do know is that it is on the order of hundreds of thousands. I will have my folks see if we can pull up a more exact number for you, in response to the question.

Mr. GILCHREST. So we are looking at protecting or restoring or creating—

Ms. DAVIDSON. Yes, sir.

Mr. GILCHREST. —hundreds of thousands of acres of wetlands?

Ms. DAVIDSON. Yes, sir. It is on that order. I just don't know the exact number at the moment.

Mr. GILCHREST. The suggested USA Today articles, during the course of the summer, don't seem to bear that out.

Ms. DAVIDSON. Okay.

Mr. GILCHREST. But we will look forward to that information.

Ms. DAVIDSON. Yes, sir.

{NOAA's response follows:]

As stated previously, determining the exact number of coastal wetlands protected, restored, enhanced, or created is a difficult task due to the number of players involved with wetlands protection as well as the lack of accurate and consistent data. Based on information from the National Wetlands Inventory, in the early 1970's there were approximately 5,500,000 acres of marine and estuarine wetlands in the continental U.S. This number declined to 5,337,000 acres in 1986, a loss of over 150,000 acres. Between 1986 and 1997, there was a net loss of approximately 10,400 acres, bringing the total to 5,326,600 acres. The rate of decline for this period was 82% lower than the rate of decline over the previous decade.

This reduction in the rate of loss is at least partially attributable to additional protections afforded to most coastal wetlands through the creation and adoption of state coastal management programs and improvements in federal authorities. Nonetheless, this remains a high priority issue for state coastal programs. In the latest round of section 309 assessments 16 states identified wetlands as a high priority issue, and 7 as a medium priority.

While we continue to lose coastal wetland habitat, we are at the same time working to restore and protect this habitat. For example, over the past 25 years, the National Estuarine Research Reserve System has been involved in the restoration of over 100,000 acres of damaged and polluted land and water, including wetland habitat. These restored wetlands are now protected as part of the NERRS sites.

As part of the proposed coastal indicators and state of the coast report, we hope to work with our local, state, and federal partners to develop a better way to track some of this information in order to better understand what is happening to the Nation's coasts, including the trend in coastal wetlands protection and restoration versus loss through development.

Mr. GILCHREST. Thank you, Ms. Davidson.

Mr. Underwood?

Mr. UNDERWOOD. Thank you, Mr. Chairman.

Perhaps it is time to pull out that chart about the decrease in the rate increase.

[Laughter.]

Mr. GILCHREST. Right.

Mr. UNDERWOOD. We can go back to that original chart that we were working with the other folks from NOAA.

Ms. Davidson, how many states does NOAA anticipate having fully approved by the end of this year for the coastal polluted runoff program?

Ms. DAVIDSON. Mr. Underwood, there will be 10 states with full approval. There are a number of states in the pipeline, sir.

Mr. UNDERWOOD. I understand that as of today there are only four or five?

Ms. DAVIDSON. Fully approved, yes, sir.

Mr. UNDERWOOD. Fully approved.

Ms. DAVIDSON. But we anticipate a number of states meeting the rest of their hurdles in the next few months. Several are just a matter of the paperwork being processed this summer.

Mr. UNDERWOOD. So there is no particular cause for concern in terms of the progress of these approvals?

Ms. DAVIDSON. No, sir, I don't believe that we do. I think that most of the states are moving forward.

Mr. UNDERWOOD. The Committee later on this morning will hear from an individual representing the American Petroleum Institute, recommending some changes to the Section 307 Federal consistency provisions.

Is there an emerging position? Or do you know if the administration will take a position on supporting these changes?

Ms. DAVIDSON. What I do know, Mr. Underwood, is that the Vice President's energy task force has asked us to review existing statutes and regulations on CZMA consistency issues. And we are currently doing that in collaboration with the Department of Interior.

The issues that they have are related to timing, what kind of data needs to be brought forward for the record. And we are working to identify ways to clarify both of those concerns that they have.

Mr. UNDERWOOD. Do you know how long this process will take?

So there is an active consideration of reviewing these consistency provisions?

Ms. DAVIDSON. Yes, sir. It was in the energy policy recommendations that just came out. And within the Department of Commerce, we have been holding some discussions on this matter directly.

Mr. UNDERWOOD. Well, thank you for that.

Mr. Tudor, in your testimony, you cite the need for NOAA to provide better assistance to coastal managers, and I think that is a legitimate role for the Federal Government to play. It is my under-

standing that NOAA has made a lot of strides in this area for coastal management.

Could you describe how effective the Coastal Services Center in Charleston has been for your own work?

Mr. TUDOR. Yes. I could say a couple things.

We are working closely with them right now in terms of something called a coastal fellow program, where they are able to bring resources and linkage to their coastal center to the states.

In terms of information management, they have done things related to looking at land-use/land-cover change over time in the coastal area, so that the states can take advantage of that information.

We have talked about the need to maybe work together better so that we fashion products that are not so much useful from the Federal Government to the state government, but allow the state to work better with local governments and give them something at that scale.

And we think, from the perspective of technical assistance—I believe it is Section 315 in the CZMA—that we would want to continue to maintain that but maybe even enhance that capability.

Mr. UNDERWOOD. That is very important information.

I would like to go back to Ms. Davidson. Are there any plans in NOAA to—I guess you would know what my next question would be—to open up such a center for the Pacific?

Ms. DAVIDSON. Why, yes, sir. I believe that National Ocean Services is currently engaged with developing an operating plan for the Pacific services center to address the particular issues associated with not only the State of Hawaii but the territories and the islands.

Mr. UNDERWOOD. I certainly want to continue to monitor the progress of that effort. I think it is very necessary, and it is very critical.

Just lastly, Mr. DeLuca, are the research reserves monitoring polluted runoff?

Mr. DELUCA. Not at this time. We have been in a position where there haven't been a lot of resources directed to the reserves for many, many years. And it is just within the past year that we have received an infusion of funding to expand and actually add parameters such as nutrients and parameters related to polluted runoff to the system.

Right now, the system supports basic water quality monitoring. And with the monies that Congress provided last year, we are in the process of expanding that to address polluted runoff issues.

Mr. UNDERWOOD. Thank you for that.

And I would just urge my colleagues on the Committee that we pay particular attention to review of the consistency provisions as they are occurring.

Thank you very much.

Mr. GILCHREST. Thank you, Mr. Underwood.

Mr. Saxton?

Mr. SAXTON. Thank you, Mr. Chairman.

Before I ask several questions, let me just say that the young lady sitting to my left, a Sea Grant fellow, Jennifer Murphy, has been with us for better than a year, and today is her last hearing.

She served with me while I was Chairman and now, of course, with Chairman Gilchrest, and we would like to thank her for the great job that she has done in helping us understand many issues.

She is a graduate of the University of Washington and comes from Massachusetts.

We look forward to the remaining days. And, incidentally, she is a sailor.

[Laughter.]

That makes her great in my eyes.

[Laughter.]

Thank you for the wonderful job that you have done, Jennifer.

Let me just pursue this issue of implementing nonpoint source plans. While we were sitting here listening to your desire to not have funds earmarked, whether they be 10 or 35 percent of the funds, to be spent on nonpoint source pollution, staff informed me that out of the better than 30 states—was it 33 states?—only Maryland, California, Puerto Rico, Pennsylvania, Virginia have implemented nonpoint source plans as required by Federal law. The others have something called conditional approval, which I am also told is not a term found in the law.

[Laughter.]

So I think it could be accurately said that out of 33 states, 28 are out of compliance, as far as the law is concerned. And that troubles me.

Ms. Davidson, how do we solve this problem? The states don't want to have earmarks. I understand that, from the states' point of view. And I am a great states' rights guy; I believe in all the flexibility because all states are different.

We don't handcuff state decisionmakers, but how do we get compliance?

Ms. DAVIDSON. As I mentioned, Mr. Saxton, why it is true that there are only a handful that have fully approved programs at the moment, we do expect to have at least 10 if not a dozen to have removed the nonofficial designation of not fully approved.

In a couple of cases, it is really just a paperwork kind of problem.

I have been spending a lot of time, sir, sitting down with the states over the last 6 months and talking about this issue and about the range of concerns that each of them have with the issue within their jurisdictions and the ways in which they want to approach it.

And it has been very clear to me in talking with them about this, sir, that they all have an interest in addressing land-based sources of pollution. But they also want to take a variety of approaches, one of which I referred to, which is: How do you bring together some data and some display information to help persuade local building officials, for instance, planning and zoning boards, to act on these matters?

We have been also talking with people in the Department of Agriculture and NRCS about how we can build broader, more cooperative programs.

So it is clear to me that states want to use a variety of mechanisms. Some are enforceable. Some are persuasive. Some are educational.

And we want to work with the states to provide that framework and those resources, sir, both financial as well as technical, to help them address land-based sources in the way that make the most sense within the context of state and local authorities.

Mr. SAXTON. But the progress that you are making is—the deadline for compliance was 1995. Six years have passed by; five states are now in compliance. At that rate, it will be 28 more years before the states are all in compliance.

Ms. DAVIDSON. Well, I would quibble with you a little bit, because if 10 are actually approved by the end of 2001, at that rate, we might make it by 2010.

[Laughter.]

But it is an issue of concern to us as well. And that is why I mentioned looking at a broader suite of tools to bring to bear in the issue.

I think it is outcome issues that you are concerned with, Mr. Saxton, how do we clean up the water?

Mr. SAXTON. Yes, ma'am.

Ms. DAVIDSON. I think there are a variety of ways to approach that, sir. And even those states that would not wish to undertake enforceable mechanisms, I think there are strategies that they can use to address those concerns as well.

So you and I share a similar concern. The question is how to get the states to do it. But it is not always by insisting only on sticks. I think you have to provide carrots as well, sir.

Mr. SAXTON. Mr. Tudor provided this colorful map of Stafford Township, New Jersey, which is in my district. It says on this side here:

The yellow outlined area delineates areas that were developed as of 1986. The solid yellow areas have been developed between 1986 and 1995, a 10-year period.

And then it says "/1997"; I guess maybe some others were added. Maybe it is a 12-year period.

The total area of impervious surface—like buildings, sidewalks, driveways, parking lots, et cetera—is about 1,425 acres. About 230 of this total were added since 1986. The total area of impervious surface constitutes 5 percent of the total acres in the municipality.

And when I look at it, and look at the colored-in yellow area, it looks like, and I am just guessing, it look like maybe we have developed, the last 10 years, the development has proceeded at maybe at 30, 40 percent additional development during that period of time.

Is that an accurate characterization, Mr. Tudor?

Mr. TUDOR. I think it might 30 percent of the area that was the subject of traditional development.

Mr. SAXTON. Right.

Mr. TUDOR. But when you look at the whole community or think of it in terms of the whole watershed, there are many parts of the watershed that are being protected and the pattern of development is being concentrated.

Mr. SAXTON. Sure. Some areas east of the parkway are protected by the Pinelands.

Mr. TUDOR. Yes. Correct.

Mr. SAXTON. And in other parts of the township, we have spent a lot of Federal money to expand the Forsythe wildlife refuge. And some of the rest of it is wetlands. So there is undevelopable area for a variety of reasons.

Mr. TUDOR. Right.

Mr. SAXTON. The developing area is developing very rapidly.

Mr. TUDOR. That is correct.

And really, the purpose of this tool was to make the local officials aware that this concept of impervious cover is very important, and that at some level, maybe 15 percent of a watershed, you fundamentally change the hydrology of your local streams. There is increased sedimentation, increased nutrient loading, and then, ultimately, that that would affect the bay system, and that we have to do the kinds of things contemplated in the 6217 programs, in terms of the different controls and application of them.

Mr. SAXTON. Are you familiar with Stafford Township's groundwater recharge program?

Mr. TUDOR. Yes. They are very progressive in terms of having a good storm-water management ordinance, a good groundwater protection ordinance, a good well-head protection.

They have changed their master plan. They have conservation zones that allow for development of like one unit per 20 acres.

And they are a good example of what you need to do to get a handle on this kind of a problem.

Mr. SAXTON. Actually, I am familiar with the local officials, and I know of their commitment to good environmental stewardship.

And I also know of their groundwater recharge program, which is in the process of being implemented, which is quite extensive.

Mr. TUDOR. In terms of encouraging infiltration as opposed to runoff off the land and out in the bay.

Mr. SAXTON. That's right.

Mr. TUDOR. That's correct.

Mr. SAXTON. I guess I would say two things about this as an example. One is that it is illustrative the rapid growth that we are getting in many coastal areas; this is not just Stafford Township.

When I go home this weekend and drive down the road in my district and look over my shoulder, there will be new houses there that weren't there last week. That is how fast development occurs in coastal areas.

And I am not talking right on the ocean; that has been developed for years. Right on the bay, that has been developed for years.

I am talking about 20 miles inland, 30 miles inland, 40 miles inland. It is absolutely astounding how fast we are covering up land and giving water no place to go but down the street and in the storm drain and in the streams and washing all kinds of things along with it.

I was frustrated last year when some of our Members were successful in amending out the provisions to provide for some mandated percentage of money to implement and encourage nonpoint source programs to be implemented.

The states were given 5 years when the law was passed in 1990. It now has been 11 years, and only 5 states have programs. And I find that discouraging.

Maybe our expectation in 1990 was unrealistic. But we need to take some measure to help states with this really important program.

Mr. Chairman, I yield back.

Mr. GILCHREST. Thank you, Mr. Saxton.

Mr. SAXTON. I yield back the time that I used beyond my time. [Laughter.]

Mr. GILCHREST. We will yield you as much time as you need anytime you need it.

I just have a quick follow-up question, so if any of the other Members want a follow-up question as well.

Ms. Lawrence, can you give us some idea of how, through the Maryland Department of Agriculture, you have been able to implement on the ground a program for nonpoint source pollution and what does that involve? CRPs, CREPs, wetlands? And how do you work with Coastal Zone Management Act people and how do you work with the local planning and zoning people to implement that program?

Ms. LAWRENCE. The Maryland agriculture program is also sort of a networked effort, and we have folks at the local level called local soil conservation districts. They are independent subdivisions of the state. We also have our Federal counterparts at USDA.

So we coordinate resources that are brought to bear by the state as well as the Federal and local level to deliver programs. We have a state cost-share program, as I mentioned earlier, that helps fund best management practices.

Last year, we spent $6.5 million for just best-management practices. We spend another $2 million for cover crop programs, which was an identified need in Maryland as an add-on. And we have some new programs that relate to nutrient management that we also got some funding for as well.

So altogether, we have pretty close to $20 million in cost-share available in the state to help farmers.

Mr. GILCHREST. So actually on the ground you develop buffers on the farm?

Ms. LAWRENCE. Yes.

Mr. GILCHREST. Crop rotation, all of those things?

Ms. LAWRENCE. Animal waste management, waterways, erosion control measures, animal waste storage structures. Things that would mirror pretty much what 6217 called management measures that address soil erosion as well as addressing animal operations and grazing management and all those different issues.

Mr. GILCHREST. They work well on the farm?

Ms. LAWRENCE. Yes.

Mr. GILCHREST. Is there any connection between preserving that land as agriculture to losing it to development in a discussion with CZMA or the local planning office or changing the zoning?

Ms. LAWRENCE. We don't specifically get that involved in zoning issues. What our department does do, which is something that I am a little less familiar with, is ag land preservation.

And we have many of our programs delegated to individual counties, and we work with them. They get part of the money that comes off the transfer taxation to implement programs locally, so they can set their own goals.

Mr. GILCHREST. Would you say that ag land, with these nonpoint source pollution programs, which may not be called that down there, but the waterways and buffers and crop rotation and the nutrient management and all of that, would you say that is a better way to deal nonpoint source pollution than a shopping plaza?

Ms. LAWRENCE. I would certainly say so. And I think that you prove it with science and you could prove it with economics as well, that for local communities, agriculture benefits a community a lot more.

And it is probably an old study; it was back in the early 1980's with Chesapeake Bay Critical Area Act. But they showed for development, for every dollar you get back in taxes for development, the local community spends $3 for infrastructure costs.

Agriculture has no infrastructure costs.

Mr. GILCHREST. Cecil County just recently updated that about a year ago, and it is just about the same numbers. For every dollar you get from a subdivision, it is costing the local government about $2, and for every dollar you get from ag land, it is only costing the local government about $.50. So it is economically advantageous to a community.

I don't want to take away from shopping plazas, and people need homes to live in, and things like that, but it is a relentless problem with us up here.

On what Jim was trying to say, we have implemented some of these programs, and when you read the USA Today article, you see rampant development never ceasing within 50 miles of the coast.

You may not be able to answer these questions, and I do want to yield to my colleagues, but two more quick questions.

One deals with the Heinz Center study, about when will that be done so we can take a look at it. Is there something that we should do to put in some criteria or indicators that I guess that the Heinz Center is trying to evaluate?

These are rapid fire; that was, I guess, to Ms. Davidson.

And, Ms. Davidson, the other one: Do you have any idea about how many acres or miles of coastal areas are protected from development, how many acres are now developed?

And the last question, to the extent that development requires Federal permits—oh, this is a note to me. I don't think I am supposed to read it.

[Laughter.]

But I will read it anyway. It might help everybody in the room besides myself.

To the extent that development requires Federal permits, the states can review these permits for consistency with state CZMA plans. And that is a good part of the bill.

So I am not chastising you, because I know how difficult it is to preserve land when you get a lot of mix of interest in the local communities.

Ms. Davidson?

Ms. DAVIDSON. Your first question related to a study that we have undertaken with the Heinz Center.

I would like to point out that also over the course of the last year that I have been meeting with state and local and other folks to

talk about performance indicators. We thought this was a very important subject.

And realizing the scope of it, have undertaken a collaboration with the Coastal States Organization and Heinz Center to actually look more closely at performance measures for integrating coastal management.

Exactly when it is completed, I can't tell you that date. Although I understand we will shortly be getting some more assistance, Mr. Saxton, at the Heinz Center to help work on that study.

Thank you, Jennifer.

Mr. SAXTON. Mr. Chairman?

Mr. GILCHREST. Mr. Saxton?

Mr. SAXTON. I have something that I have to do at 12 o'clock, and I wonder if I could just be recognized for a minute, because I have to leave.

Mr. Tudor indicated, Mr. Chairman, that there are many things that New Jersey and other states have done. And I would like to give him the opportunity to talk in particular about New Jersey open space, the various programs that we have in place, because I know that we have been working diligently to come into compliance with CZM.

And I just want to give him the opportunity to talk about the many steps that we have taken in coastal states and particularly in New Jersey.

Mr. TUDOR. Actually, CZM is one of the tools in the toolbox to make a difference. Other tools in the toolbox are things like a very aggressive land acquisition program; a statewide watershed management program where you are looking beyond municipal to all the land that flows to a particular waterway.

It is to line up the Clean Water Act requirements related to TMDLs, where you would say, what are the impairments of your waterways, and how can you make sure to improve them achieve the water quality standards to protect public health and aquatic life.

So what we do is we integrate across all of those things to put in place, in a very customized way—say, something that would make sense for Ocean County, Stafford Township, relative to in northwestern part of the state that is more mountainous versus the coastal Cape May peninsula that has some significant water supply kinds of issues.

We think some of the things we have been able to do with coastal zone money is to be able to fund, using sort of information resources, things like a very sophisticated GIS system, to do these land-use/land-cover kinds of analyses.

We have funded our habitat characterization efforts. Most people think when protecting endangered and threatened species, you are talking about protecting a certain species on a certain site. We have been able to take that in what we call a landscape kind of analysis, where we are able to look at protecting multiple endangered and threatened species, whether it be plants or wildlife, and then target our acquisition dollars so that we have a habitat protection outcome or a water quality outcome.

The Chairman just talked about the riparian buffer concept. We are very aggressively right now trying to buy up the land that is

immediately adjacent to our waterways, specifically focusing on headwaters of streams and things like that.

So I think from our perspective, in terms of the 6217, we are one of the states that has this conditional approval. I think we are, right now, just held up based a storm-water management regulation. It is one of those kinds of things that we have yet to adopt.

Mr. SAXTON. Would you take just a minute to describe the acquisition/development right retirement programs that were initiated under Governor Whitman's administration, to save—what was it? A million acres, I believe?

Mr. TUDOR. Like I say, we very much have a results-based management conceptual framework. We want to set quantitative milestones of where we want to be 5 years down the road, 10 years down the road.

And in the case of land acquisition, open space, we said we wanted to buy a million acres in New Jersey. Well, New Jersey is only 5 million acres total, so we wanted to buy a fifth of state. In order to do that, there was a set-aside of a portion of the sales tax in New Jersey, so that we would have $98 million a year to buy land, which then could be used as a basis for further bonding, so that you get approximately $200 million a year.

That money is split three different ways. One is to do direct state acquisition. One is, 40 percent is farmland preservation. And then there is pass-through money for local governments to buy land.

And Congressman Saxton says that he was very concerned about the rate of sprawl in our state. And basically, we are in like a little bit of a race right now to buy those pieces of land that are critical in some way or another so that we can have the resource values that we need to protect into the future.

So with that program over the past couple of years, we have acquired, I think we are up to 185,000 acres over a couple of years. It is focusing a lot of attention on it right now.

Mr. SAXTON. Thank you. I just wanted to make sure that, after I was fairly strong in my first round of questions, that you had an opportunity to talk about the great things that you are really doing.

[Laughter.]

Mr. TUDOR. Okay. All right.

Mr. SAXTON. Thank you.

Ms. DAVIDSON. Mr. Chairman?

Mr. GILCHREST. Thank you, Mr. Saxton.

Ms. DAVIDSON. Mr. Chairman, your second question was about performance indicators?

Mr. GILCHREST. Yes.

Ms. DAVIDSON. And we would concur with the desire to not only strengthen but hold us to the accountability of well-designed performance measures for not only the national program but for the system of state programs that we work with.

I think they need to be outcome-based rather quantity-based. Originally, we tended to focus on things like how many coastal zone programs did we have. And I think the bottom-line are the issues that you and your colleagues are raising:

What have we done about wetlands? What have we done about water quality? What have we done about the rate of growth and covering the land with impervious surfaces?

I think those are the kinds of performance indicators that both the national framework and the state programs need to be held to. And we are looking to the lead of states like New Jersey and Florida who have already done this at a state level, and hope to incorporate this at the national level as well.

Mr. GILCHREST. Is this the type of thing that the Heinz Center is evaluating?

Ms. DAVIDSON. Yes, sir. That is the intent.

Mr. GILCHREST. Do you need a legislative fix to incorporate those indicators into the program? Or can it be done from NOAA?

Ms. DAVIDSON. I believe the bill as proposed does provide a framework for that, sir. And I think that we can, working with your staff, fill that out to make it happen. I think it is a very good concept.

And your last question was about acres that were developed versus undeveloped, and I will have to get back to you on that specific information, as well as the one you asked earlier with regard to wetlands.

[NOAA's response follows:]

Attachment 1 is a table and chart based on 1990 data that compares developed versus nondeveloped land in coastal counties. The table also provide information comparing the amount of land developed in coastal counties of each state versus the amount of land developed in the noncoastal counties in those same states. In 83% of the states for which we have data, the amount of developed land in coastal counties is greater than that of non-coastal counties. (Please note that those areas classified as nondeveloped areas are not necessarily protected from future development). Over the last 10 years, the amount of developed land has likely increased substantially, and the trend in greater development along the coast has continued.

Attachment 2 is the amount of Federal land in coastal counties which is protected from development through a variety of authorities. This information does not include those lands that are protected from development using state, county, or local authorities and mechanisms. NOAA is presently working with states to obtain this data in a consistent and comparable manner. Again, through the proposed coastal indicators and state of the coast report, we hope to work with our local, state, and federal partners to develop a better way to track some of this information.

Comparison of Developed vs NonDeveloped Land in Coastal and Noncoastal Counties -

	Coastal Counties				Non Coastal Counties				Entire State			
	Developed Area	Undeveloped Area	Total	% Dev	Developed Area	Undeveloped Area	Total	% Dev	Developed Area	Undeveloped Area	Total Area	% Dev
State Name	(sqmi)	(sqmi)	(sqmi)		(sqmi)	(sqmi)	(sqmi)		(sqmi)	(sqmi)	(sqmi)	
Illinois	1,133	287	1,420	80%	2,356	52,552	54,908	4%	3,489	52,839	56,328	6%
New Jersey	2,568	4,615	7,183	36%	24	339	363	7%	2,592	4,954	7,546	34%
Massachusetts	2,256	4,581	6,837	33%	137	1,133	1,270	11%	2,393	5,714	8,107	30%
Connecticut	1,471	3,489	4,960	30%			-		1,471	3,489	4,960	30%
Rhode Island	317	768	1,085	29%			-		317	768	1,085	29%
Maryland	1,565	6,135	7,700	20%	128	2,092	2,220	6%	1,693	8,227	9,920	17%
Pennsylvania	1,472	6,302	7,774	19%	2,331	35,190	37,521	6%	3,803	41,492	45,295	8%
Ohio	1,712	8,942	10,654	16%	2,658	27,950	30,608	9%	4,370	36,892	41,262	11%
Delaware	285	1,690	1,975	14%			-		285	1,690	1,975	14%
Virginia	1,957	12,158	14,115	14%	1,140	24,749	25,889	4%	3,097	36,907	40,004	8%
Indiana	540	3,595	4,135	13%	1,794	30,253	32,047	6%	2,334	33,848	36,182	6%
New York	3,441	26,407	29,848	12%	757	17,804	18,561	4%	4,198	44,211	48,409	9%
Florida	5,299	47,251	52,550	10%	148	3,799	3,947	4%	5,447	51,050	56,497	10%
New Hampshire	433	3,973	4,406	10%	86	4,777	4,863	2%	519	8,750	9,269	6%
California	6,820	71,449	78,269	9%	1,199	78,508	79,707	2%	8,019	149,957	157,976	5%
Texas	2,598	38,251	40,849	6%	6,892	216,993	223,885	3%	9,490	255,244	264,734	4%
Washington	1,478	23,406	24,884	6%	570	41,936	42,506	1%	2,048	65,342	67,390	3%
Louisiana	1,532	25,659	27,191	6%	477	17,897	18,374	3%	2,009	43,556	45,565	4%
Michigan	2,841	49,464	52,305	5%	385	5,344	5,729	7%	3,226	54,808	58,034	6%
Wisconsin	811	14,849	15,660	5%	1,004	39,213	40,217	2%	1,815	54,062	55,877	3%
North Carolina	1,026	18,850	19,876	5%	2,587	26,917	29,504	9%	3,613	45,767	49,380	7%
South Carolina	696	14,917	15,613	4%	1,065	14,189	15,254	7%	1,761	29,106	30,867	6%
Alabama	359	8,474	8,833	4%	1,842	40,954	42,796	4%	2,201	49,428	51,629	4%
Mississippi	261	6,583	6,844	4%	731	40,095	40,826	2%	992	46,678	47,670	2%
Oregon	755	20,369	21,124	4%	563	75,204	75,767	1%	1,318	95,573	96,891	1%
Maine	688	20,601	21,289	3%	68	11,136	11,204	1%	756	31,737	32,493	2%
Georgia	429	13,405	13,834	3%	2,537	42,361	44,898	6%	2,966	55,766	58,732	5%
Minnesota	146	11,339	11,485	1%	1,642	70,757	72,399	2%	1,788	82,096	83,884	2%
Total	44,889	467,809	512,698	9%	33,121	922,142	955,263	3%	78,010	1,389,951	1,467,961	5%

State Name	Coastal % Dev Coastal	Non-Coasta % Dev Noncoastal	Entire State % Dev entire state	Delta (C - NC)
New Jersey	36%	7%	34%	29%
Massachusetts	33%	11%	30%	22%
Connecticut	30%	0%	30%	30%
Rhode Island	29%	0%	29%	29%
Maryland	20%	6%	17%	15%
Pennsylvania	19%	6%	8%	13%
Ohio	16%	9%	11%	7%
Delaware	14%	0%	14%	14%
Virginia	14%	4%	8%	9%
Indiana	13%	6%	6%	7%
New York	12%	4%	9%	7%
Florida	10%	4%	10%	6%
New Hampshire	10%	2%	6%	8%
California	9%	2%	5%	7%
Texas	6%	3%	4%	3%
Washington	6%	1%	3%	5%
Louisiana	6%	3%	4%	3%
Michigan	5%	7%	6%	-1%
Wisconsin	5%	2%	3%	3%
North Carolina	5%	9%	7%	-4%
South Carolina	4%	7%	6%	-3%
Alabama	4%	4%	4%	0%
Mississippi	4%	2%	2%	2%
Oregon	4%	1%	1%	3%
Maine	3%	1%	2%	3%
Georgia	3%	6%	5%	-3%
Minnesota	1%	2%	2%	-1%
Total	9%	3%	5%	5%

Source - USGS Land Use/Land Cover data base (circa 1975) updated with 1990 Census Urbanized Areas
Information Developed by Special Projects Office, National Ocean Service, NOAA
Contact Percy Pacheco for more information (301-713-3000 x 155)

Definition s

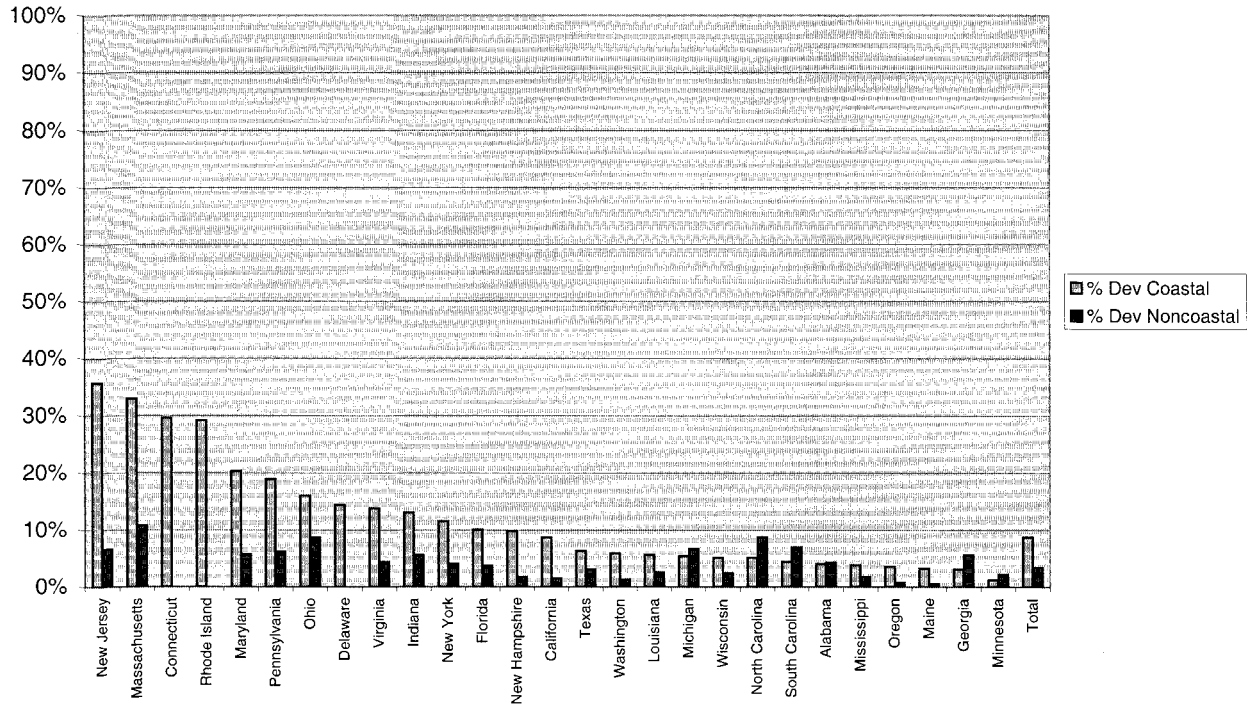
For Developed Land the Urban major classification was used. Urban accounts for the following land use categories:

- Urban (1990 population upgrade)
Residential
Commercial and Services
Transportation, Communication, and Utilities
Mixed Urban or Built-up Land
Other Urban or Built-up Land

For Undeveloped, the following major land use classifications were used:

Agricultural Land
Range Land
Forest Land
Water
Wetland
Barren Land

Comparison of Percent Developed Land in Coastal vs Noncoastal Counties by State



ATTACHMENT 2

Federal Lands (Protected Areas) in Coastal States

	Coastal Counties			Non-Coastal Counties			Entire State
State Name	Federal Lands (sq. mi.)	Total Area (sq. mi)	% Fed to total	Federal Lands (sq. mi.)	Total Area (sq. mi)	% Fed to total	(sq. mi.)
Alabama	297	8,833	3%	2,215	42,796	5%	2,512
California	51,357	78,269	66%	55,015	79,707	69%	106,372
Connecticut	0	4,960	0%	0	0	0%	0
Delaware	54	1,975	3%	0	0	0%	54
Florida	8,379	52,550	16%	234	3,947	6%	8,613
Georgia	670	13,834	5%	3,226	44,898	7%	3,896
Illinois	0	1,420	0%	1,716	54,908	3%	1,716
Indiana	29	4,135	1%	1,042	32,047	3%	1,071
Louisiana	1,763	27,191	6%	1,522	18,374	8%	3,285
Maine	357	21,289	2%	151	11,204	1%	508
Maryland	213	7,700	3%	61	2,220	3%	274
Massachusetts	233	6,837	3%	0	1,270	0%	233
Michigan	8,136	52,305	16%	848	5,729	15%	8,984
Minnesota	6,343	11,485	55%	6,530	72,399	9%	12,873
Mississippi	887	6,844	13%	3,652	40,826	9%	4,539
New Hampshire	302	4,406	7%	1,400	4,863	29%	1,702
New Jersey	156	7,183	2%	20	363	6%	176
New York	261	29,848	1%	39	18,561	0%	300
North Carolina	1,455	19,876	7%	5,047	29,504	17%	6,502
Ohio	107	10,654	1%	1,368	30,608	4%	1,475
Oregon	12,925	21,124	61%	50,492	75,767	67%	63,417
Pennsylvania	23	7,774	0%	1,537	37,521	4%	1,560
Rhode Island	5	1,085	0%	0	0	0%	5
South Carolina	1,027	15,613	7%	1,687	15,254	11%	2,714
Texas	909	40,849	2%	6,624	223,885	3%	7,533
Virginia	299	14,115	2%	5,509	25,889	21%	5,808
Washington	11,986	24,884	48%	16,376	42,506	39%	28,362
Wisconsin	3,155	15,660	20%	1,962	40,217	5%	5,117
TOTAL	111,328	######	22%	######	######	33%	279,601

Mr. GILCHREST. Thank you very much.

Mr. Underwood?

Mr. UNDERWOOD. Thank you very much, Mr. Chairman.

Ms. Davidson, I know that it is one of the requirements of the Coastal Zone Management Act state efforts to guarantee public access. As we talk about trying to protect the coastal areas, one of the things, obviously, is that we want to make sure that the public indeed has access to the areas. And some of the developments which are occurring as outlined here in this township may be impeding that, covering up previous access routes.

Can you generally characterize what is the state of the public access to coastal areas?

Ms. DAVIDSON. That concern was one of the reasons for the original enactment of CZMA, that concern, and it continues unabated.

A number of states have done some really innovative things, including identifying areas that have been used historically by folks and having them dedicated as public access.

In addition, a number of states have actually also experienced lawsuits associated with this issue as well that have made it a challenge.

We could put together, if you would like, sir, a complete accounting of what the states have done with regard to this, on a state-by-state basis.

Mr. UNDERWOOD. I really would appreciate that, because that is one those very tough issues as well, trying to balance what some people perceive to be their private property rights versus public access.

I also just want to take the time to thank you for your own efforts for CZMA. I think they are highly regarded, and they are well-respected. And I just wanted a chance to note that.

Ms. DAVIDSON. Thank you.

{NOAA's response follows:]

Attachment 3 is the report on state enhancement grant assessments and strategies on public access which NOAA worked with the state coastal management programs to put together in 1999. The report provides state specific summaries of coastal access activities, the strategies states have developed to address coastal access, obstacles and needs of the state programs, and finally tables depicting type and distribution of state public access projects. In the latest round of section 309 assessments, completed in March 2001, 20 coastal states, including Guam and Maryland, identify public access as either a high or medium priority issue.

NOTE: The report, "State Enhancement Grant Assessments and Strategies-Public Access" from NOAA/NOS/Office of Ocean and Coastal Resource Management/Coastal Programs Division has been retained in the Committee's official files.

Mr. UNDERWOOD. Thank you.

Mr. GILCHREST. Thank you, Mr. Underwood.

This definitely will be the last question. All of you have been very patient. Of course, we have another panel.

Ms. Lawrence, what I would like to do is just read a part of the American Farm Bureau Federation's statement, and ask you to comment on it.

I quote, "We believe that the reauthorization of CZMA should affirmatively support a preference for voluntary incentive-based programs for water quality protection for agriculture. The cost of planning and regulatory water quality actions for nonpoint sources will impact agriculture in the coastal zone. The cost of permits, plans, potential production restrictions will be a burden that will put the affected farms at a competitive disadvantage within their industry."

Now, has Maryland worked through that? We don't want to burden the farmers anymore, because then they will leave the land and you get Wal-Mart in there, so we want to keep the land where it is, unless we can change Wal-Mart into a proponent of agriculture.

Have you seen any of those problems of restrictions and high costs of permits and all of the rest of that with dealing with your agriculture friends to put in buffers and deal with the issue of nonpoint source pollution?

Ms. LAWRENCE. I think it is the point that Ms. Davidson made a little bit ago about sometimes you don't get enough bang for your buck when you say it needs to be regulatory or enforcement-based programs.

I am working the other side of the issue these days. As you know, we have a regulatory program for nutrient management. And sometimes the cost and the check and balancing for regulatory programs is burdensome.

And I think the farm community is especially reluctant to be put in that arena with a power plant or somebody else whose business is scrutinized in that way.

So I think that there are times when you have issues that you need to address with some sort of regulatory action. But to blanket a whole industry and say everyone must do these things sometimes can be a concern because one size does not fit all, and you try to make everybody fit into a box.

And I think that that is a weakness of our nutrient management program. It is very hard to make over 14,000 people who have very individual operations fit through that same box and say you all must do these things.

So I would say that there is room for both of them and they should be complementary. But I don't think to say that regulation is the only method is good.

One point that I would make about the Farm Bureau comments is, I think their concern always is too much regulation, but the other overlying factor is that if you just pull out those farmers in the coastal zone areas of this country and say, "You have to meet this level of management," and everybody else doesn't have to, then it does put them at somewhat at a disadvantage in some ways.

That is not to advocate regulating everybody in the country, but it makes it a division in terms of what measures of performance you expect from one group versus another group.

Mr. GILCHREST. I see. Thank you.

Ms. LAWRENCE. So I think that is a bigger issue, really, than regulation or not regulation.

Mr. GILCHREST. On a side note, some time I would like to talk to you about nutrient management plans in Delaware versus Maryland.

Ms. LAWRENCE. Okay.

Mr. GILCHREST. And the issue of co-permitting.

Ms. LAWRENCE. Favorite topics.

Mr. GILCHREST. Yes.

I want to thank all of you for coming. It has been very helpful to us with this dynamic, sophisticated panel. Thank you very much.

Our third panel will be Dr. Richard Burroughs, Chairman, Department of Marine Affairs, University of Rhode Island; Mr. Craig Wyman, Liskow and Lewis; Ms. Eileen Claussen, President and Chair of the Board, Strategies for the Global Environment; and Ms. Jacqueline Savitz, Executive Director, Coast Alliance.

Thank you all for coming.

Dr. Richard Burroughs, we will begin with you, sir.

STATEMENT OF RICHARD BURROUGHS, CHAIRMAN, DEPARTMENT OF MARINE AFFAIRS, UNIVERSITY OF RHODE ISLAND

Mr. BURROUGHS. Yes, my name is Rick Burroughs. I am a professor at the University of Rhode Island.

It is a pleasure to be here to support the reauthorization of the Coastal Zone Management Act. What I would like to do is briefly explore three areas: first, nutrient pollution control; secondly, evaluation; and third, data.

There has been a substantial increase in our scientific understanding with respect to nutrients since this Act was last authorized. In particular, the Pew Oceans Commission marine pollution report has summarized nutrient data from a variety of estuaries around the country.

And I am pleased, I should say, to be joined by Eileen Claussen, who serves on the commission itself.

The work that I did with Don Boesch of Maryland was related to the marine pollution report.

In that report, we summarized data that are currently available, were able to identify nitrogen and phosphorous and limiting nutrients in systems, and were able to identify where these nutrients come from. If we look specifically at nitrogen, we can see that there are atmospheric, agricultural, point, and urban sources.

And we know certainly in Chesapeake Bay and other estuaries that nutrients in excess amounts cause significant environmental problems.

Now, the question, I think, before the group in terms of this reauthorization is: How do we go about connecting the new science to coastal protection? And I think the part of the Act that relates to the coastal community grants offers an opportunity to do so.

Let me explain. Using the scientific data that we now have, we can pick coastal regions with known nutrient problems. In fact, there is a chart in the report that does that. We can also, in many instances, begin to estimate the sources of pollution. And if we can estimate these sources, then we can look at specific responses and, in fact, target funds to local coastal communities that are willing to control important sources of nitrogen.

So I would certainly encourage, as you go forward with the legislation, looking at the potential for targeting some of your activity. I know this doesn't answer the percentage question that you raised earlier, but I think there is a possibility of targeting your activities toward those coastal environments that have nutrient problems which could be controlled through the initiatives under the act.

My second topic is the question of evaluation. I would second the discussion that I think Margaret Davidson and others have introduced, that we need to look at evaluation in terms of program outcomes, not program outputs. So we are not looking just for process—how many plans, how many permits—but rather, are there changes in the environment that we can reasonably attribute to actions taken under the law.

Now, how might we do this? I think one thing that would be helpful is to identify in the legislation the use of these evaluations. Who is going to use them? How are they going to use them? When are they going to use them?

Certainly, that is around the edge of this. It is very clear that the states could use this information. Certainly this Committee would use the information. The parent agency, Department of Commerce, could use the information.

I think those uses of information and identifying them early on in the process will make it easy to focus on exactly what might be done next.

I would say that focusing on program outcomes is important and would be very pleased to hear the results of the Heinz study on particular measures related to that.

And I would say the Coastal States Organization, from the perspective of the coastal states, that the states themselves be allowed to identify measures that they believe are important for their own programs. I think that would be very useful.

Finally, in the reporting of results, you have laid out in the legislation a number of program outcomes. It might be useful to report the results of the evaluation by specific outcomes, listed in the law.

Finally, in the area of data, many have mentioned that data are a limiting commodity. And some of the questions earlier today indicated that there are gaps that we need to fill. It is pretty clear that the funding for the projects that might be undertaken under the reauthorized law could have as a contingency the collection of data that would be used for evaluation. The results of the 24-month report on measures for performance evaluation, might be utilized in contracting individual projects.

Thank you for the opportunity to speak on behalf of the protection of our nation's coasts.

[The prepared statement of Mr. Burroughs follows:]

Statement of Richard Burroughs, Professor and Chair, Department of Marine Affairs, University of Rhode Island

Mr. Chairman and Subcommittee members, I am Richard Burroughs, a marine policy professor from the University of Rhode Island. In the past, I have written about policy and management related to coastal and marine resources. As you know, the Coastal Zone Management Act that you are considering reauthorizing today is one of the central elements of this universe. As a student, I was pleased to participate in a scientific conference on critical problems of the coastal zone that predated the original passage of this legislation in 1972. A few years ago through the Urban Institute, I contributed to an evaluation of a companion coastal program, and, most

recently, I wrote sections of the Pew Oceans Commission report on Marine Pollution.

Nutrient Pollution of Coastal Waters

The Pew Oceans Commission report on marine pollution devoted considerable attention to nutrients such as nitrogen and phosphorous which, in excess amounts, cause problems for coastal waters. The sequence, well known to people in this room, is that plentiful nutrients trigger bursts in primary production and other shifts in ecosystem health which result in impacts from harmful algal blooms to low oxygen in bottom waters. The former can affect human health through Pfiesteria or other means and the latter disrupts ecosystems and organisms that people depend upon for recreation or commercial harvest.

A primary contribution of the Pew report was to summarize the literature concerning nutrients and their impacts. Most commonly the culprit is nitrogen. Potential sources of nitrogen to coastal waters include urban runoff, agriculture, and the atmosphere which are all diffuse nonpoint sources. The final group, the point sources, consist of sewage treatment plants and other pipe discharges. Identifying estimated sources of nitrogen for individual estuaries allows government to target those causes for which the greatest chance for improvement exists. For example, Narragansett Bay in Rhode Island appears to be dominated by point sources. In contrast, agriculture is the most important source of nitrogen to Chesapeake Bay, and atmospheric sources dominate in Barnegat Bay, New Jersey.

Knowing the sources of nitrogen being added to coastal waters has a vast and important impact on governmental program design. This reauthorization could use that information to good effect. Directing nutrient reduction activities to those geographic areas where legislative authorities allow control of a known source would be most successful. Targeting the largest and most governable sources makes sense, much in the way that only certain communities may participate in urban development programs. Thus, because point sources and atmospheric sources are covered by other legislation, the best use of coastal zone management authorities may be directed to agriculture and diffuse urban runoff that affect coastal areas.

Provisions of this type are compatible with the coastal community conservation grant sections of Mr. Saxton's H.R. 897 and your own discussion draft. By matching a current scientific understanding of cause with additional legislative direction in the coastal community grants, more environmentally effective management will result.

Evaluation of State Coastal Zone Management Program Outcomes

Now I'll consider evaluation. You noted that evaluation of the implementation of coastal zone management plans in the states requires new attention. Both section 111 of the discussion draft and section 108 of H.R. 897 identify the need for measurable outcome indicators for each of the management objectives noted in the law as it is today.

Those current objectives include expediting the process of governmental decision-making, coordinating with Federal agencies and local government as well as the public, assisting in planning for living marine resources and for land subsidence as well as sea level rise. These program outputs must, of necessity, precede specific actions. However, they fall into the category of plans as opposed to tangible actions to affect environmental quality. Evaluation of plans and processes, while desirable, is not as salient as evaluation of actions.

Thus, focusing on other objectives embodied in the law that are more action oriented will produce greater progress. The latter constitute program outcomes. They include protection of natural resources and minimization of the loss of life and property in areas vulnerable to hazards. Furthermore, state programs are to give priority to public access and to respect the needs of coastal-dependent uses such as ports, recreation, and energy developments. Finally, assistance for redevelopment of urban waterfronts and ports as well as coastal development to protect the quality of waters and resources (wetlands, beaches, reefs, fish and wildlife) are also specifically identified. These outcome oriented management goals are clearly the most important but complex.

The complexity arises because at times the objectives may be viewed as incompatible. For example harmonizing coastal-dependent industrial facilities with protection of natural resources and water quality may be difficult because individual interests demand ever larger shares of a limited coastal zone.

A major analytical opportunity to address this apparent incompatibility would be to assess the success in reaching these separate objectives as described in detail below. Next the effect of individual objective achievement in multiple states could be analyzed in terms of impacts on the coast. Finally, as a part of the next reauthor-

ization, the Congress could reflect upon the impact of the program on the nation's coast and adjust objectives, if needed.

Previous evaluations include state specific section 312 reviews and national CZM effectiveness studies. Both have struggled with the challenge of establishing appropriate analytical protocols and acquiring data. The structure proposed in the discussion draft and bill significantly advances the strategy to accomplish better assessment. I wish to add some additional details concerning development of measures and use of results.

First, the Congress through this reauthorization can anticipate who will use the results of the evaluation and how this will be done. An important context for this is the Government Performance and Results Act. In specific, performance by outcome management objective will be determined on a state by state basis using the mutually agreed upon performance measures. Thus, the state agencies will both define and utilize the results of the evaluation.

Second, a detailed process for the derivation of performance measures is necessary. Each state CZM agency will nominate separate performance indicators for management objectives related to program outputs. A parallel but separate research exercise will result in the independent development of output indicators. Then the composite list with explanations will be assembled by NOAA and released for state and public review. These results are consistent with the 24 month deadline in the proposed legislation.

Third, the national composite picture will be established from an aggregation of state performance measures by outcome objective. Each of the output objectives would have state specific performance reported. NOAA would respond to the Congress at the 48 month deadline with both state performance and a national aggregation of results by objective.

Finally, achievement of the above would lay the groundwork for two important changes. Once the performance measures by objective are identified, program implementation could go forward with the requirement that funding be contingent upon collection and reporting of performance data. Another change is that prior to the next reauthorization and upon completion of the first iteration of the performance evaluation system, the Congress could conduct a goal/performance review. Informed program and/or goal adjustments will flow from the new performance information.

Thank you for the opportunity to express my views on this important legislation for our coasts and the nation.

Mr. GILCHREST. Thank you, Dr. Burroughs.

Mr. Wyman?

STATEMENT OF CRAIG WYMAN, LISKOW AND LEWIS

Mr. WYMAN. Good afternoon. We appreciate this invitation to appear at today's hearing. I am here on behalf of the API, NOIA, U.S. Oil and Gas Association, the IPAA, and the International Association of Drilling Contractors.

Listening to the gentleman just before me and the second panel today, I was struck by the hundreds of activities that are addressed by the CZMA and its programs that are not addressed in my testimony today. I have really been asked to address a very narrow section of the act, a very important section of the act.

More specifically, I am here to present industry's concern regarding certain problems that involve CZMA consistency provisions as they relate to OCS activity.

We are gravely concerned that these problems will not only continue to harm the oil and gas industry but might actually threaten the viability of the OCS leasing program.

The OCS Lands Act and the CZMA, in harmony with NEPA and other national environmental laws, direct the environmentally compatible development of Federal OCS oil and gas.

The oil and gas found on the Federal OCS are the property of all American citizens. The revenues collected from OCS leasing and production are deposited in the U.S. Treasury.

We ask Congress to reflect carefully on the CZMA's impact on our national energy policy since damage to the OCS leasing program would have serious adverse impacts on the nation's already strained ability to meet increasing fuel supply needs.

By the end of 2000, Federal OCS accounted for fully 26 percent of domestic natural gas production and 26 percent of domestic oil production. At the end of last year, over 83 percent of all oil royalties paid on Federal and Indian leased lands and over 74 percent of natural gas royalties came from the OCS.

The figures are expected to continue to rise.

We have included in our written testimony certain suggested amendments to the CZMA consistency review provisions for OCS activities that we believe would eliminate uncertainties and delays under the current CZMA requirements.

These revisions have four aims. And I believe, from what I heard earlier, some of these aims may have been misunderstood. To clarify, these aims include a limitation on the territorial scope of a state's consistency review of private permits; a provision to allow an OCS plan to contain a single consistency certification and determination for oil-related activities; a provision to specify that the Secretary of the Interior would determine information requirements for consistency certifications and would be the decision-maker for override disputes involving OCS activities; and fourth, a provision to ensure timely decisions in override appeals by imposing a specific decision deadline.

In our written testimony, we provide a fuller background of the CZMA's relationship with the OCS leasing program and the problems that have prompted our suggested amendments. We will briefly do so here.

Under both the OCS Lands Act and the CZMA, no Federal agency may issue a permit to conduct any proposed OCS activity unless an affected coastal state concurs with the lessee's consistency certification or unless the Secretary of Commerce overrides the state's objection.

In recent years, a number of states have used their consistency determination authority to attempt to stifle offshore development. Moreover, certain CZMA objections have been upheld by the Secretary of Commerce on dubious grounds.

Even in those instances where the Secretary has overridden the state's objection, the appellate process has been hampered by inordinate delays. For example, during the 1990's, appeals involving OCS activities took from 16 months to 4 years from the state's initial objection to the final override decision.

If the direction of the CZMA consistency process has taken with regard to OCS activities is allowed to stand, we believe that OCS lessees, as well as bidders at future OCS lease sales, will continue to face stark uncertainties regarding their planning efforts. The OCS leasing program must ensure that lessees that comply with their lease terms' operational requirements and the nation's environmental laws have a fair chance at a return on the investments.

The current CZMA consistency process has worked to thwart that end.

We again thank the Subcommittee for this opportunity to appear.

Congress made an explicit finding in the OCS Lands Act amendments enacted over 22 years ago that the development of OCS resources is vital to the nation's energy future. The CZMA also provides for priority consideration to be given to the siting of major energy facilities in coastal areas.

I have attempted to focus on several problems in the CZMA's consistency process that have hindered these national objectives. The suggested amendments included in our written testimony would work to distinctly improve the efficiency, the certainty, and the fundamental fairness of the consistency process.

Thank you again.

[The prepared statement of Mr. Wyman follows:]

Statement of Craig Wyman, Representing The American Petroleum Institute; The National Ocean Industries Association; The Independent Petroleum Association of America; The United States Oil and Gas Association; and the International Association of Drilling Contractors

We appreciate the opportunity to appear at today's hearing on the proposed reauthorization of the Coastal Zone Management Act ("CZMA"). I am here to represent several oil and gas trade associations including the American Petroleum Institute ("API"), the National Ocean Industries Association ("NOIA"), the U.S. Oil and Gas Association ("USOGA"), the Independent Petroleum Association of America ("IPAA"), and the International Association of Drilling Contractors ("IADC"). These five national trade associations represent hundreds of companies, both majors and independents, engaged in all sectors of the U.S. oil and natural gas industry, including exploration, production, refining, distribution, marketing, equipment manufacture and supply, and other diverse offshore support services. We believe that a critical section of the CZMA regulatory program has run adrift of Congress's legislative intentions and, if left unchecked, could permanently harm this nation's offshore leasing program under the integrally-related Outer Continental Shelf Lands Act ("OCSLA"). The member companies ask Congress to reflect carefully on the CZMA reauthorization's impact on our national energy policy.

In the OCSLA, Congress has declared that the OCS is a "vital national resource reserve . . . which should be made available for expeditious and orderly development . . . ." 43 U.S.C. § 1332(3) (emphasis added). The CZMA in turn at 16 U.S.C. § 1455(d)(8) clearly provides that each approved state CZMA program must contain "adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of [energy] facilities . . ." (emphasis added). In an effort to regain and restore these congressional directives, we respectfully submit today's testimony in support of much-needed revisions to the CZMA's consistency review process.

These associations' member companies hold the vast majority of the oil and gas leases on the OCS, and their members have bid tens of billions of dollars at OCS lease sales. In our view, the CZMA consistency certification program as applied to OCS activity over recent years has seriously undermined the ongoing viability of OCS lease operations. The import of the program's flawed administration is the alteration of the economic risk structure of the OCSLA crafted by Congress after decades of experience and study. Potential bidders in OCS lease sales have valid, serious questions whether their lease investments will be rendered worthless as a result of subsequent CZMA consistency certification disputes. We are gravely concerned that these problems will not only continue to harm the oil and gas exploration and producing industry, but might actually threaten the viability of the entire OCS leasing program. The damage to the OCS leasing program—the source of 26% of both domestic natural gas production and domestic oil production—could be severe and could have serious adverse impacts on the nation's already strained ability to meet increasing energy and fuel supply needs.

The revisions that we suggest to the CZMA consistency review provisions for OCS activities would improve the effectiveness of the consistency process and eliminate uncertainty and delays under the current CZMA requirements. These revisions would:

- Clarify the territorial scope of a state's consistency review of private permits;
- Allow a single consistency certification determination for all activities;
- Specify that only the Secretary of the Interior would determine information requirements for consistency certification and legal criterion for overrides;

• Ensure timely decisions in override appeals by imposing a specific deadline.

The CZMA Consistency Process

The CZMA broadly covers both coordination of permitting activity among Federal and state agencies and the Federal funding of state programs for the management of coastal areas. The CZMA's "consistency" provisions, which are intended to accomplish this Federal/state coordination, are the focus of the present inquiry. The consistency process, in turn, is broadly divided into two types of consistency "determinations," i.e., those made directly by Federal agencies when considering the effects of their own actions on a state's coastal zone, and those required for applicants for Federal licenses and permits having effects on a state's coastal zone. Today's testimony is directed mainly on the impacts of the proposed regulations on the private permitting processes. However, increased difficulties by Federal agencies in conducting their consistency procedures can generate adverse impacts on the private sector as well.

CZMA's Relationship with the OCS Leasing Program

OCS mineral leases are issued by the MMS under the authority of the Outer Continental Shelf Lands Act, 43 U.S.C. § 1331 et seq. OCSLA leases require lessees to pay up-front cash bonuses, followed by periodic lease rental payments, for the tracts they acquire. 43 U.S.C. § 1337. Under the OCSLA statutory scheme, an OCS lessee may thereafter prepare a Plan of Exploration ("POE") as part of the "exploration" stage of lease activity.[1] If recoverable resources are found, the lessee may then submit to the MMS a Plan of Development and Production, or "POD," to continue on to the "production" stage.[2] In the course of filing either plan, the OCSLA further stipulates that the OCS lessee will certify that its activities will be consistent with the coastal zone management plan of any affected state that has an approved CZMA program. See 43 U.S.C. § 1340(c)(2) (applying CZMA certification requirement to exploration plans); 43 U.S.C. § 1351(h) (applying the requirement to production plans).

Under the CZMA consistency requirements, a Federal agency is prohibited from granting any further permits to conduct activities under a POE or DOP unless the state has concurred that such activities are consistent with its approved CZMA program, or unless the Secretary of Commerce "overrides" the state's objection. In recent years a number of states, including North Carolina, California and Florida have used their consistency determination authority to attempt to stifle oil and gas leasing, exploration and development. Moreover, certain state CZMA objections have been upheld by the Secretary of Commerce on dubious grounds, meaning that further OCS development was thwarted. Even in those instances where the Secretary has overridden the state's objection, the appellate process has been hampered by inordinate delays. For example, during the 1990s, appeals involving OCS activity have taken from 16 months to 4 years from the state's initial objection to the final override decision.

This testimony focuses on two themes. First, the testimony underscores the importance of the OCS leasing program to this nation. Next, it discusses those areas of the CZMA consistency process which could be improved through amendments to the CZMA as part of the pending reauthorization legislation.

The OCSLA Leasing Program is Vital to This Nation

The integrity of the leasing program established by the OCSLA, 43 U.S.C. § 1331 et seq., is vital to this nation. The OCS program supplies an essential share of domestic energy production in addition to billions of dollars of non-tax governmental revenues.

---

[1] As described in a leading treatise on Federal oil and gas law, the POE will include: a description of the type and sequence of exploratory activities; a description of drilling vessels, platforms, and other structures to be used; the types of geophysical equipment that will be used; the location of each exploratory well planned; an oil spill contingency plan; an air-quality analysis; and other relevant geological and geophysical information. . . . If drilling affects a state with a Federally-approved coastal zone management program, an Environmental Report (Exploration) must also be submitted. . . . Patrick H. Martin, Outer Continental Shelf Leases and Operating Regulations, in 2 Law of Federal Oil and Gas Leases, 25–1, 25–36 (Rocky Mountain Mineral Law Foundation 1999).

[2] The POD "includes information similar to that in the exploration plan: the specific work to be performed; a description of drilling vessels, platforms, and pipelines together with safety and pollution control features and labor, material, and energy requirements; well locations; current interpretations of all relevant geological and geophysical data; environmental safeguards and safety standards; and a time schedule of the activities to be undertaken." See Martin, supra at 25–38.

By the end of 1999, nearly twelve billion barrels of oil and over 130 trillion cubic feet of natural gas have been produced under the OCS leasing program.[3] By the end of 2000, the OCS accounted for fully 26% of domestic natural gas production and 26% of domestic oil production.[4] At the end of 1999, over 8,100 oil and gas leases issued under the OCSLA existed on the nation's Outer Continental Shelf.[5] Additional leases have been issued by the MMS, and lease sales will continue into the foreseeable future. Over the last eleven and one-half years alone, OCS lessees have paid the Federal Government over $6 billion in lease bonuses.[6] Indeed, the MMS collected over $1.4 billion in lease bonuses in 1997, $1.3 billion in 1998, and $.3 billion in 1999.[7] As of the end of 2000, over 83% of all oil royalties paid on Federal and Indian leased lands, and over 74% of gas royalties, came from the OCS.[8]

If the direction the CZMA consistency process has taken with regard to OCS activity is allowed to stand, all OCS lessees, as well as bidders at future OCS lease sales, will face stark uncertainties regarding the OCSLA statutory scheme. The OCS leasing program should work to ensure that OCS lessees that comply with their lease terms and operational requirements have a fair chance at a return on their lease investment. Instead, the CZMA consistency program has allowed states to unilaterally use the process as a tool in their philosophical opposition to offshore drilling. As observed by the Court of Federal Claims in the context of an analogous CZMA consistency dispute involving the North Carolina Manteo project, "common sense suggests that no sophisticated oil and gas company with many years of experience in drilling for oil in offshore leased tracts would knowingly agree to pay the huge, up-front considerations . . . for such tenuous and unilaterally interruptible drilling rights.[9]

We are also concerned that the Department of Commerce's implicit endorsement, in recent override decisions, of certain state CZMA objections based on a purported "inadequacy of information," will only embolden other coastal states that categorically oppose offshore development to misuse the CZMA and OCSLA processes. Accordingly, the industry's incentive to bid for OCS leases, especially in new, frontier OCS areas, will be drastically undercut.

Possible CZMA Legislative Proposals to Address Industry Concerns

This section of today's testimony addresses possible legislative changes to the CZMA to address concerns regarding the impact of the CZMA consistency review process on the future orderly exploration and development of the Federal OCS. As discussed above, certain coastal states in recent years have become increasingly aggressive in using the consistency review process to obstruct offshore energy development. A combination of such state action and Congressional intervention led to the June 2000 U.S. Supreme Court decision in Marathon Oil et al v. United States, 530 U.S. 604, 120 U.S. 2423, in which the court ordered the Federal Government to return over $158 million in bonus monies paid for leases in the Manteo area offshore the state of North Carolina.[10] The Manteo experience, along with others, shows the need to improve CZMA consistency review procedure to avoid such process breakdowns in the future. Towards this end, our member companies have identified a focused and limited collection of critical CZMA provisions that could be amended to promote a more rationally based national program.

A. Amendment of the definition of "enforceable policy" in 16 U.S.C. § 1453(6a)

In order to effectuate congressional intent, we recommend that the definition of "enforceable policy" be changed to limit the expansion of a state's CZMA consistency review over activities outside of its own geographic boundaries. The legislative his-

---

[3] Statistical Highlights Fiscal Year 1997, U.S. Department of the Interior, Minerals Management Service (1998); MMS Offshore Stats, Year-end 1999, U.S. Department of the Interior, Minerals Management Service.

[4] http://www.mms.gov/stats.ocsproduction.htm.

[5] MMS Offshore Stats, Year-end 1999, U.S. Department of the Interior, Minerals Management Service.

[6] U.S. Bureau of Census, Statistical Abstract of the United States: 2000 (120th Edition); Washington, D.C. (2000); MMS Revenue Collections, January–December 1998, U.S. Department of the Interior, Minerals Management Service; MMS Revenue Collections, January–December 1999, U.S. Department of the Interior, Minerals Management Service.

[7] Statistical Abstract of the United States: 2000, supra n. 6. Bonuses totaled $440 million in 1999 and $249 million in 2000. Mineral Revenue Collections, January–December 1999, 2000.

[8] Mineral Revenue Collections, supra n.7.

[9] Conoco Inc. v. United States, 35 Fed. Cl. 309, 324 (Fed. Cl. 1996).

[10] In that case, the Supreme Court determined that restitution of the bonus monies was justified after the state's CZMA authorities, as well as later Federal legislation, had imposed additional information requirements for a POE that had otherwise been described by MMS officials as "the most comprehensive body of environmental information ever assembled on a proposed well in the history of the U.S. offshore drilling program.

tory of the 1990 CZMA amendments [11] is clear that Congress did not intend to allow the expansion of the territorial scope of state consistency review of Federal licenses and permits. Nevertheless, a number of states, as well as Commerce in its recent December 8, 2000 CZMA consistency procedure rulemaking, [12] have taken the position that states may review activities and block permits issued for activities taking place in other states.

In the 1990 CZMA amendments, Congress removed the word "directly" before "affecting the coastal zone" in the statute's provisions for Federal agency consistency certification for Federal agency activities. The intent of this change was to ensure that Federal agency activities both within or outside the coastal zone were subject to CZMA consistency review, not to expand a state's authority for consistency review to another state. In essence, the 1984 U.S. Supreme Court decision in Secretary of the Interior v. California found that MMS lease sales did not "directly" affect the coastal zone, and thus were not subject to CZMA consistency review. To overturn the Supreme Court decision Congress removed the words "directly affecting" from CZMA Section 307(c)(1)'s requirement for Federal agency action and provided that consistency would now be required for "Each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone . . ." (Emphasis added.)

At the same time, in what were termed technical changes, the entirely separate provisions in CZMA Section 307(c)(3)(A) and (B)—applying Federal consistency review to private permit applicants and to OCS Plans—were amended to refer to those consistency activities "in or outside" of the coastal zone affecting "any land or water use or natural resource" of the coastal zone. (Emphasis added.) Unlike CZMA Section 307(c)(1), these latter sections had not previously been written to place the adverb "directly" before the verb "affecting." Again, this change was not intended to expand a state's authority for consistency review.

The Conference Report plainly states Congress' actual intention regarding the future construction of CZMA Section 307(c)(3):

> The conferees want to make it clear that the changes made . . . [to Section 307(c)(3) governing private permit applicants] are technical modifications. None of the amendments made by this section are intended to change the existing implementation of these consistency provisions. For example, none of the changes made to Section 307(c)(3)(A) and (B), and (d) change existing law to allow a state to expand the scope of its consistency review authority. Specifically, these changes do not affect or modify existing law or enlarge the scope of consistency review authority under Section (c)(3)(A) and (B), and (d) with respect to the proposed project to divert water from Lake Gaston to the city of Virginia Beach, Virginia, for municipal water supply purposes. These technical changes are necessary to, and are made solely for the purpose of, conforming these existing provisions with the changes to Section 307(c)(1) of the CZMA which are needed to overturn the Watt v. California Supreme Court decision. (Emphasis added). H.R. Conf. Rep. 101–964, at 968 et seq., reprinted in 1990 U.S.C.C.A.N. at 2673, et seq.

Prior to the 1990 amendments to CZMA, the public record shows that both DOJ and the Corps of Engineers had issued legal opinions and filed briefs in Federal courts which disputed a state's authority under the CZMA to conduct consistency review outside of its own boundaries. During the most recent Department of Commerce CZMA rulemaking, exhaustive comments submitted by the City of Virginia Beach with regard to the "Lake Gaston dispute" (mentioned specifically in the Conference Report quoted above and involving North Carolina's attempted CZMA veto of a Virginia-based project), highlighted the specific legislative history regarding the 1990 amendments, as well as other fundamental rules of statutory construction, that establish that one state's coastal policies cannot be legally enforced to block a Federal permit applicant's activities taking place entirely in different state.

The "Lake Gaston dispute" ultimately led to a December 3, 1992 Secretarial override decision in which the first Bush administration's Secretary Franklin ruled that North Carolina lacked legal authority to block an activity located entirely in another state. It was not until 1993 that a political policy reversal by Clinton-appointee Sec-

---

[11] Coastal Zone Reauthorization Amendments of 1990, Pub. L. No. 101–508 (the "1990 Amendments"). For OCS Plans, however, we acknowledge OCS lessees are potentially subject to consistency certifications for coastal zone impacts occurring in one or more "affected states." The member companies do not intend the proposed amendment to the definition of "enforceable policy" to rescind the special Congressional consent to affected states' consistency review of OCS Plans under 16 U.S.C. § 1456(c)(3)(B).

[12] 65 Fed. Reg. 77124 (December 8, 2000) (the "CZMA rulemaking").

retary Brown acquiesced to the NOAA legal staff's position that promoted such state extra-territorial review authority.

The record is thus quite clear that, both before and immediately after the time the 1990 Amendments were passed, the predominant Federal Government position rejected a state's authority to conduct consistency review for private permit applicants' activities outside of its boundaries. When passing the 1990 Amendments, Congress made clear that no change to the scope of existing state review authority over private permits would occur. Accordingly, an amendment to the CZMA to change the definition of "enforceable policy" is necessary to overturn the Department of Commerce's newly minted and untenable position that expands a state's consistency authority outside its boundaries.

B. Amend 16 U.S.C. § 1456(c)(3)(B) to allow a single consistency certification for an OCS Plan to cover all activities, including air and water permits

The oil and gas industry has experienced inordinate delays regarding the lack of coordination between Federal agencies in processing permits for OCS activities, especially including delays involving separate state consistency reviews for those permits. There are also serious concerns raised by the recent CZMA rulemaking indicating that new "licenses or permits" involving heretofore-routine approvals of OCS activities will be subject to separate consistency review.

This amendment is intended to increase the efficiency of state consistency review for OCS Plans by achieving a single consistency certification for all related permitted activities, including air and water discharges, conducted pursuant to either an exploration plan, or a plan of development and production. Contrary to any suggestion that such a change would unacceptably limit state consistency review information, DOI regulations require an exacting explanation of the Federal applicant's plans, including air and water discharges.

Attached to this testimony for this Subcommittee's ready reference are the requirements for OCS exploration and development plans set forth at 30 C.F.R. §§ 250.203 and 250.204. These MMS regulations state in detail information requirements for both water and air emissions and include specific discussion of "[e]nvironmentally sensitive areas (onshore as well as offshore) . . . and areas of particular concern identified by an affected State pursuant to the Coastal Zone Management Act . . . which may be affected by the proposed activities." There is also specific direction for consultation by the MMS with CZMA agencies of affected states regarding any limitation on the amount of information necessary to be included.

Moreover, language requiring activities to be described "in detail" is already built into the OCS information exchange process by the language of the OCSLA. Most pertinently, for development and production plans, the OCSLA at 43 U.S.C. § 1351(d) specifically says that "the Secretary shall not grant any license or permit for any activity described in detail in a plan and affecting any land use or water use in the coastal zone of a State . . . unless the State concurs or [if an override decision is issued]." (Emphasis added). Substantially similar language is found under the provisions for exploration plans at 43 U.S.C. § 1340(c)(3), which directs that "an exploration plan submitted under this subsection shall include [information] in the degree of detail which the Secretary may by regulation require." (Emphasis added). The attached MMS regulations implementing these provisions abundantly satisfy concerns regarding detailed information being provided to support consistency certifications.

C. Amend 16 U.S.C. § 1456(c)(3)(B) to recognize that the Secretary of the Interior will determine information requirements for consistency certifications

This proposed amendment is closely related to the preceding amendment regarding a single consistency certification determination. To further promote the efficiency of the consistency process, not only should a permit applicant be permitted to file a single consistency determination for its OCS plans, but the information supplied in support of that consistency determination should be allowed to conform to a known set of information requirements identified by the Department of the Interior. In the past, the consistency process has broken down all too often based on unreasonable and unceasing unilateral state information requests. Moreover, certain states have lodged such consistency objections even while refusing to respond to the OCS permit applicant's request for a simple itemization of the information that the state may find lacking.

While existing regulations provide that state information requirements are subject to a public approval oversight process, state expansions of consistency review information requirements have on more than one occasion been treated as merely "routine" amendments to state programs requiring minimum public notice and comment. In addition, Commerce's past uncritical endorsement of state demands for "adequate information" ignores the realpolitik of state consistency review informa-

tion requests. The CZMA experience has shown to any disinterested observer that certain coastal states have used purported findings of "lack of information" to deny consistency certifications and to obstruct OCS activity on very questionable grounds, especially considering the abundance of information on OCS oil and gas exploration and development that has been accumulated over the last 50 years.

Finally, any question whether the Secretary of the Interior is qualified to determine what information is needed for a state to make an informed consistency decision should be convincingly answered by the detailed MMS information requirements for OCS Plans attached to this memorandum, as well as the specific OCSLA requirements for DOI consultation with state coastal zone authorities regarding areas of particular state concern.

D. Amend 16 U.S.C. § 1456(c)(3)(B)(iii) to provide that the Secretary of Interior would decide override appeals concerning OCS activities

The Manteo consistency review process led to the Secretary of Commerce making unprecedented rulings declining to override North Carolina's objections and putting into question the Secretary's very recognition of the importance of future exploration of frontier OCS areas in environmentally sound ways. Commerce's recent CZMA rulemaking has now further put into question the application of the legal criterion for Secretarial overrides in a way that would work presumptively against frontier OCS exploration. These experiences, as well as consideration of the greater expertise possessed by the Secretary of the Interior with regard to OCS plans and their environmental effects, support an amendment of 16 U.S.C. § 1456(c)(3)(B) (iii) to allow the Secretary of the Interior to handle appeals of state objections to OCS Plans.

First, we are concerned that a superficially minor change made to the Secretarial override criteria in recent rulemaking could now authorize arbitrary and capricious agency action. Commerce's CZMA rulemaking has changed the Secretarial override criteria. 15 C.F.R. § 930.121 previously included the specific finding that "[t]he challenged activity furthers one of the national objectives or purposes of the [CZMA]," but the new CZMA rules have added the requirement that the activity must "significantly or substantially" further the national interest requirements. While this change to the "national interest" criterion may appear innocuous, it could have substantial detrimental impacts. For example, while Commerce in its December 8, 2000 preamble makes a point of noting that "[a]n example of an activity that significantly or substantially furthers the national interest is the siting of energy facilities or OCS oil and gas development," 65 Fed. Reg. 77150 (bottom middle column), this observation gives OCS lessees a degree of comfort as to the new criterion's application to OCS development, but not necessarily to exploration. This distinction is significant because the Secretary of Commerce's Manteo POE and NPDES permit override decisions specifically found, contrary to longstanding Secretarial precedent, that the drilling of an exploration well in an important frontier OCS area would only provide a "minimal contribution" to the national interest. Particularly emphasizing that the Manteo POE had indicated that there was a 10 percent chance of actually finding mineral reserves (which in the industry is a quite solid chance for even conservative decision making), the Secretary found that the supposedly small chance of exploratory success diminished the Manteo project's contribution to the national interest. Therefore, the new override criterion could now be used by the Secretary of Commerce to reject the importance of OCS exploratory activity in frontier areas.

Any possible suggestion that the Secretary of the Interior lacks experience with CZMA issues, or that the CZMA's override decisionmaking procedures would be "inappropriately bifurcated," is unfounded. First, such concern pointedly ignores the educational process that all Federal agencies have undergone over the last 25 years in administering CZMA consistency review requirements regarding their actions. Federal agencies in general—and DOI with its myriad agencies with coastal responsibilities in particular—have become quite sophisticated in determining project impacts on a state's coastal zone. Indeed, this educational process is embedded in the very framework of Commerce's consistency regulations.

A related concern that the DOI Secretary would lack "responsibility for the implementation of the statute upon which the decision is based" ignores the long existing, parallel process under which the Secretary of Commerce has exercised authority, as part of the CZMA override process itself, to determine a private permit applicant's satisfaction of the requirements of both the Clean Air Act and the Clean Water Act. Neither statute is directly administered by Commerce, but this analogous circumstance evidently has not hampered past Secretarial override decisionmaking.

Finally, the bifurcation of the processing of override appeals achieved by this amendment would be entirely consistent with the already existing statutory division between OCS Plans' consistency review and all other private permit review, as established in the separate CZMA sections of 16 U.S.C. § 1656(c)(3)(A) and (B). The

pre-existing statutory recognition of a unique OCS planning process would only be strengthened by Congressional recognition of the Secretary of the Interior, in charge of administering OCS activity, as the appropriate decision-maker to weigh the beneficial vs. adverse impacts of such planning.

E. Amend 16 U.S.C. § 1465 to ensure timely decisions by Secretary in override appeals

Despite Congress's 1996 amendment to the CZMA to add 16 U.S.C. § 1465, which was specifically intended to expedite the override decisionmaking process, these appeals continue to be drawn out by overlong agency commenting, and by Commerce's implementation of the present requirement that the deadline for decisionmaking does not begin to run until after the administrative record is "closed." A new amendment is needed to institute a definite deadline that is only governed by the time an appeal is filed.

The member companies note that in practice the materials that comprise the administrative record for the Secretarial override decision are fully developed by the time a state's consistency objection is lodged. The override criteria can be readily applied to the already-assembled information. If unusual situations arise where legitimate reasons exist for an extension of the decisionmaking deadline, the 1996 amendment already allows a 45-day "safety valve" extension.

There is no foundation to any suggestion that the change could result in Secretarial decisions based on "incomplete information" regarding possible coastal impacts. Indeed, speculation regarding such vague and lingering information concerns essentially makes the case for the need for this new amendment. There will always be a Federal regulatory mindset, shared by certain of the coastal states, that tilts towards preferring "one more study to be completed" before ever reaching a final decision. The need for predictability in these override decisions mandates a preordained time for review; otherwise, continuing abuse will be endemic to the decisional process.

Conclusion

We believe that the foregoing discussion has amply demonstrated that the continuing development of OCS resources is vital to the nation's energy future, an observation which Congress included as an explicit finding in the Outer Continental Shelf Lands Act Amendments enacted over 22 years ago this year. This testimony has also identified several areas of concern with regard to the future effectiveness of this process as it relates specifically to states' consistency reviews over OCS activity. The testimony's suggested amendments to the CZMA as part of the reauthorization legislation would work to distinctly improve the efficiency, as well as the fundamental fairness, of that process.

ATTACHMENT

TITLE 30—MINERAL RESOURCES

DEPARTMENT OF THE INTERIOR

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

Subpart B—Exploration and Development and Production Plans

Sec. 250. 203 Exploration Plan.

(a) The leasee shall submit for approval an Exploration Plan which includes the following:

(1) The proposed type and sequence of exploration activities to be undertaken together with a timetable for their performance from commencement to completion.

(2) A description of the type of mobile drilling unit, platform, or artificial island to be used including a discussion of the drilling program and important safety and pollution-prevention features. In the Alaska OCS Region, lessees shall include provisions for——

(i) Drilling a relief well should a blowout occur,

(ii) Loss or disablement of a drilling unit, and

(iii) Loss or damage to support craft.

(3) A table indicating the approximate location of each proposed exploratory well, including surface locations, proposed well depths, and water depth at well sites.

(b) The lessee shall submit the following supporting information to accompany the Exploration Plan:

(1) Data and information described below which the Regional Supervisor deems necessary to evaluate geologic conditions:

(i) Current structure contour maps drawn to the top of each prospective hydrocarbon accumulation showing the approximate surface and bottomhole location of each proposed well.

(ii) Full-scale interpreted, and if appropriate, migrated Common Depth Point seismic lines intersecting at or near the primary well locations.

(iii) A time versus depth chart based on the appropriate velocity analysis in the area of interpretation.

(iv) Interpreted structure sections corresponding to each seismic line submitted in paragraph (b)(1)(ii) of this section showing the location and proposed depth of each well.

(v) A generalized stratigraphic column from the surface to total depth.

(vi) A description of the geology of the prospect.

(vii) A plat showing exploration seismic coverage of the lease.

(viii) A bathymetry map showing surface locations of proposed wells.

(ix) An analysis of seafloor and subsurface geologic and manmade hazards. Unless the lessee can demonstrate to the satisfaction of the Regional Supervisor that data sufficient to determine the presence or absence of such conditions are available, the lessee shall conduct a shallow hazards survey in accordance with the Regional Supervisor's specifications. The Regional Supervisor may require the submission of a shallow hazards report and the data upon which the analysis is based.

(2) An oil-spill response plan as described in part 254 or reference to an approved Regional Response Plan.

(3) A discussion of the measures that have been or will be taken to satisfy the conditions of lease stipulations.

(4) A list of the proposed drilling fluids, including components and their chemical compositions, information on the projected amounts and rates of drilling fluid and cuttings discharges, and method of disposal.

(5) Information concerning the presence of hydrogen sulfide (H_2S) and the following proposed precautionary measures:

(i) A classification of the lease area as to whether it is within an area known to contain H_2S, an area where the presence of H_2S is unknown, or an area where the absence of H_2S has been confirmed as described in Sec. 250.417 of this part and the documentation supporting the classification; and

(ii) If the classification is an area known to contain H_2S or an area where the presence of H_2S is unknown, an H_2S Contingency Plan as required in Sec. 250.417 of this part.

(6) A detailed discussion of new or unusual technology to be employed. The lessee shall indicate which portions of the supporting information the lessee believes are exempt from disclosure under the Freedom of Information Act (FOIA) (5 U.S.C. 552) and the implementing regulations (43 CFR part 2). The lessee shall include a written discussion of the general subject matter of the deleted portions for transmittal to the recipients of plan copies.

(7) A brief description of the onshore facilities to be used to support the exploration activities including information as to whether the facilities are existing, proposed, or are to be expanded; a brief description of support vessels to be used and information concerning their frequency of travel; and a map showing the lease relative to the shoreline and depicting proposed transportation routes.

(8) For onshore support facilities, except in the western GOM, indicate the following:

(i) The location, size, number, and land requirements (including rights-of-way and easements) of the onshore support and storage facilities and, where possible, a timetable for the acquisition of lands and the construction or expansion of any facilities.

(ii) The estimated number of persons expected to be employed in support of offshore, onshore, and transportation activities and, where possible, the approximate number of new employees. and families likely to move into the affected area.

(iii) Major supplies, services, energy, water, or other resources within affected States necessary for carrying out the related plan.

(iv) The source, composition, frequency, and duration of emissions of air pollutants.

(9) The quantity, composition, and method of disposal of solid and liquid wastes and pollutants likely to be generated by offshore, onshore, and transportation operations.

(10) Historic weather patterns and other meteorological conditions of offshore areas including temperature, sky cover and visibility, precipitation, storm frequency and magnitude, wind direction and velocity, and freezing and icing conditions listing, where possible, the means and extremes of each.

(11) Physical oceanography including onsite direction and velocity of currents and tides, sea states, temperature, and salinity, water quality, and icing conditions, where appropriate.

(12) Onsite flora and fauna including both pelagic and benthic communities, transitory birds and mammals that may breed or migrate through the area when proposed activities are being conducted, identification of endangered and threatened species and their critical habitats that could be affected by proposed activities, and typical fishing seasons and locations of fishing activities. The results of any biological surveys required by the Regional Supervisor (including a copy of survey reports or references to previously submitted reports) should be incorporated into this discussion.

(13) Environmentally sensitive areas (onshore as well as offshore), e.g., refuges, preserves, sanctuaries, rookeries, calving grounds, and areas of particular concern identified by an affected State pursuant to the Coastal Zone Management Act (CZMA) which may be affected by the proposed activities.

(14) Onsite uses of the area based on information available, e.g., shipping, military use, recreation, boating, commercial fishing, subsistence hunting and fishing, and other mineral exploration in the area.

(15) If the Regional Director believes that an archaeological resource may exist in the lease area, the Regional Director will notify the lessee in writing. Prior to commencing any operations, the lessee shall prepare a report, as specified by the Regional Director, to determine the potential existence of any archaeological resource that may be affected by operations. The report shall be prepared by an archaeologist and geophysicist and shall be based on an assessment of data from remote-sensing surveys and of other pertinent archaeological and environmental information.

(16) Existing and planned monitoring systems that are measuring or will measure environmental conditions and provide data and information on the impacts of activities in the geographic areas.

(17) An assessment of the direct and cumulative effects on the offshore and onshore environments expected to occur as a result of implementation of the Exploration Plan, expressed in terms of magnitude and duration, with special emphasis upon the identification and evaluation of unavoidable and irreversible impacts on the environment. Measures to minimize or mitigate impacts should be identified and discussed.

(18) Certificate(s) of coastal zone consistency as provided in 15 CFR part 930.

(19) For each OCS facility, the lessee shall submit the information described below when it is needed to make the findings under Sec. 250.303 or Sec. 250.304 of this part:

(i)(A) Projected emissions from each proposed or modified facility for each year of operation and the basis for all calculations to include (if the drilling unit has not yet been determined, the lessee shall use worst-case estimates for the type of unit proposed):

(1) For each source, the amount of the emission by air pollutant expressed in tons per year and the frequency and duration of emissions.

(2) For each facility, the total amount of emissions by air pollutant expressed in tons per year and, in addition for a modified facility only, the incremental amount of total emissions by air pollutant resulting from the new or modified source(s).

(3) A detailed description of all processes, processing equipment, and storage units, including information on fuels to be burned.

(4) A schematic drawing which identifies the location and elevation of each source.

(5) If projected emissions are based on the use of emission-reduction control technology, a description of the controls providing the information required by paragraph (b)(19)(iv) of this section.

(B) The distance of each proposed facility from the mean high water mark (mean higher high water mark on the Pacific coast) of any State.

(ii)(A) The model(s) used to determine the effect on the onshore air quality of emissions from each facility, or from other facilities when required by the Regional Supervisor, and the results obtained through the use of the model(s). Only model(s) that has been approved by the Director may be used.

(B) The best available meteorological information and data consistent with the model(s) used stating the basis for the data and information selected.

(iii) The air quality status of any onshore area where the air quality is significantly affected (within the meaning of Sec. 250.303 of this part) by projected emissions from each facility proposed in the plan. The area should be classified as nonattainment, attainment, or unclassifiable to include the status of each area by air pollutant, the class of attainment area, and the air-pollution control agency whose jurisdiction covers the area identified.

(iv) The emission-reduction controls available to reduce emissions, including the source, the emission-reduction control technology, reductions to be achieved, and monitoring system the lessee proposes to use to measure emissions. The lessee shall indicate which emission-reduction control technology the lessee believes constitutes the best available control technology and the basis for that opinion.

(20) The name, address, and telephone number of an individual employee of the lessee to whom inquiries by the Regional Supervisor and the affected State(s) may be made.

(21) Such other information and data as the Regional Supervisor may require.

(c) Information and data discussed in other documents previously submitted to MMS or otherwise readily available to reviewers may be referenced. The material being referenced shall be cited, described briefly, and include a statement of where the material is available for inspection. Any material based on proprietary data which is not itself available for inspection shall not be so referenced.

(d) The Regional Director, after consultation with the Governor of the affected State(s) or the Governor's designated representative, the CZM agency of affected State(s), and the Office of Ocean and Coastal Resource Management of the National Oceanic and Atmospheric Administration (NOAA) may limit the amount of information required to be included to that necessary to assure conformance with the Act, other laws, applicable regulations, and lease provisions.

(e) The Regional Supervisor shall determine within 10 working days after receipt of the Exploration Plan whether additional information is needed. If no deficiencies are identified and the required number of copies have been received, the plan will be deemed submitted.

(f) Within 2 working days after we deem the Exploration Plan submitted, the Regional Supervisor will send by receipted mail a copy of the plan (except those portions exempt from disclosure under the Freedom of Information Act and 43 CFR part 2) to the Governor or the Governor's designated representative and the CZM agency of each affected State. Consistency review begins when the State's CZM agency receives a copy of the deemed submitted plan, consistency certification, and required necessary data and information as directed by 15 CFR 930.78.

(g) In accordance with the National Environmental Policy Act (NEPA), the Regional Supervisor shall evaluate the environmental impacts of the activities described in the Exploration Plan.

(h) In the evaluation of an Exploration Plan, the Regional Supervisor shall consider written comments from the Governor of an affected State or the Governor's designated representative which are received prior to the deadline specified by the Regional Supervisor. The Regional Supervisor may consult directly with affected States regarding matters contained in the comments.

(i) Within 30 days of submission of a proposed Exploration Plan, the Regional Supervisor shall accomplish one of the following:

(1) Approve the plan;

(2) Require the lessee to modify any plan which is inconsistent with the provisions of the lease, the Act, or the regulations prescribed under the Act including air quality, environmental, safety, and health requirements; or

(3) Disapprove the plan if the Regional Supervisor determines that a proposed activity would probably cause serious harm or damage to life (including fish and other aquatic life), property, natural resources offshore including any mineral deposits (in areas leased or not leased), the national security or defense, or the marine, coastal, or human environment, and that the proposed activity cannot be modified to avoid the condition(s).

(j) The Regional Supervisor shall notify the lessee in writing of the reason(s) for disapproving an Exploration Plan or for requiring modification of a plan. For plans requiring modification, the Regional Supervisor shall also notify the lessee in writing of the conditions that must be met for plan approval.

(k)(1) The lessee may resubmit an Exploration Plan, as modified, to the Regional Supervisor in the same manner as for a new plan. Only information related to the proposed modifications need be submitted. The Regional Supervisor shall approve, disapprove, or require modification of the resubmitted plan based upon the criteria in paragraph (i) of this section within 30 days of the resubmission date.

(2) An Exploration Plan which has been disapproved pursuant to paragraph (i)(3) of this section may be resubmitted if there is a change in the conditions which caused it to be disapproved. The Regional Supervisor shall approve, require modification, or disapprove such a plan within 30 days of the resubmission date.

(l) When a State objects to a lessee's coastal zone consistency certification, the lessee shall modify the plan to accommodate the State's objection(s) and resubmit the plan to——

(1) The Regional Supervisor for review pursuant to the criteria in paragraphs (h), (i), and (j) of this section; and

(2) Through the Regional Supervisor to the State for review pursuant to the CZMA and the implementing regulations (15 CFR 930.83 and 930.84). Alternatively, the lessee may appeal the State's objection to the Secretary of Commerce pursuant to the procedures described in section 307 of the CZMA and the implementing regulations (subpart H of 15 CFR part 930). The Regional Supervisor shall approve or disapprove a plan as resubmitted within 30 days of the resubmission date.

(m) If the Regional Supervisor disapproves an Exploration Plan, the Secretary may, subject to the provisions of section 5(a)(2)(B) of the Act and the implementing regulations in Sec. 250.182 and 256.77 of this chapter II, cancel the lease(s), and the lessee shall be entitled to compensation in accordance with section 5(a)(2)(c) of the Act.

(n)(1) The Regional Supervisor shall periodically review the activities being conducted under an approved Exploration Plan and may request updated information on schedules and procedures. The frequency and extent of the Regional Supervisor's review shall be based upon the significance of any changes in available information and in other onshore or offshore conditions affecting or affected by exploration activities being conducted pursuant to the plan. If the review indicates that the plan should be revised to meet the requirements of this part, the Regional Supervisor shall require the needed revision.

(2) Revisions to an approved or pending Exploration Plan, whether initiated by the lessee or ordered by the Regional Supervisor, shall be submitted to the Regional Supervisor for approval. Only information related to the proposed revisions need be submitted. When the Regional Supervisor determines that a proposed revision could result in a significant change in the impacts previously identified and evaluated or requires additional permits, the revisions shall be subject to all of the procedures in this section.

(o) To ensure safety and protection of the environment and archaeological resources, the Regional Director may authorize or direct the lessee to conduct geological, geophysical, biological, archaeological, or other surveys or monitoring programs. The lessee shall provide the Regional Director, upon request, with copies of any data obtained as a result of those surveys and monitoring programs.

(p) The lessee may not drill any well until the District Supervisor's approval of an Application for Permit to Drill (APD), submitted in accordance with the requirements of Sec. 250.414 of this part, has been received. The District Supervisor shall not approve any APD until all affected States with approved CZM programs have concurred or have been conclusively presumed to concur with the applicant's coastal zone consistency certification accompanying a plan, or the Secretary of Commerce has made the finding authorized by section 307(c)(3)(B)(iii) of the CZMA. The APD's must conform to the activities described in detail in the approved Exploration Plan and shall not be subject to a separate State coastal zone consistency review.

(q) Nothing in this section or in an approved plan shall limit the lessee's responsibility to take appropriate measures to meet emergency situations. In such situations, the Regional Supervisor may approve or require departures from an approved Exploration Plan.

TITLE 30—MINERAL RESOURCES

DEPARTMENT OF THE INTERIOR

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

Subpart B—Exploration and Development and Production Plans

Sec. 250. 204 Development and Production Plan.

(a) The lessee shall submit for approval a Development and Production Plan which includes the following:

(1) A description of and schedule for the development and production activities to be performed including plan commencement date, date of first production, total time to complete all development and production activities, and dates and sequences for drilling wells and installing facilities and equipment.

(2) A description of any drilling vessels, platforms, pipelines, or other facilities and operations located offshore which are proposed or known by the lessee (whether or not owned or operated by the lessee) to be directly related to the proposed development, including the location, size, design, and important safety, pollution prevention, and environmental monitoring features of the facilities and operations.

(b) The lessee shall submit the following supporting information to accompany the Development and Production Plan:

(1) Geological and geophysical (G&G) data and information, including the following:

(i) A plat showing the surface location of any proposed fixed structure or well.

(ii) A plat showing the surface and bottomhole locations and giving the measured and true vertical depths for each proposed well.

(iii) Current interpretations of relevant G&G data.

(iv) Current structure map(s) showing the surface and bottomhole location of each proposed well and the depths of expected productive formations.

(v) Interpreted structure sections showing the depths of expected productive formations.

(vi) A bathymetric map showing surface locations of fixed structures and wells or a table of water depths at each proposed site.

(vii) A discussion of seafloor conditions including a shallow hazards analysis for proposed drilling and platform sites and pipeline routes. This information shall be derived from the shallow hazards report required by Sec. 250.909 of this part.

(2) Information concerning the presence of H_2S and proposed precautionary measures, including the following:

(i) A classification of the lease area as to whether it is within an area known to contain H_2S, an area where the presence of H_2S is unknown, or an area where the absence of H_2S has been confirmed as described in Sec. 250.417 of this part and the documentation supporting the classification; or

(ii) If the classification is an area known to contain H_2S or an area where the presence of H_2S is unknown, an H_2S Contingency Plan as required in Sec. 250.417 of this part.

(3) A description of the environmental safeguards to be implemented, including an updated oil-spill response plan as described in part 254 of this chapter or reference to an approved plan.

(4) A discussion of the steps that have been or will be taken to satisfy the conditions of lease stipulations.

(5)(i) A description of technology and reservoir engineering practices intended to increase the ultimate recovery of oil and gas, i.e., secondary, tertiary, or other enhanced recovery practices;

(ii) A description of technology and recovery practices and procedures intended to assure optimum recovery of sulphur; or

(iii) A description of technology and recovery practices and procedures intended to assure optimum recovery of oil and gas and sulphur.

(6) A discussion of the proposed drilling and completion programs.

(7) A detailed description of new or unusual technology to be employed. The lessee shall indicate which portions of the information the lessee believes are exempt from disclosure under the FOIA (5 U.S.C. 552) and the implementing regulations (43 CFR part 2). The lessee shall include a written discussion of the general subject matter of the deleted portions for transmittal to recipients of plan copies.

(8) A brief description of the following:

(i) The location, description, and size of any offshore, and to the maximum extent practicable, land-based operations to be conducted or contracted for as a result of the proposed activity, including the following:

(A) The acreage required within a State for facilities, rights-of-way, and easements.

(B) The means proposed for transportation of oil, gas, and sulphur to shore; the routes to be followed by each mode of transportation; and the estimated quantities of oil, gas, and sulphur to be moved along such routes.

(C) An estimate of the frequency of boat and aircraft departures and arrivals, the onshore location of terminals, and the normal routes for each mode of transportation.

(ii) A list of the proposed drilling fluids including components and their chemical compositions, information on the projected amounts and rates of drilling fluid and cuttings discharges, and method of disposal. If the information is provided in an approved Environmental Protection Agency, National Pollutant Discharge Elimination System permit, or a pending permit application, the lessee may reference these documents.

(iii) The quantities, types, and plans for disposal of other solid and liquid wastes and pollutants likely to be generated by offshore, onshore, and transport operations and, regarding any wastes which may require onshore disposal, the means of transportation to be used to bring the wastes to shore, disposal methods to be utilized, and location of onshore waste disposal or treatment facilities.

(iv) The following information on onshore support facilities, except in the western GOM:

(A) The approximate number, timing, and duration of employment of persons who will be engaged in onshore development and production activities, an approximate number of local personnel who will be employed for or in support of the development activities (classified by the major skills or crafts that will be required from local sources and estimated number of each such skill needed), and the approximate total number of persons who will be employed during the onshore construction activity and during all activities related to offshore development and production.

(B) The approximate number of people and families to be added to the population of local nearshore areas as a result of the planned development.

(C) An estimate of significant quantities of energy and resources to be used or consumed including electricity, water, oil and gas, diesel fuel, aggregate, or other supplies which may be purchased within an affected State.

(D) The types of contractors or vendors which will be needed, although not specifically identified, and which may place a demand on local goods and services.

(E) The source, composition, frequency, and duration of emissions of air pollutants.

(v) A narrative description of the existing environment with an emphasis placed on those environmental values that may be affected by the proposed action. This section shall contain a description of the physical environment of the area covered by the related plan. This portion of the plan shall include data and information obtained or developed by the lessee together with other pertinent information and data available to the lessee from other sources. The environmental information and data shall include the following, where appropriate:

(A) If the Regional Director believes that an archaeological resource may exist in the lease area, the Regional Director will notify the lessee in writing. Prior to commencing any operations, the lessee shall prepare a report, as specified by the Regional Director, to determine the potential existence of any archaeological resource that may be affected by operations. The report shall be prepared by an archaeologist and geophysicist and shall be based on an assessment of data from remote-sensing surveys and of other pertinent archaeological and environmental information.

(B) The aquatic biota, including a description of fishery and marine mammal use of the lease and the significance of the lease, and a description of any threatened and endangered species and their critical habitat. The results of any biological surveys required by the Regional Supervisor (including a copy of survey reports or references to previously submitted reports) should be incorporated into these discussions.

(C) Environmentally sensitive areas (e.g., refuges, preserves, sanctuaries, rookeries, calving grounds, coastal habitat, beaches, and areas of particular environmental concern) which may be affected by the proposed activities.

(D) The predevelopment, ambient water-column quality and temperature data for incremental depths for the areas encompassed by the plan.

(E) The physical oceanography, including ocean currents described as to prevailing direction, seasonal variations, and variations at different water depths in the lease.

(F) Historic weather patterns and other meteorological conditions, including storm frequency and magnitude, wave height and direction, wind direction and velocity, air temperature, visibility, freezing and icing conditions, and ambient air quality listing, where possible, the means and extremes of each.

(G) The other uses of the area known to the lessee, including military use for national security or defense, subsistence hunting and fishing, commercial fishing, recreation, shipping, and other mineral exploration or development.

(H) The existing or planned monitoring systems that are measuring or will measure impacts of activities on the environment in the planning area.

(9) For sulphur operations, the degree of subsidence that is expected at various stages of production, and measures that will be taken to assure safety of operations and protection of the environment. Special attention shall be given to the effects of subsidence on existing or potential oil and gas production, fixed bottom-founded structures, and pipelines.

(10) For sulphur operations, a discussion of the potential toxic or thermal effects on the environment caused by the discharge of bleedwater, including a description of the measures that will be taken into account to mitigate these impacts.

(11) An assessment of the effects on the environment expected to occur as a result of implementation of the plan, identifying specific and cumulative impacts that may occur both onshore and offshore, and the measures proposed to mitigate these impacts. Such impacts shall be quantified to the fullest extent possible including magnitude and duration and shall be accumulated for all activities for each of the major elements of the environment (e.g., water or biota).

(12) A discussion of alternatives to the activities proposed that were considered during the development of the plan including a comparison of the environmental effects.

(13) Certificate(s) of coastal zone consistency as provided in 15 CFR part 930.

(14) For each OCS facility, such information described below needed to make the findings under Sec. 250.303 or Sec. 250.304 of this part:

(i)(A) Projected emissions from each proposed or modified facility for each year of operation and basis for all calculations to include the following:

(1) For each source, the amount of the emission by air pollutant expressed in tons per year and frequency and duration of emissions;

(2) For each proposed facility, the total amount of emissions by air pollutant expressed in tons per year, the frequency distribution of total emissions by air pollutant expressed in pounds per day and, in addition for a modified facility only, the incremental amount of total emissions by air pollutant resulting from the new or modified source(s);

(3) A detailed description of all processes, processing equipment, and storage units, including information on fuels to be burned;

(4) A schematic drawing which identifies the location and elevation of each source; and

(5) If projected emissions are based on the use of emission-reduction control technology, a description of the controls providing the information required by paragraph (b)(12)(iv)(A) of this section.

(B) The distance of each proposed facility from the mean high water mark (mean higher high water mark on the Pacific coast) of any State.

(ii)(A) The model(s) used to determine the effect on the onshore air quality of emissions from each facility, or from other facilities when required by the Regional Supervisor, and the result obtained through the use of the model(s). Only model(s) that has been approved by the Director may be used.

(B) The best available meteorological information and data consistent with the model(s) used stating the basis for the information and data selected.

(iii) The air quality status of any onshore area where the air quality is significantly affected (within the meaning of Sec. 250.303 of this part) by projected emissions from each facility proposed in the plan. The area should be classified as nonattainment, attainment, or unclassifiable listing the status of each area by air pollutant, the class of attainment areas, and the air pollution control agency whose jurisdiction covers the area identified.

(iv)(A) The emission-reduction controls available to reduce emissions including the source, emission-reduction control technology, reductions to be achieved, and monitoring system the lessee proposes to use to measure emissions. The lessee shall indicate which emission-reduction control technology the lessee believes constitutes the best available control technology and the basis for that opinion.

(B) The ownership of the offshore and onshore offsetting source(s) and the reduction obtainable from each offsetting source.

(15) A brief discussion of any approved or anticipated suspensions of production necessary to hold the lease(s) in an active status.

(16) The name, address, and telephone number of an individual employee of the lessee to whom inquiries by the Regional Supervisor and the affected State(s) may be directed.

(17) Such other data and information as the Regional Supervisor may require.

(c) Data and information discussed in other documents previously submitted to MMS or otherwise readily available to reviewers may be incorporated by reference. The material being incorporated shall be cited and described briefly and include a statement of where the material is available for inspection. Any material based on proprietary data which is not itself available for inspection shall not be incorporated by reference.

(d)(1) Development and Production Plans are not required for leases in the western GOM. For these leases, the lessee shall submit to the Regional Supervisor for approval a Development Operations Coordination Document with all information necessary to assure conformance with the Act, other laws, applicable regulations, lease provisions, or as otherwise needed to carry out the functions and responsibilities of the Regional Supervisor.

(2) Any information required in paragraph (d)(1) of this section shall be considered a Development and Production Plan for the purpose of references in any law, regulation, lease provision, agreement, or other document referring to the preparation or submission of a plan.

(e) The Regional Director, after consultation with the Governor(s) of the affected State(s) or the Governor's designated representative, the CZM agency of the affected State(s), and the Office of Ocean and Coastal Resource Management of NOAA may

limit the amount of information required to be included in a Development and Production Plan to that necessary to assure conformance with the Act, other laws, applicable regulations, and lease provisions. In determining the information to be included in a plan, the Regional Director shall consider current and expected operating conditions together with experience gained during past operations of a similar nature in the area of proposed activities.

(f) The Regional Supervisor shall determine within 20 working days after receipt whether additional material is needed. If no deficiencies are identified and the requested number of copies have been received, the plan shall be deemed submitted.

(g) Within 5 working days after a Development and Production Plan has been deemed submitted, the Regional Supervisor shall transmit a copy of the plan, except for those portions of the plan determined to be exempt from disclosure under the FOIA and the implementing regulations (43 CFR part 2), to the Governor or the Governor's designated representative and the CZM agency of each affected State and to the executive of each affected local government that requests a copy. The Regional Supervisor shall make copies available to appropriate Federal Agencies, interstate entities, and the public. The plan will be available for review at the appropriate MMS Regional Public Information Office.

(h) The Governor or the Governor's designated representative and the CZM agency of each affected State and the executive of each affected local government shall have 60 days from the date of receipt of the Development and Production Plan to submit comments and recommendations to the Regional Supervisor. The executive of any affected local government must forward all recommendations to the Governor of the State prior to submitting them to the Regional Supervisor. The Regional Supervisor shall accept those recommendations from the Governor that provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State. The Regional Supervisor shall explain in writing the reasons for accepting or rejecting any recommendations. In addition, any interested Federal Agency or person may submit comments and recommendations to the Regional Supervisor. All comments and recommendations shall be made available to the public.

(i) We will process the plan according to this section and 15 CFR part 930. Accordingly, consistency review begins when the State's CZM agency receives a copy of the deemed submitted plan, consistency certification, and required necessary data and information as directed by 15 CFR 930.78.

(j) The Regional Supervisor will evaluate the environmental impact of the activities described in the Development and Production Plan (DPP) and prepare the appropriate environmental documentation required by the National Environmental Policy Act of 1969. At least once in each planning area (other than the western and central Gulf of Mexico planning areas), we will prepare an environmental impact statement (EIS) and send copies of the draft EIS to the Governor of each affected State and the executive of each affected local government that requests a copy. Additionally, when we prepare a DPP EIS and when the State's Federally approved coastal management program requires a DPP NEPA document for use in determining consistency, we will forward a copy of the draft EIS to the State's CZM Agency. We will also make copies of the draft EIS available to any appropriate Federal Agency, interstate entity, and the public.

(k) Prior to or immediately after a determination by the Director that approval of a Development and Production Plan requires that the procedures under NEPA shall commence, the Regional Supervisor may require lessees of tracts in the vicinity, for which Development and Production Plans have not been approved, to submit preliminary or final plans for their leases.

(l) No later than 60 days after the last day of the comment period provided in paragraph (h) of this section or within 60 days of the release of the final EIS describing the proposed activities, the Regional Supervisor shall accomplish the following:

(1) Approve the plan;

(2) Require modification of the plan if it is determined that the lessee has failed to make adequate provisions for safety, environmental protection, or conservation of resources including compliance with the regulations prescribed under the Act; or

(3) Disapprove the plan if one or more of the following occurs:

(i) The lessee fails to demonstrate that compliance with the requirements of the Act, provisions of the regulations prescribed under the Act, or other applicable Federal laws is possible;

(ii) State concurrence with the applicant's coastal zone consistency certification has not been received, the State's concurrence has not been conclusively presumed, or the State objects to the consistency certification, and the Secretary of Commerce does not make the determination authorized by section 307(c)(3)(B)(iii) of the CZMA;

(iii) Operations threaten national security or defense; or

(iv) Exceptional geological conditions in the lease area, exceptional resource value in the marine or coastal environment, or other exceptional circumstances exist, and all of the following:

(A) Implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), property, any mineral deposits (in areas leased or not leased), the national security or defense, or to the marine, coastal, or human environments.

(B) The threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time.

(C) The advantages of disapproving the plan outweigh the advantages of development and production.

(m) The Regional Supervisor shall notify the lessee in writing of the reason(s) for disapproving a Development and Production Plan or for requiring modification of a plan and the conditions which must be met for plan approval.

(n) The lessee may resubmit a Development and Production Plan, as modified, to the Regional Supervisor. Only information related to the proposed modifications need be submitted. Within 60 days following the 60-day comment period provided for in paragraph (h) of this section, the Regional Supervisor shall approve, disapprove, or require modification of the modified plan.

(o)(1) If a Development and Production Plan is disapproved for the sole reason that a State consistency certification has not been obtained, the Regional Supervisor shall approve the plan upon receipt of the concurrence, at the time when concurrence is conclusively presumed, or when the Secretary of Commerce makes a finding authorized by section 307(c)(3)(B)(iii) of the CZMA.

(2) If a Development and Production Plan is disapproved because a State objects to the lessee's coastal zone consistency certification, the lessee shall modify the plan to accommodate the State's objection(s) and resubmit the plan to (i) the Regional Supervisor for review pursuant to the criteria in paragraph (l) of this section; and (ii) through the Regional Supervisor, to the State for review pursuant to the CZMA and the implementing regulations (15 CFR 930.83 and 930.84). Alternatively, the lessee may appeal the State's objection to the Secretary of Commerce pursuant to the procedures described in section 307 of the CZMA and the implementing regulations (subpart H of 15 CFR part 930). The Regional Supervisor shall approve, disapprove, or require modification of a plan as revised within 60 days following the 60-day comment period provided for in paragraph (h) of this section.

(p) Development and Production Plans disapproved pursuant to paragraph (l)(3) of this section are subject to the provisions of section 25(h)(2) of the Act and the implementing regulations in Secs. 250.183 and 256.77 of this chapter.

(q)(1) The Regional Supervisor shall periodically review the activities being conducted under an approved Development and Production Plan. The frequency and extent of the Regional Supervisor's review shall be based upon the significance of any changes in available information and onshore or offshore conditions affecting or impacted by development or production activities being conducted pursuant to the plan. If the review indicates that the plan should be revised to meet the requirements of this part, the Regional Supervisor shall require the needed revisions.

(2) Revisions to an approved or pending Development and Production Plan, whether initiated by the lessee or ordered by the Regional Supervisor, shall be submitted to the Regional Supervisor for approval. Only information related to the proposed revisions need be submitted. When the Regional Supervisor determines that a proposed revision could result in a significant change in the impacts previously identified and evaluated, requires additional permits, or proposes activities not previously identified and evaluated, the revision shall be subject to all of the procedures in this section.

(3) When any revision to an approved Development and Production Plan is proposed by the lessee, the Regional Supervisor may approve the revision if it is determined that the revision is consistent with the protection of the marine, coastal, and human environments and will lead to greater recovery of oil and natural gas; will improve the efficiency, safety, and environmental protection of the recovery operation; is the only means available to avoid substantial economic hardship to the lessee; or is otherwise not inconsistent with the provisions of the Act.

(r) Whenever the lessee fails to submit a Development and Production Plan in accordance with provisions of this section or fails to comply with an approved plan, the lease may be cancelled in accordance with sections 5 (c) and (d) of the Act and the implementing regulations in Secs. 250.183 and 256.77 of this chapter.

(s) To ensure safety and protection of the environment and archaeological resources, the Regional Director may authorize or direct the lessee to conduct geological, geophysical, biological, archaeological, or other surveys or monitoring programs.

The lessee shall provide the Regional Director, upon request, copies of any data obtained as a result of those surveys and monitoring programs.

(t) The lessee may not drill any well until the District Supervisor's approval of an APD, filed in accordance with the requirements of Sec. 250.414 of this part, has been received. All APD's and applications to install platforms and structures, pipelines, and production equipment must conform to the activities described in detail in the approved Development and Production Plan and shall not be subject to a separate State coastal zone consistency review.

(u) Nothing in this section or approved plans shall limit the lessee's responsibility to take appropriate measures to meet emergency situations. In such situations, the Regional Supervisor may approve or require departures from an approved Development and Production Plan.

Mr. GILCHREST. Thank you, Mr. Wyman.

Ms. Claussen?

STATEMENT OF EILEEN CLAUSSEN, PRESIDENT AND CHAIR OF THE BOARD, STRATEGIES FOR THE GLOBAL ENVIRONMENT

Ms. CLAUSSEN. Good afternoon. My name is Eileen Claussen and I am the president and chairman of the board of Strategies of the Global Environment. I am also the president of the Pew Center on Global Climate Change.

I serve on the Pew Oceans Commission as well, an independent group conducting a national dialogue on the policies—

Mr. GILCHREST. Ms. Claussen, can pull the mike a little closer to you?

Thank you.

Ms. CLAUSSEN. To promote a national dialogue, the commission has been conducting meetings and hearings in coastal communities in every region of the nation.

Senator Carlotta Leon Guerrero from Guam, another member of the Pew Oceans Commission, is also here today.

As you resume work on reauthorization the Coastal Zone Management Act, it is important that everyone appreciates how valuable this program is. Although its funding level is modest, the Coastal Zone Management Act supports the activities of over 1,000 Federal and state marine experts who work every day to reduce conflicts in the use of coastal resources and to protect the quality of life that draws an even greater portion of our population to reside in coastal communities.

The Resources Committee is to be commended for its careful attention to this program over its long history, reauthorizing the law five times and updating its provisions to anticipate new uses and issues as they come along.

Let me also emphasize the importance of the National Estuarine Research Reserves system. As the commission has traveled across the country, we have had the opportunity to visit some of the reserves that have been organized under this program. They are national treasures.

The Elkhorn Slough north of Monterey, California, is a wetland teeming with vitality in a state where over 90 percent of the original wetlands have been lost.

Commission members counted more than 30 threatened southern sea otters, 1.5 percent of the total population, on a morning kayak trip through Elkhorn Slough. We worked as well.

[Laughter.]

And we testify based on experience to the value of this program and would fully support efforts to expand and enhance the system as proposed in your bills.

In addition to our hearings and focus groups, the Pew Oceans Commission has also arranged for the publication of a series of papers, setting forth the best-available science on the most serious threats to our marine environment.

Mr. Chairman, I would like to thank you for the opportunity you gave us to present the first of these reports, a paper on marine pollution done by a group of scientists led by Dr. Don Boesch from the University of Maryland and Dr. Richard Burroughs here on my right from the University of Rhode Island, when you met with our Chair, Leon Panetta, earlier this year.

Our next paper, due in late June, will be on the subject of aquaculture and will be followed by papers on invasive species, the ecological effects of fishing, and the impacts of coastal development.

What does the best science say about marine pollution? The principal threat comes from nutrient pollution that over-enriches coastal waters, causing explosive growth in microscopic organisms that, in some places, literally choke the life out of marine ecosystems.

The adverse effects are delivered by three mechanisms.

First, increased amounts of plankton block sunlight, causing a loss of seagrasses that had provided habitat for many larger life forms.

Second, when the plankton dies and drifts to the bottom of our marine environment, processes of decomposition may use up available oxygen, causing the death or flight of bottom-dwelling organisms.

And finally, nutrient pollution may promote toxic algal blooms that kill fish and other marine animals outright, and by the millions, and threaten human uses, including recreation and fishing in affected areas.

The principal nutrient of concern in coastal waters is nitrogen. Our use of commercial fertilizer and the combustion of fossil fuels has had a dramatic effect on the global nitrogen cycle.

U.S. coastal ecosystems are receiving 100 to 400 percent more nitrogen than natural systems would experience. That is a huge change in a fundamental part of the life cycles in these environments. And as a result, more than one-third of our estuaries are highly stressed.

Nitrogen pollution can travel very long distances in the atmosphere and in watersheds. One-third of the nitrogen impacting the Chesapeake Bay is air pollution from power plant and vehicle exhaust.

Nitrogen oxides emitted to the air may travel 500 to 1,000 miles from the source before they are deposited. Ninety percent of the nitrogen pollution that contributes to the dead zone in the Gulf of Mexico is discharged to tributaries in the Mississippi and Ohio River watersheds from farms and cities located north of St. Louis, Missouri.

Everyone understands that our nation has failed to make a dent in the nonpoint pollution problem over the past 30 years. Our

marine pollution report provides guidance for a new focus and a new sense of urgency.

Although the Pew Oceans Commission has yet to adopt recommendations on this subject, the science points in a clear direction: Over-enrichment resulting from huge increases in nitrogen loadings threaten life in more than one-third of the nation's estuaries. This nitrogen is released from farm fields, animal feed lots, sewage treatment plants, power plant stacks, and vehicle tailpipes. It travels long distances.

It is time we had a national strategy with a real Federal commitment to address this threat.

In addition to reauthorizing the CZMA, you will also be working on a national energy policy and a farm bill in the coming months. We urge the Congress to use these and other opportunities to focus on nitrogen pollution and to address it as the truly national problem it is.

Mr. Chairman, in closing, I would like to commend the provisions in your draft legislation that promote the use of measurable goals and evaluation tools in the national coastal zone management program. One thing that we have learned as we have studied innovative local and regional efforts to manage coastal resources is that clear goals adopted in an open process and with stakeholders involved, and with a commitment to measured progress and to make midcourse corrections as needed, has been a key ingredient in successful watershed protection programs across the nation.

We commend you for bringing these tools to the Coastal Zone Management Act in your bill.

Thank you for this opportunity to testify on behalf of the work of the Pew Oceans Commission and reauthorization of the Coastal Zone Management Act.

[The prepared statement of Ms. Claussen follows:]

Statement of Eileen Claussen, President and Chair of the Board, Strategies for the Global Environment, and Member, Pew Oceans Commission

Good morning, Mr. Chairman and members of the Subcommittee. My name is Eileen Claussen. I am President and Chair of the Board of Strategies for the Global Environment, and President of the Pew Center on Global Climate Change. I am also a member of the Pew Oceans Commission, an independent group of American leaders conducting a national dialogue on the policies needed to restore and protect living marine resources in U.S. waters.

The ultimate goal of the Pew Oceans Commission is to make recommendations to Congress and the public on whatever changes to U.S. ocean law and policy are needed to conserve marine biodiversity and to maintain the health and integrity of marine ecosystems. We plan to have a final report to you in the fall of 2002.

To promote a national dialogue, the Commission has been conducting meetings and hearings in coastal communities in every region of the nation. We've heard from local fishermen and business people; local, state, and Federal Government officials; marine scientists; conservationists; and concerned citizens. Members of the Coastal States Organization who administer coastal zone programs in their workday lives have been valuable partners in making each of our meetings a success.

As you resume work on reauthorization of the Coastal Zone Management Act, it is important that everyone appreciates how valuable this program is. Although its funding level is modest, the Coastal Zone Management Act supports the activities of over 1000 Federal and state marine experts who work everyday to reduce conflicts in the use of our coastal resources and to protect the quality of life that draws an ever greater portion of our population to reside in coastal communities.

Hundreds of projects planned and leveraged by CZMA funds have made state, local and private dollars available to assure public access to beaches and the water, to protect our infrastructure investment from natural hazards, to conserve the phys-

ical and biological character of marine ecosystems, and to promote sustainable economic use of coastal resources. These are essential governmental functions, Mr. Chairman, needed more now than 30 years ago when CZMA was first enacted. The Resources Committee is to be commended for its careful attention to this program over its long history, reauthorizing the law five times and updating its provisions to anticipate new uses and issues as they came along.

Let me also emphasize the importance of the National Estuarine Research Reserve System. As the Commission has traveled across the country, we have had the opportunity to visit some of the reserves that have been organized under this program. They are national treasures. The Elkhorn Slough, north of Monterey, California is a wetland teeming with vitality in a state where over 90 percent of the original wetlands have been lost. Commission members counted more than 30 threatened southern sea otters, 1.5 percent of the total population, on a morning kayak trip through Elkhorn Slough.

When the Commission visited Charleston, South Carolina, members visited the ACE Basin, another project involving a diverse set of participants who rightfully take great pride in their wonderful wildlife reserve that provides nesting grounds for endangered turtles. With adequate funding and expanded authority, this system can do even more to protect pristine coastal ecosystems and the endangered marine animals that depend on these habitats. We can testify based on experience to the value of this program and would fully support efforts to expand and enhance this system as proposed in your bills.

In addition to our hearings and focus groups, the Pew Oceans Commission has also arranged for the publication of a series of papers setting forth the best available science on the most serious threats to our marine environment. Mr. Chairman, I would like to thank you for the opportunity you gave us to present the first of these reports, a paper on marine pollution done by a group of scientists led by Dr. Donald Boesch from the University of Maryland and Dr. Richard Burroughs from the University of Rhode Island, when you met with our Chair, Leon Panetta, earlier this year. Our next paper due in late June will be on the subject of aquaculture and will be followed by papers on invasive species, the ecological effects of fishing, and the impacts of coastal development.

What does the best available science say about marine pollution? The principal threat comes from nutrient pollution that over enriches coastal waters causing explosive growth in microscopic organisms that in some places literally chokes the life out of marine ecosystems. The adverse effects are delivered by three mechanisms. First, increased amounts of plankton block sunlight causing a loss of seagrasses that had provided habitat for many larger life forms. Second, when the plankton dies and drifts to the bottom of a marine environment, processes of decomposition may use up available oxygen causing the death or flight of bottom dwelling organisms. And finally, nutrient pollution may promote toxic algal blooms that kill fish and other marine animals outright and by the millions and threaten human uses including recreation and fishing in affected areas.

The principal nutrient of concern in coastal waters is nitrogen. Our use of commercial fertilizer and combustion of fossil fuels has had a dramatic effect on the global nitrogen cycle. U.S. coastal ecosystems are receiving one hundred to four hundred percent more nitrogen than natural systems would experience. That is a huge change in a fundamental part of life cycles in these environments. As a result, more than one-third of our estuaries are highly stressed--stressed from eutrophication in ways that inhibit recovery from other human disturbances such as overfishing, physical development, invasive species and climate change.

Nitrogen pollution can travel very long distances in the atmosphere and in watersheds. One-third of the nitrogen impacting the Chesapeake Bay is air pollution from powerplant and vehicle exhaust. Nitrogen oxides emitted to the air may travel 500 to 1000 miles from the source before they are deposited. Ninety percent of the nitrogen pollution that contributes to the "dead zone" in the Gulf of Mexico is discharged to tributaries in the Mississippi and Ohio River watersheds from farms and cities located north of St. Louis, Missouri.

I bring these science facts to your attention because they have an important message for the Coastal Zone Management Act. By any accounting we must admit that the section 6217 program to control nonpoint pollution in coastal states has been slow to develop. After 10 years, only four state programs have been fully approved and it is clear that many coastal states will continue to resist the adoption of enforceable measures over large areas applying to all sources, because the law asks them to do too much with too little assistance from the Federal Government. The 6217 program as currently administered by EPA and NOAA is simply not an adequate response to threat of nutrient pollution in our coastal waters.

Everyone understands that our nation has failed to make a dent in the nonpoint pollution problem over the past thirty years. Our marine pollution report provides guidance for a new focus and new sense of urgency. Although the Pew Oceans Commission has yet to adopt recommendations on this subject, the science points in a clear direction. Overenrichment resulting from huge increases in nitrogen loadings threatens life in more than one-third of the nation's estuaries. This nitrogen is released from farm fields, animal feedlots, sewage treatment plants, powerplant stacks, and vehicle tailpipes. It travels long distances. It is time we had a national strategy with a real Federal commitment to address this threat. In addition to reauthorizing CZMA, you will also be working on a national energy policy and a farm bill in the coming months. We urge the Congress to use these and other opportunities to focus on nitrogen pollution and to address it as the truly national problem it is.

Mr. Chairman, in closing I would like to commend the provisions in your draft legislation that promote the use of measurable goals and evaluation tools in the national Coastal Zone Management program. There is little doubt that the Coastal Zone Management Act has provided substantial protection to coastal resources in its nearly 30 years of existence. But the CZMA is a product of its time a process oriented law in which state coastal zone plans were approved on a showing of certain authorities, processes, and mechanisms, with little requirement to show performance.

One thing we have learned as we have studied innovative local and regional efforts to manage coastal resources around the country is that it is imperative to set measurable performance goals. The establishment of clear goals provides a yardstick against which to measure the performance of management measures. It promotes accountability by government managers and allows them to determine which approaches are most effective, and therefore most deserving of scarce resources.

A 1998 study by Oregon Sea Grant assessed the effectiveness of state CZM programs at protecting estuaries and coastal wetlands, two critical types of coastal habitat. This study found that state programs for which adequate outcome data was available were moderately to highly successful at protecting these habitats. However, many programs lacked sufficient data to assess program performance. The study also found that many state programs did not adequately protect nontidal freshwater wetlands. Given the importance of wetlands in protecting water quality, a priority-setting process targeting water quality probably would have acknowledged the need to protect freshwater wetlands and provided additional protection earlier.

Clear goals adopted in an open process with stakeholder involvement and with a commitment to measure progress and make mid-course corrections as needed has been a key ingredient in successful watershed protection programs across the nation. We commend you for bringing these tools to the Coastal Zone Management Act in your bill.

Mr. Chairman, thank you for this opportunity to testify on the work of the Pew Oceans Commission and reauthorization of the Coastal Zone Management Act.

Mr. GILCHREST. Thank you, Ms. Claussen.

Ms. Savitz?

STATEMENT OF JACQUELINE SAVITZ, EXECUTIVE DIRECTOR, COAST ALLIANCE

Ms. SAVITZ. Thank you, Mr. Chairman, Mr. Underwood. It is a pleasure to be here today on behalf of Coast Alliance. I am the executive director of the Coast Alliance, which leads a network of over 600 organizations, both local and national organizations, on all four coasts of this country.

We are happy to be here to offer testimony on the reauthorization of Coastal Zone Management Act on behalf of 26 of those organizations, which is the number I was able to contact in the short period of time I had. These organizations also contributed to our testimony.

Coast Alliance has a long track record with the Coastal Zone Management Act. We have consistently and resolutely supported its reauthorization, and we have worked closely with EPA and

NOAA to maintain the consistency aspects of the Coastal Zone Management Act. We also have worked hard to educate the public, as you heard from Congressman Saxton, about the importance of the Act and about the importance of the coastal nonpoint source pollution control program.

In spite of nearly 30 years of environmental management in this country, our coasts continue to be inundated with pollution, causing severe impacts on critical habitats as well coastal economies.

As you know, things like closed beached, closed shellfish beds, harmful algae blooms, clogged shipping channels, even contaminated drinking water, are all too common on our coasts and are all tied to pollution runoff.

The coastal nonpoint program places runoff control in the hands of the states and provides guidance, including management measures designed to actually reduce or even stop pollution. That is why the coastal nonpoint program is widely recognized as being our best chance to finally address this last and greatest source of pollution on our coasts.

With the growing human impact on the coasts, our greatest hope lies in a carefully and well-designed Coastal Zone Management Act. Coast Alliance believes strongly that the Act has provided much needed attention to coastal issues and promoted intergovernmental coordination and comprehensive solutions.

However, it has not sufficiently addressed coastal pollution.

As Congress embarks on this important task, we believe that any reauthorization should reflect four principles, just like CSO.

First, since polluted runoff is the number one cause of water quality impairment, the coastal nonpoint program must be integrated into the Act and sufficient funding must be authorized for its support.

In particular, we believe that program requires about $25 million in order to work effectively, per year.

Second, the program's requirements for state level enforcement must be maintained.

Third, as you heard many other people today, the act's consistency provisions, which provide an important tool for states to protect coastal habitats, must not be weakened.

We have heard discussions about weakening these provisions, and we hope the Subcommittee will work to stop any such changes.

Last, any new projects or grant programs funded under this Act must be environmentally protective. That means maintaining the natural integrity of coastal environments.

The impacts of projects, as you know, like dredging and shoreline stabilization, may be a matter of debate; however, there are ample sources for those kinds of controversial projects. The limited resources available through the Coastal Zone Management Act should be focused on projects that have agreed upon benefits to coastal resources and not those with definite or potential ecological impact.

Our coasts are constantly barraged by an increasing population bringing additional pollution and robbing coastal habitats of their resilience. Such impacts have to be minimized, not facilitated, by a new CZMA.

A reauthorization of the Act that is not designed to uphold these principles will exacerbate existing challenges and plainly would not pass the straight-face test. Therefore, Coast Alliance would oppose any reauthorization of CZMA that failed to uphold the four principles I just outlined.

As you know, Coast Alliance strongly supported H.R. 2669 in the last Congress, and that support continues for H.R. 897, which achieves the same goals. In particular, the bill authorizes funding to implement the coastal nonpoint program while maintaining existing objectives and guidelines for funding projects through the act.

We are pleased that the proposed discussion draft also authorizes funding for the coastal nonpoint program. In particular, we appreciate that the discussion draft sets aside a minimum amount of funding rather than limiting the funding that could be used by states for this purpose.

We do have some concerns with the discussion draft that we hope can be worked out. These include the lack of explicit eligibility for expenditures under Section 309 for the coastal nonpoint program; the amount of funding authorized; the absence of land acquisition as an authorized use of funding; and the lack of clear objectives to ensure that projects funded through Section 309 have a net environmental benefit and do not create environmental harm.

And I will be very happy to articulate these points further today, if you wish.

In summary, we look forward to working with the Subcommittee to craft a bill that explicitly provides funding for environmentally sound projects and authorizes funding for nonpoint pollution.

Thank you, Mr. Chairman, Mr. Underwood, for the opportunity to testify today.

[The prepared statement of Ms. Savitz follows:]

Statement of Jacqueline Savitz, Executive Director, Coast Alliance, on Behalf of the Following Organizations: Natural Resources Defense Council, New York, New York; Sierra Club, Washington, D.C.; Audubon Society, Washington, D.C.; World Wildlife Fund, Washington, D.C.; Center for Marine Conservation, Washington, D.C.; American Oceans Campaign, Washington, D.C.; Cook Inlet Keeper, Homer, Alaska; Florida Keys Environmental Fund, Islamorada, Florida; Cape Arago Audubon Society, North Bend, Oregon; The Chester River Association, Chestertown, Maryland; Waterkeeper Alliance, White Plains, New York; Massachusetts Audubon Society, Lincoln, Massachusetts; Northwest Environmental Advocates, Portland, Oregon; Mobile Bay Watch, Inc./Mobile BayKeeper, Mobile, Alabama; New York–New Jersey Baykeeper, Sandy Hook, Highlands, New Jersey; Americal Littoral Society, Sandy Hook, Highlands, New Jersey; New River Foundation, Midway Park, North Carolina; Save the Sound, Stamford, Connecticut; North Carolina Coastal Federation, Newport, North Carolina; Apalachicola Bay and Riverkeeper, Florida; Gulf Restoration Network, New Orleans, Louisiana; Conservation Law Foundation, Rockland, Maine; Save the Bay, Providence, Rhode Island; Friends of Casco Bay, South Portland, Maine; and Pacific Whale Foundation, Maui, Hawaii

Introduction

The Coast Alliance welcomes the opportunity to submit testimony to this Subcommittee on the reauthorization of the Coastal Zone Management Act. The Alliance leads a network of over 600 organizations along all four United States coasts, including the Great Lakes. Together we work to protect this nation's priceless coastal resources. This testimony is endorsed by the twenty-five organizations listed on the cover page.

Coast Alliance has a long history of work to support the Coastal Zone Management Act (CZMA) and has been very active in its reauthorizations. We look forward to working with this Subcommittee to reauthorize the Act again. Since the Act was originally passed in 1972, there has been little respite from human impacts in coastal areas. The latest population estimates suggest that by 2015, the coasts will be home to nearly 25 million more people. Where will our already crowded coasts put these 25 million people? What impact will these new residents have? What will be left of our precious marshes, beaches and woodlands? How will our coastal bays, lakes and estuaries fare?

The answers, and our greatest hope for the coasts, lie in a carefully crafted and well-defined Coastal Zone Management Act. Coast Alliance believes strongly that the Coastal Zone Management Act has been a very important program, providing much needed attention to coastal issues, and ensuring interagency coordination and comprehensive solutions. Through reauthorization we can give it a chance to be effectively implemented.

As Congress embarks on this important task, the Coast Alliance and its affiliated organizations believe that in order to achieve its goals, the Act must reflect the following principles:

(1) The Coastal Nonpoint Pollution Control Program in its current form must be integrated into the Act, and sufficient funds must be authorized for its support because polluted runoff is the number one cause of water quality impairment, threatening coastal economies, and aquatic resources and habitats.

(2) The Coastal Nonpoint Pollution Control Program's requirements for enforceable mechanisms must be retained if the Act is to achieve its goals.

(3) The Act's consistency provisions, which provide an important tool for states to protect their coastal ecosystems must not be weakened.

(4) The financial resources made available through CZMA should focus on projects that provide agreed-upon benefits to coastal resources, and not those with definite or potential ecological risks. Any new projects or grant programs supported through appropriations under CZMA must be environmentally protective, maintaining the natural integrity of coastal ecosystems. While the impacts of some projects such as beach filling, dredging and shoreline stabilization may be a subject of debate, there are certainly many sources of funding available for such programs and they should not take precedence over coastal protection programs.

Background

Population growth on the coasts simultaneously barrages the area with additional sources of pollution and robs the coast of its resilience or its ability to withstand stress. Marshes, forests, and grasslands, for example, are replaced with impervious surfaces that cause polluted water to speedily rush to near-shore habitats. The result is not just a degraded habitat, but in many cases the loss of fisheries and other coastal resources worth billions to the economy. Such impacts should be minimized, not facilitated, by a new Coastal Zone Management Act.

The extensive benefits of these ecosystems have consistently been under-appreciated since today's cost-benefit studies are not equipped to measure the intrinsic values of wetlands, rivers or the ocean. Where they are considered, generally only those goods that can actually be bought or sold are included in the equation. Besides the obvious market-based values such as fisheries and transportation, coastal ecosystems quietly provide us with more varied life-supporting services. These ecological services, such as the roles a forest plays in producing oxygen, or preventing runoff, are almost never considered in cost-benefit analysis. Careful consideration of the values of these ecological services provided by coastal resources can help understand and demonstrate the need for conservation.

Economists estimate that the global ecosystem provides $33 trillion each year in services to humankind. The coasts, which include oceans, estuaries, the continental shelf, lakes, rivers, seagrass beds, wetlands, and coral reefs were valued around $27 trillion, making up 80 percent of the total value of the earth's ecosystem services.

Coastal ecosystems prevent runoff, support fisheries, and regulate the gases in the atmosphere that maintain global temperature, shield us from harmful solar radiation, and allow us to breathe. Ecosystem services also include purification of water, mitigation of floods and drought, pollination, pest control and generation of fertile soils (Nature 1998). There are also the obvious benefits: recreation, cultural opportunities, and the provision of resources like lumber, fuel and food (Costanza et al. 1997). All we need to do to realize these immense benefits is to protect the coasts, and the $27 trillion figure provides a clear indication of the importance of doing so.

Development and pollution, the two greatest threats to the coasts, need to be addressed by the Coastal Zone Management Act. Whether the source is agricultural

runoff, sloppy forestry practices or uncontrolled urban runoff, control over the continued onslaught from polluted runoff is long overdue.

The most common source of pollution, runoff comes from thousands of diffuse sources, such as farms, logging areas, new and existing developments, natural waters, marinas, septic systems, dams and other sources. Together they create a serious and ubiquitous water pollution problem. However, compared to factories and sewage treatment plants, runoff pollution remains essentially unregulated.

In spite of the prevailing myth that the sources are too diffuse to address, the truth is that there are proven methods of controlling polluted runoff. Like point source pollution, polluted runoff can be managed and the time has come to level the playing field.

The Coastal Nonpoint Pollution Control Program can help us begin to solve these problems. This policy tool that Congress created can stop runoff from taking its toll on local waterways. Coast Alliance has been working closely with state and Federal Government agencies to ensure that the Federal investment in this program is well spent. We also have worked hard to help ensure adequate funding for the program; however, to date the funding level does not reflect the need, or the degree to which runoff harms ecosystems.

As Congress embarks on its reauthorization process, we would like to draw your attention to this important problem. Coast Alliance has produced a number of reports including Pointless Pollution: Preventing Polluted Runoff and Protecting America's Coasts and Mission Possible: State Progress Controlling Runoff Under the Coastal Nonpoint Pollution Control Program. These reports compile information on the state of the coasts with respect to polluted runoff problems and summarize coastal states' efforts to address the problem through the Coastal Nonpoint Pollution Control Program. A summary of our findings follows.

The Need to Prevent and Control Polluted Runoff

America's coastal waters are a critical resource providing food, drinking water and recreational opportunities to all of its citizens. However, those are not all of the benefits. According to a recent economic analysis, coastal ecosystems such as wetlands, estuaries, and coral reefs provide us with billions of dollars worth of services such as air and water purification, flood prevention, and provision of habitat. When these ecosystems are destroyed by pollution or unmanaged development, we lose more than a pretty place. It costs us our air filtering system, flood control, natural water filters—losses we may never recoup "this goes beyond marketable resources we extract from the coasts. Recognizing the need to ensure sustainable use of our fisheries and other coastal resources, Congress created the Coastal Zone Management Act.

Studies show that the Act holds promise (Hershman et al. 1999). Yet our coasts are increasingly subject to diverse sources of stress. As a result of the ever increasing population and pollution pressure, the coasts endure constant challenges such as harvesting forests and draining wetlands, which would otherwise contribute to coastal resilience. As our population grows, the coasts' allure may also be their detriment, and already the impacts are becoming clear.

Polluted runoff continues to rob coastal economies of billions of dollars that might otherwise be generated by tourism, fishing, and wildlife-watching. Coastal resources such as wetlands, oceans, and estuaries, are significant income generators and have tremendous ecological values. These coastal resources offer us many services that are lost as the resources diminish. Increasing populations will cost the coasts dearly unless runoff is prevented.

Coastal program managers agree. A recent evaluative study (Hershman 1999) found that one failure of the program according to its senior managers was that it has not adequately addressed water quality protection, watershed management, or nonpoint source pollution. Coast Alliance's report, Mission Possible, corroborated this finding.

State of the Coasts

According to the Environmental Protection Agency (EPA), most, if not all of the estuaries in the National Estuary Program identify nutrient enrichment as a primary environmental problem (Wayland 1996). Nationally, only about six percent of the nitrogen comes from point sources (Wayland 1996). The remainder results from runoff, and other nonpoint sources. In many areas such as Chesapeake Bay, nearly two thirds of the load originates as traditional nonpoint sources: agriculture, forestry and development (Boesch 1996).

Runoff Closes Shellfish Beds, Destroying a Livelihood

In 1995, 3.5 billion acres, or nearly one in every seven acres of classified shellfish beds were not approved for harvest due to poor water quality. The causes—failing

septic systems, pollution by marinas and boating, agricultural runoff and feedlots—are precisely the sources that can and should be reduced by the Coastal Nonpoint Pollution Control Program.

According to data from the National Oceanic and Atmospheric Administration (NOAA), nonpoint source pollution was a cause of 85 percent of these shellfish bed closures overall[1]. In 14 of the 21 coastal states included in the National Shellfish Register, more than 95 percent of the area closed to shellfishing was impaired by nonpoint sources. This includes eight states where 100 percent of the acres closed were attributed, at least in part, to polluted runoff.

Runoff Leads to Low Oxygen Conditions, Threatening Fisheries

Scientists have shown that hypoxia caused by nutrients carried in runoff may affect fisheries resources by killing fish, reducing the habitat or food that is available, or by making them more susceptible to their predators, including humans (Rabalais et al. 1996).

While hypoxia is generally a temporary condition, long-term low oxygen trends have been observed in lakes and estuaries around the country. In places like the Gulf of Mexico and Chesapeake Bay there is little respite from continuous loads of nutrients fed into the water from agriculture, urban runoff, wastewater treatment, air deposition, and otherwise.

The most vivid example is the Dead Zone, an area in the Gulf of Mexico, near the mouth of the Mississippi River. Roughly 40 percent of the continental United States drains its fertilizers, pesticides, and other runoff into the Mississippi, contributing to the Dead Zone. The size of the Dead Zone varies from year to year depending on weather conditions and runoff volume among other factors.

Scientists have studied this area over a series of years and found that below certain critical oxygen levels shrimp fishermen rarely catch shrimp in their trawl nets. Mobile organisms such as fish disappear as the oxygen levels drop (Harper and Rabalais 1996); they have likely left these areas in search of more oxygen-rich waters. Animals such as crabs and anemones, that are incapable of escaping, have been observed to die on the bottom. Since the natural scavengers have died or fled, the corpses are not consumed as they normally would be (Harper and Rabalais 1996). They simply lie on the bottom as a testament to the lifelessness of the Dead Zone.

Estuaries and lakes on all four coasts suffer from low oxygen due to nutrient enrichment. Management measures in the Coastal Nonpoint Pollution Control Program guidance (EPA 1993), if applied in watersheds like the Mississippi River and its tributaries, could begin to shrink "dead zones" and bring back the fisheries.

Runoff Stimulates Harmful Algae Blooms

Pollution problems begin to really hit home when they threaten public health. The summer of 1997 saw an extremely frightening environmental disaster: fish kills that could sicken humans. A toxic micro-organism called Pfiesteria came onto the scene. That year alone, Pfiesteria killed more than a million fish, and caused human health problems including memory loss, reduced ability to solve simple math problems, and skin lesions resembling those found on dead and dying fish. Other algae species that can cause similar effects on fish communities and humans have caused blooms in other coastal areas as well.

Since Pfiesteria was first found in nature in 1991, it has caused major fish kills in North Carolina's Neuse and Pamlico Rivers and in Maryland's Pocomoke River. In the summer of 1997, besides the million fish killed in North Carolina, an additional kill (10,000 fish) followed in the Pocomoke River in Maryland (Burkholder and Glasgow 1997). An outbreak of Pfiesteria also was documented in the Indian River in Delaware (EPA 1998). According to Dr. JoAnn Burkholder (1996), these outbreaks coincide with increases in pollution and wetland loss.

The excessive non-point source loads of nitrogen and phosphorus in coastal North Carolina and Maryland are undeniable. While the poultry and swine industries have been quick to deny that their wastes could be contributing to this problem, scientists have acknowledged that reducing nutrients would likely reduce the Pfiesteria prob-

[1] Acreage affected by nonpoint sources were calculated by the Coast Alliance based on data provided by the National Marine Fisheries Service. These values represent only areas where waters were closed due to water quality concerns as documented in the database. To estimate percentage closed, Coast Alliance included areas where shellfishing is prohibited, restricted, or conditionally restricted, but not areas where shellfishing is conditionally approved or approved. Areas were considered impacted by nonpoint sources if nonpoint sources were documented in the NMFS database as an "actual" or "probable" cause of closures. Nonpoint sources are listed as probable causes where it is the best professional judgment of the agency that they are a contributor, but where no corroborating data are available.

lem (WRRI 1998, Boesch 1997, Boesch et al. 1997). In spite of industry's claims, according to a scientific consensus, the benefits of reducing nutrient pollution are clear:

"There can be little question that decreases in nutrient loading (both organic and inorganic forms of nitrogen and phosphorus) will reduce eutrophication and thereby, lower the risk of toxic outbreaks of Pfiesteria-like dinoflagellates, hypoxia and fish kills." Findings of the Raleigh Report, 1998 (WRRI 1998).

There is no time to waste in addressing harmful algae blooms like Pfiesteria. The facts are in, and the Coastal Nonpoint Pollution Control Program is poised to fulfill this immediate water quality need.

Runoff Clogs Harbors, Costing Taxpayers Millions

The mouth of the Maumee River in Ohio demonstrates yet another costly problem resulting from insufficient environmental controls. The tremendous plume of sediments that washes into Toledo Harbor clogs channels and challenges the Lake Erie ecosystem. In total, about 6.4 million tons of soil are eroded from cropland during rainstorms. While much of this soil remains on land, 1.3 million tons of sediment flows into the Harbor[2] (Sohngen 1998).

Toxic metals in Toledo Harbor and Lake Erie contaminate these new sediments after they enter the river. As a result, most sediments dredged from the area are contaminated and must be confined in a facility designed to prevent toxics from escaping into the environment.

Reducing sediment runoff from farms could significantly reduce dredging and disposal costs. By slowing the flow of sediments into the river, and reducing the amount of material to be dredged by about two million cubic yards, the Army could prolong the life of the disposal facility and postpone its construction by about two years. These outcomes would save taxpayers as much as $1.3 million each year (Sohngen 1998). In addition, spawning habitat for fish and other aquatic life would be improved, costs would be saved in treating drinking water, and recreational opportunities in the area would improve.

Preventing runoff can also save money for farmers. Besides topsoil, runoff carries valuable nutrients away from farm fields and into nearby waterways. By minimizing nutrient losses, farmers can save money on nutrient inputs, such as fertilizer and feed.

The measures needed to achieve these significant benefits for taxpayers, ports, farmers and the environment are precisely the type that would be provided by the Coastal Nonpoint Pollution Control Program. EPA's guidance contains management measures that could prevent sedimentation in rivers and harbors everywhere.

Runoff Contaminates Beaches, Making Swimmers Sick

A study conducted by the Santa Monica Bay Restoration Project (SMBRP) identified health threats at prime swimming and surfing spots on the Southern California coast that were not previously under a swimming advisory (SMBRP 1996).

Santa Monica is a popular swimming and surfing area near Los Angeles in Southern California. On a typical day, storm drains carry runoff from more than 400 square miles, releasing from 10 to 25 million gallons of stormwater into the bay. When it rains, more than 10 billion gallons of runoff may wash into the ocean (Knudson and Vogel 1996). With the runoff come waste products of millions of residents in one of the most densely developed areas of the country. Besides toxic chemicals from anti-freeze, brake pads, leaking oil, urban lawn chemicals and the like, bacteria and viruses creep in, from leaking sewage systems, animal waste, and fertilizers. These viruses can cause illness and render waters unsuitable for swimming.

The study found that people who swam near storm drains had increased incidence of fever, chills, vomiting, coughing with phlegm, ear discharge, respiratory disease, and gastrointestinal illness among other ailments. These problems were especially pronounced in swimmers who swam closest to the drains. When the total coliform counts were high, swimmers encountered the same problems more frequently, even when they swam further away from the storm drains (SMBRP 1996).

Certainly the severe problems experienced in Santa Monica Bay and elsewhere should be considered by those charged with planning new development in coastal areas. This calls for strong management measures for new and existing development in states' coastal runoff plans.

---

[2] The primary source of this information was the United States Department of Agriculture, Soil Conservation Service 1993 report: Erosion and Sediment Dynamics of the Maumee River Basin and their Impact on Toledo Harbor.

The Coastal Nonpoint Pollution Control Program

By 1990, Congress recognized that earlier efforts to control the polluted runoff problem had not been successful and that coastal areas were especially vulnerable to this type of pollution. To ensure that states and Federal agencies worked together to deal with this increasingly serious problem, Congress created the Coastal Nonpoint Pollution Control Program.

This program focuses exclusively on efforts to prevent and control polluted runoff in coastal watersheds. As more and more people move to the coasts, disproportionate impacts, including runoff-related water quality degradation, make the focused attention to these areas not only appropriate, but essential.

The Coastal Nonpoint Pollution Control Program is the only Federal program designed to address runoff in an accountable, targeted and enforceable manner, stressing coordination among agencies as well as local solutions. Run jointly by the Environmental Protection Agency (EPA) and the National Oceanic and Atmospheric Administration (NOAA), the Program requires coastal states to develop and implement plans to prevent polluted runoff. Its requirements initially allow the use of voluntary measures, but require back-up enforceable means to insure implementation where voluntary measures fail. This is the first time that a Federal runoff control program has moved beyond voluntary efforts that have proven insufficient to solve the problem.

By issuing technology-based guidance, EPA and NOAA have provided states with measures that are known to be effective in preventing or controlling each major source of runoff (EPA 1993). These management measures address the most prevalent sources of runoff. Most of the measures recommended by EPA are cost-effective, and some will even save money for those who put them in place. As a result, the coastal program could serve an excellent model for the rest of the country.

As a result of the purely voluntary nature of other runoff control programs, little significant progress has been made in cleaning up polluted runoff into America's coastal waters over the past decade. The Coastal Nonpoint Pollution Control Program requires that plans, which may include voluntary programs, also must have back-up measures that are mandatory and enforceable to be used if and when the voluntary programs fail.

As a result, the Coastal Nonpoint Pollution Control Program offers a ray of hope in controlling and preventing polluted runoff. Failure to fund implementation of the Coastal Nonpoint Pollution Control Program will result in the continued costly degradation of America's most valuable ecosystems.

Authorizing Funding to Carry Out the Coastal Nonpoint Pollution Control Program

In September, 2000, Coast Alliance released a report entitled Mission Possible, analyzing state progress in carrying out the Coastal Nonopoint Pollution Control Program. The analysis consisted of surveys of state and Federal officials as well as citizens. We found unanimous agreement among all those we talked to that the Program is effective but needs additional funding to achieve its goals. Coast Alliance specifically surveyed 5 states facing very diverse coastal pollution to identify innovative approaches to solving runoff problems, as well as barriers to doing so. Four common themes emerged from this analysis:

1. Runoff is recognized as a major pollution problem in every state surveyed. Major sources vary but are clearly identified in most states.
2. Funding to control polluted runoff is a pressing need in each state. However, many states that receive Federal funding for coastal programs do not necessarily allocate funds specifically for the Coastal Nonpoint Pollution Control Program. This demonstrates the need for a specific earmark for this program.
3. Overwhelmingly, the Coastal Nonpoint Pollution Control Program has promoted increased administrative coordination in the participating states. This is one of the objectives of the CZMA.
4. While some state programs have been finalized, others are still being developed. Each of these programs needs continued financial support to ensure it is implemented and that the anticipated benefits are achieved.

It is clear from this analysis that funding is critically needed by states, and should be provided through the reauthorization of the Coastal Zone Management Act.

Maintaining the Enforceable Nature of the Coastal Nonpoint Pollution Control Program

Enforceable measures have been the cornerstone of successful environmental programs. For example, the Clean Water Act has enforceable regulations for controlling the discharge of pollution from point sources into waterways that are used by everyone. As a result, a factory or wastewater treatment plant would require a permit

to discharge the amount of pollution that runs unregulated off of farms and developments every day.

The costs of polluted runoff to fisheries and tourism economies, not to mention the impacts on the ecological services otherwise provided by coastal areas, certainly justify the use of enforceable measures when voluntary measures fail. In the reauthorization of the Coastal Zone Management Act, for the sake of the coastal resources that the Act is to protect, the enforceability of the program should not be lost or weakened. Since the Coastal Nonpoint Pollution Control Program is the only program with enforceable provisions, if anything, these provisions should be strengthened and used as a model for other programs.

Consistency of Federal Projects with State Coastal Management Plans

The Coastal Nonpoint Pollution Control Program is strengthened by a provision of the Coastal Zone Management Act that requires Federal actions in states' coastal zones to be consistent with state coastal zone programs. Since this includes the Coastal Nonpoint Pollution Control Program, the consistency provision will ensure that Federal projects adhere to states' pollution control requirements, preventing such projects from undermining the states' efforts to protect their coastal zones. Considered by many to be one of the most critical aspects of the Coastal Zone Management Act, the consistency provisions serve an important purpose and must not be weakened.

We are concerned about references in the Bush Administration's energy policy that suggest a need facilitate energy development activities on the coasts. There appears to be some interest in the repeal of state authority, provided through the Coastal Zone Management Act, to ensure that Federal actions in the coastal zone are consistent with state Coastal Zone Management Plans. It is critical that the consistency provisions of the Coastal Zone Management Act remain strong, and we hope that this Subcommittee will be prepared to prevent any efforts to roll-back this important state authority.

Proposed Legislation

There are two pieces of legislation currently under consideration by this Subcommittee that would reauthorize the Coastal Zone Management Act. Those are H.R. 897, introduced by Congressman Saxton and the Discussion Draft entitled Coastal Communities Conservation Act of 2001. In addition, a bill was introduced in the Senate by Senators Snowe, Kerry, McCain, Hollings and Breaux (S. 328). Each bill has a number of components that we support and hope to see enacted as part of a reauthorization bill this year.

H.R. 897

H.R. 897 is similar to a bill we supported last year introduced by Congressman Saxton that passed the subcommittee (H.R. 2669). Unfortunately, it was amended and significantly weakened during full Committee markup. H.R. 897 would reauthorize the Coastal Zone Management Act, creating a program for "Coastal Community Conservation Grants" that would assist local communities in carrying out conservation projects. Importantly, this bill would establish the coordination and implementation of coastal nonpoint pollution control program components as well as activities that reduce the causes and impacts of polluted runoff on coastal waters and habitats as objectives and approved uses of its grants. This objective and this use for CZMA grants does a good job of carrying out the principles we have outlined above.

Specifically, this bill sets aside funding for the implementation of this program as part of the Section 306A Coastal Resource Improvement Program. This funding is of great importance to the environmental community and is a key aspect of the reauthorization in achieving the Act's environmental protection objectives.

Importantly, H.R. 897 preserves important ecological objectives in Section 309 enhancement grants, by requiring that programs funded under that Section attain one or more coastal zone enhancement objectives. These objectives include protection, restoration or enhancement of coastal wetlands, development of measures to assess, consider and control cumulative impacts of coastal growth and development, and adoption of enforceable policies for the siting of energy facilities. As described above, we believe that funding through CZMA should be limited to projects that achieve ecological benefits and programs that harm the environment should be prevented. The preservation of the enhancement objectives in H.R. 897 helps keep the Act on track in that regard.

Coastal Community Conservation Act of 2001

The Coastal Community Conservation Act of 2001 Discussion Draft would also reauthorize the Coastal Zone Management Act. While this bill is a good start, it needs

to be strengthened to adequately address the challenges of dealing with nonpoint source pollution. In this bill, two distinct grant programs currently provided in the Act are essentially repealed. The Section 309 grant program is expanded to allow funding for states to implement, modify and amend their Coastal Zone Management Programs that otherwise have been supported through Section 306 grants.

Funding to Control Runoff Pollution

The bill also seeks to authorize the use of grant funds toward implementation of the Coastal Nonpoint Pollution Control Program, however the bill's authorization of expenditures of funds for this purpose should be clarified prior to final consideration of the bill by the Subcommittee.

Unlike H.R. 897, the Section 309 Grant Program contemplated by the Discussion Draft does not clearly incorporate the implementation of the Coastal Nonpoint Pollution Control Program into either the implementation of the state's management program under Section 306 or the newly created Coastal Community Conservation Projects. It does, however, clearly state that no less than 10% of the funding provided for Section 309 must be spent to implement the Coastal Nonpoint Pollution Control Program. As a result it is unclear whether the draft bill authorizes the use of Section 309 grants for implementation of the Coastal Nonpoint Pollution Control Program.

The Coastal Community Conservation Projects would limit funding to technical assistance; construction; planning, design and engineering reports; and monitoring and assessment. This appears to exclude implementation and development of management measures required by the Coastal Nonpoint Pollution Control Program.

Balance of Environmental and Economic Objectives (Funding for Acquisition)

Under the Section 309 Coastal Community Conservation Project eligibility, funds can be used for construction, and not acquisition. These limited funds should be prioritized for uses that would not be otherwise possible. Under the existing law, funds for acquisition can be provided, however, the relevant section is repealed by this bill. We urge that the new section be revised to authorize acquisition for conservation purposes to ensure that our last remaining undeveloped coastal lands can be preserved for posterity.

Loss of Section 309 Enhancement Objectives

The environmental community is concerned about the loss of clear objectives in Section 309 that would help to ensure that projects funded under this section have a net ecological benefit. Under existing law, the enhancement objectives include protection, restoration or enhancement of coastal wetlands; development of measures to assess, consider and control cumulative impacts of coastal growth and development; and adoption of enforceable policies for the siting of energy facilities. Some of these objectives are even more critical today than they were when the law was enacted.

With the current trends in coastal development, energy exploration and species extinction, now more than ever, such objectives need to be clearly stated, and funds need to be dispersed according to coastal management criteria. The loss of these enhancement objectives leaves the Act with a single grant program in which funds may be dispersed irrespective of coastal management priorities. This raises significant concerns in the environmental community as to the direction that the Coastal Zone Management Act is taking with regard to environmental protection.

A reauthorization of CZMA must appropriately update these objectives to ensure that coastal protection is being achieved through the use of CZMA grants. We were disappointed to see that this is not achieved by the proposed discussion draft. Rather, important objectives are being lost. We would welcome an opportunity to work with the Subcommittee to preserve these objectives as it further develops this legislation.

Habitat Creation

While restoration and creation of habitat can have significant environmental benefits, The Coastal Zone Management Act should define protection of natural habitat as a principal goal in order to minimize the need to restore and create new habitat. Wetland creation, for example, should not be seen as a replacement for protection of natural wetlands, since engineered wetlands rarely serve the same ecological function as a natural wetland would. The inclusion of the term "creation" is of concern due, in part, to the absence of clear language to prioritize the protection of natural ecosystems. This is a concern in both the Discussion Draft and H.R. 897.

We also are concerned that this could increase funding availability for activities such as the creation of islands from dredged material. This would not only take away funding from desperately needed environmental protection, but it could also

allow such creation of islands to become a commonplace solution for dredging waste disposal, trading aquatic habitat for new land, and encouraging dredging and channel deepening where it is unnecessary or economically unjustified. In such a case, spoil islands are not guaranteed to mimic natural habitats, and in some cases, glorified disposal projects have created more serious ecological problems than they have solved. This is a separate issue from restoration of natural areas, which tends to have a higher probability of success than does creation.

Both bills should begin by defining habitat protection as a principle goal if they are going to expand the Act to address creation of habitat, which is a secondary priority.

Definition of Underutilized

The term "underutilized" proposed for insertion in Section 102 of the discussion draft should be defined. While we recognize that this term is commonly used in the context of brownfields redevelopment, it would be useful to define it for the purposes of this Act to ensure that it is not interpreted as referring to "undeveloped" coastal lands or other lands whose development may not be consistent with the Act.

Authorization of Funding

The proposed bill would authorize funding to be set aside specifically for the implementation of the Coastal Nonpoint Pollution Control Program, which we wholeheartedly support. We appreciate that the bill intends to provide no less than 10% of the funds available through Section 309 for this purpose. As described above, however, we are concerned that the authorization of expenditures for the program is unclear and we strongly urge the Subcommittee to clarify this.

Secondly, we respectfully note that the 10% allocation unfortunately would not be sufficient to support these programs and is not even equivalent to the amount appropriated for this purpose for fiscal year 2001, which was $10 million. Significantly increased funding is needed to develop and implement the coastal nonpoint pollution control program in future years. We would suggest that this amount be raised by increasing the total amount of funds authorized for Section 309 to $25 million.

Summary

In summary, we urge the Subcommittee to consider a carefully crafted Coastal Zone Management Act reauthorization bill that would revise the management process to be consistent with current stresses and threats to the coasts. Coast Alliance and its affiliated organizations strongly recommend that the Act should embody the following principles in order to achieve its goals:

1. The Coastal Nonpoint Pollution Control Program in its current form must be integrated into the Act, and sufficient funds must be authorized for its support.
2. The Program's requirements for enforceable mechanisms must be maintained.
3. The Act's consistency provisions which provide an important tool for states to protect their coastal ecosystems must not be weakened.
4. Principles or objectives should be included to ensure that projects or programs supported through appropriations under this Act prioritize environmental protection, protecting and maintaining the natural integrity and complexity of coastal ecosystems.

Since runoff is the primary cause of aquatic habitat degradation, achieving the goals of the Act requires preventing runoff through the Coastal Nonpoint Pollution Control Program. Without a doubt, the success or failure of the that program depends on three factors: adequate plans to control the true causes of polluted runoff, the presence of enforceable mechanisms to make sure those sources are reduced, and adequate resources to implement these plans. To date, states and the Federal Government have invested in the development of runoff prevention and control plans. Some are finalized and many others are on the verge of completion. Congress can continue its efforts to protect the coasts by ensuring that the Coastal Nonpoint Pollution Control Program is reauthorized and funded as part of the Coastal Zone Management Act Reauthorization this year and that the revised Act is designed with necessary objectives to prioritize environmental protection. Coast Alliance looks forward to working with this Subcommittee toward that end.

Mr. GILCHREST. Thank you very much, Ms. Savitz.

You raised an interesting perspective about comparing funding for coastal protection to funding for other coastal activities.

For example, in my district, you could get a single dredging project for $100 million and it will sail through virtually without

question. But the entire coast protection is about $80 million for this single program.

I am not saying there is anything wrong with dredging and the activities that it is supposed to support. But at this point in time, it might be advantageous for us to begin to compare those two Federal allocations.

Mr. Wyman, you mentioned four things that you would like to see us do in the legislation dealing with consistency review.

Mr. WYMAN. Yes.

Mr. GILCHREST. And the last one was a timely review of the process, which I guess you mean put a timeframe, a time certain, for the review to be completed?

Mr. WYMAN. That is correct. You may recall, Congress added 16 U.S. Code 1465, I believe, about 4 or 5 years ago in an attempt to establish a timeframe for those decisions to be issued.

There has been a hangup based on the development of an administrative record that we believe can be further worked out by statutory-firm deadline.

But my experience with these override appeals, and I happen to have participated in six of them—my law firm has, and I have done a lot briefs in the last 0 or 12 years—is that the administrative record will be virtually fully developed by the time the state's consistency objection is lodged, especially in matters of plans of exploration, for which the EIS, which may pertain to that particular project, would have been done at the time of lease sale.

Even when there development projects for which Interior would decide to have an EIS be prepared, because of concerns that agencies would want to see the final EIS in order to make the final decision, I believe that the system could work, that the final EIS would be able to be finally developed, and, therefore, the administrative record could be given to the decisionmaker and a firm deadline could be imposed. And there would be no more uncertainties about when the administrative record would close and then the time limits would kick in.

Mr. GILCHREST. Do you have a suggested timeframe for that?

Mr. WYMAN. Yes, I believe—the specific amendment is not before me right now, and sometimes these delays vary, with all delays I handle for other appeals. I can't remember exactly. I believe it is 90 days.

Mr. GILCHREST. Ninety days.

Mr. WYMAN. With another 45 days given as an escape hatch in case there was some unforeseen development in the decisionmaker's review of the record.

Mr. GILCHREST. You mentioned four things for changes with the present consistency review provisions. Could you go over the first one again, dealing with the states?

Mr. WYMAN. Yes, I think that has—at least some people may have misunderstood that; I am not saying they would agree with my articulation of what we mean, by any means.

But one of the things we see—and this came out of, really, a Commerce rulemaking that was finalized on December 8, 2000, that has been subject to a lot of attention.

There is now a suggestion that states can review activities taking place in neighboring states, in neighboring state's coastal zones or otherwise that could affect their own coastal zone.

We are reviewing that rulemaking. I actually was first persuaded of that being a serious legal issue by comments filed by the city of Virginia Beach, Virginia, who had fought its own fight in the early 1990's against a North Carolina veto of what city of Virginia Beach considered a very important water project.

And the city of Virginia Beach went to court about it. And it is my appreciation the briefs were filed, and that, actually, the North Carolina veto was not sustained, even by the Secretary of Commerce in the override decision.

I think it is bad policy. But I also believe there are constitutional questions of whether a state can veto an activity of another state that has been briefed but not finally decided.

I also believe that approach was the Federal Government's position until 1993, when Secretary Brown under the Clinton administration was persuaded by his lawyers that he should change the department's position.

But it has led to final rulemaking, and we would like to change that.

Very important: We are not even questioning whatsoever a state's continued right to review OCS activity. That is built in the statute plainly. We would not mean for that amendment to accomplish any restrictions of a state's review of OCS activities. It is part and parcel of the act, and we know it will continue to be.

Mr. GILCHREST. I appreciate that, and I know that is an area of concern with you. And it is an area that we will take a close look as we proceed with developing this legislation.

Mr. WYMAN. Thank you.

Ms. Claussen, the earlier panel seemed to be opposed to earmarking a percentage of dollars for the grant program for nonpoint source pollution.

Could you comment on that?

Ms. CLAUSSEN. Well, I should start by saying that Pew Oceans Commission has not taken this up in a specific way, so I can't give you an answer based on commission deliberations. I can probably give you a personal view.

Mr. GILCHREST. That would be good.

Ms. CLAUSSEN. I can say that when I was in government, which I was for more than 20 years, I always thought flexibility was really important.

Mr. GILCHREST. You thought what was really important?

Ms. CLAUSSEN. Flexibility.

Mr. GILCHREST. Flexibility.

Ms. CLAUSSEN. But now that I am not—

[Laughter.]

Mr. GILCHREST. Okay.

Ms. CLAUSSEN. And because 10 percent seems like such a small percentage, and because I am really concerned about how few states have actually moved forward in a vigorous way to deal the nonpoint problem, in part because I think the total dollars that they get are not enough. You know, funding has been late and sort of slow on this.

My personal view is that it is probably a good idea.

Mr. GILCHREST. Thank you.

Ms. Savitz?

Ms. SAVITZ. Are you asking me to comment on that question?

Mr. GILCHREST. Yes.

Ms. SAVITZ. Well, Coast Alliance feels very strongly that a certain percentage of Coastal Zone Management Act funding be allocated to the coast nonpoint program implementation. There are a number of reasons for that. Most importantly, of course, is just the degree of importance of nonpoint pollution.

And I honestly think it is safe to say Coast Alliance would take the position that states ought to be spending 50 percent of their coastal management money controlling nonpoint source pollution. It is the number one source of pollution on the coasts. Ten percent is a way of saying, at the very least, this an important issue.

We did a study last year. It came out in September, which we titled "Mission Possible," which is a very optimistic title for our reports which are generally more downbeat.

What we did was we surveyed five states. We surveyed state program managers, we surveyed Federal agency folks at NOAA, and we surveyed citizens, to see how coastal nonpoint program development was going. And we found a lot of agreement, number one, that pollution runoff is a problem; number two, that the biggest barrier to addressing the polluted runoff is a lack of funding.

And one of the things we found was that even when states are allocating funding to control nonpoint, it doesn't always get spent in that way. Or when they are allocating funding coastal zone purposes, oftentimes controlling nonpoint is a low priority.

And I believe that if you talk to some of the people in the states who are actually in charge of the nonpoint program, privately they would tell you that they think this is a great idea.

I would also point out that states are very different, and some states, you know, may reflect what I just said and other states may be the exact opposite. They may spend a lot of resources dealing with nonpoint pollution.

Obviously, the states who had their programs approved, like Maryland and California, have invested more in this process than other states.

For those states, it is important that their neighboring states also invest in polluted runoff. As you know, there are a lot of interstate issues associated with this problem.

So, you know, I think that this is a small amount. It shows that there is a commitment to controlling the number one source of pollution on the coast. And without doing that, we have no guarantee that this problem will ultimately be solved.

Mr. GILCHREST. Thank you.

Dr. Burroughs, a comment on that?

Mr. BURROUGHS. Yes. I guess my response will be somewhat different than the others.

My thought is that you can look at the new scientific information to target where your nitrogen-based nonpoint source problems are the greatest. And you can also look at the authorities that you have under the Coastal Zone Management Act, and as one of the other

commentators mentioned earlier, a lot of these are ultimately local decisions.

And using the coastal community provisions of the act, you could encourage states with their local partners, to come forward with innovative plans.

I don't know what that would turn out to be as a percentage of the overall funding, but that would be very much consistent with what I understand to be our recently developed scientific knowledge.

And what it would do for those dollars that flow in that direction is it would give them the maximum amount of impact. In other words, we would target those geographic areas and nutrient delivery processes, if you will, that are causing a great problem and for which each dollar that we put forward, we could expect to see a significant reduction.

Mr. GILCHREST. So you are suggesting that an actual percentage earmarked toward nonpoint source pollution control would be a good idea?

Mr. BURROUGHS. I am suggesting that a process whereby you make it highly desirable for states to propose those programs is good.

Now, if you ask me what percentage that would be, I can't give you a number. But I think what the science tells you is that there are ways of directing your interests and the panel's interests in fixing that problem to certain geographic areas and certain nutrient delivery systems—

Mr. GILCHREST. Yes.

Mr. BURROUGHS. —recognizing that perhaps atmospheric and point-source nitrogen, which is a big factor in the coastal zone, are things perhaps the CZMA might wish to stay away from, given there are other authorities that are dealing with them.

Mr. GILCHREST. Thank you very much.

Mr. BURROUGHS. Thank you.

Mr. GILCHREST. I yield to Mr. Underwood.

Mr. UNDERWOOD. Thank you very much, Mr. Chairman.

And thank you very much for your testimonies.

I guess I would like to ask Mr. Wyman a couple of questions. I would venture to say that your testimony is a lot different than all the rest that we have heard today—

[Laughter.]

—from any of the three panels.

Basically, let me just quote a couple of things that are coming from your statement.

"The CZMA consistency program has allowed states to unilaterally use the process as a tool in their philosophical opposition to offshore drilling."

My question to you is, what is wrong with that?

Mr. WYMAN. As I appreciate the Coastal Zone Management Act, it is a collaborative process. What we are dealing with are states sitting down and talking with private permit applicants with a give-and-take.

That certainly happens in Louisiana in its coastal zone management process in how they address any problems they have on outer continental shelf lands activity.

I have personally been a part of dialogue with the state's CZMA program there in which pipelines coming in from the Outer Continental Shelf are planned and are prepared consistent with the coastal zone management plan of Louisiana. Then the area is fully restored, and there is mitigation that takes place.

That dialogue does not take place in certain other areas of the country in which the states have categorically opposed offshore drilling in their areas. It is Federal property on the Outer Continental Shelf Lands Act; I mean, I am not trying to belabor an obvious point.

But the most that I see the Coastal Zone Management Act doing is giving the states rights in that process. I do not think the process can be a unilateral effort to stifle any development whatsoever.

The Act should work to coordinate the planning of that in a constructive way. And I have not had that experience in three different areas of this country.

Mr. UNDERWOOD. I would submit that the Coastal Zone Management Act is supposed to be the vehicle for which states and localities can actually deal with the entire process and provide a basis for getting their point of view across.

You know, I would have to say that, coming from a territory—which in many of these kinds of issues, we are relatively unarmed in trying to deal with some issues concerning economic development or interests, certain big economic interests—that we have successfully used CZMA to deal with the Federal Government, because there are some Federal agencies that want to do things differently, including the Department of Defense.

We have had to deal with economic interests who we think are not good for the community in the long run. And we have also used it as an opportunity to deal with social and cultural issues, which are of enormous consequence in a place that has indigenous fishing practices that have to be taken into account.

And I am little concerned about giving it this philosophical twist because I believe that, at the end of the day, policy must be driven by some kind of general philosophical attitude.

The rate of success in Louisiana cannot be the benchmark for the rate of success in California or the rate of success in other areas.

And so, I was taken a little bit taken aback by that comment.

Mr. WYMAN. Let me suggest this, because I should point out that our amendments are not, I believe, in any way naive, or that we are going to really ultimately accomplish any philosophical change by any of these states.

Mr. UNDERWOOD. I totally—

Mr. WYMAN. We believe California will remain California, and the other areas.

All we are trying to do is level the playing ground in this dialogue process, level the playing field for industry to propose its activities, know the information the states will require, do its best to certify consistency, but then further level the playing field for the act's recognition that if a state is philosophically opposed, is going to object to consistency, there will at least be an appeal process that works.

And I believe that our amendments will improve the efficiency of that appellate process. The states can remain the states, and they

can be philosophically opposed. I am trying to level the playing field under the act—

Mr. UNDERWOOD. Okay.

Mr. WYMAN. —for how those rights interact.

Mr. UNDERWOOD. Okay. Well, you know, that brings me to the next point, which is what you also raised in your testimony, that the suggested amendments would work to distinctly improve the efficiency as well as the fundamental fairness of that process.

And I guess in reading the statistics on some of the disputes, or some of the concerns that have been expressed, I understand that 95 percent of the projects reviewed under Federal consistency, the states have concurred with that, and that there were only 40 times that state objection was appealed to the Secretary of Commerce.

Of these 40 appeals to the Secretary's decisions, 14 were for outer continental shelf oil and gas activities. And there were only 14 instances where the oil and gas industry appealed a state's objection to the Secretary; of those 14 cases, there were seven decisions to override the state's decision, and seven decisions not to override the states.

So it seems to me that that kind of balance and fairness, although there may be some elements of it that could improve the efficiency, but at the end of day, it seems to me that the decisions that have been actually made under this regime have been—you know .500 baseball is pretty good.

[Laughter.]

Mr. WYMAN. I respectfully submit that statistics can very much mislead the reader.

And I think that I have also encountered those statistics. I don't dispute the fact that there are so many development plans and exploration plans for the central and western gulf that you can gin up an excellent figure for the fact that very many of these plans go forward.

I have fought, on behalf of certain clients, consistency battles in major frontier areas of this country—we will have to assess those natural resources, at least as a country; perhaps it will be over the next 50 years.

I believe that those seven decisions that you are talking about really effectively helped cut vast swathes, areas out of what would be perhaps be future exploration and development.

I think that those seven critical decisions are the core of the problem.

Mr. UNDERWOOD. Well, I—

Mr. WYMAN. You cannot use all that—

Mr. UNDERWOOD. You know—

Mr. WYMAN. —success offshore in the central and western gulf to assess those seven decisions.

Mr. UNDERWOOD. Well, I don't want to deal with the issue that we have ginned up the statistics here, but it seems to me that the statistics speak for themselves.

I think that the existing regime has worked well. I think it balances all the elements that need to be balanced, including local sentiments and including the interests of energy. And I think that the existing system has worked well.

I wanted to ask, just briefly talk to Ms. Eileen Claussen.

And I want to thank you for your own work, too, and the Pew Trust, and for acknowledging the work of Senator Carlotta Leon Guerrero in that.

So could you characterize in your own work what are some of the concerns? I understand you had a meeting in the Pacific—at great expense.

[Laughter.]

Ms. CLAUSSEN. Our interest is in preserving marine biodiversity. And that is sort of the charge of the Pew Oceans Commission.

We have 19 members of the commission. It is a very interesting, diverse group of people, politically balanced. We have some governors, some former governors. We have scientists. We have people, some industry people. We have sort of an interesting mix.

We have divided our work into four areas: pollution, which is, obviously, what I talked a little bit about today; and coastal development, which is the other piece of this; fishing; and governance.

We have been in many different parts of the country. We still have some to go to. So we are going to be in Maine in June. And we are going to be Alaska in August.

We do a lot of open hearings and meetings. We do fisherman focus groups. We have done focus groups with affected industries.

It has been a very open process. And we hope to have a report that we can provide to the Congress by the fall of next year.

Mr. UNDERWOOD. Thank you very much.

Mr. GILCHREST. Thank you, Mr. Underwood.

Do you have any questions, Mr. Miller?

Mr. MILLER. I have two quick questions.

Mr. GILCHREST. Yes, sir. You are recognized for 5 minutes.

Mr. MILLER.I apologize for my absence, but the Commerce Committee today is marking up an energy bill, and we had a California caucus apropos that subject.

Mr. Wyman, if I might, in reading your presentation, your prepared statement, on page 4, you talk about CZMA's relationship to the OCS leasing program.

And if I understand that, you are suggesting there that CZMA, through the appeals process and final determinations, that that puts uncertainty and puts a fair amount of capital at risk. Is that—

Mr. WYMAN. Yes, sir.

I am really here to speak from really sort of the trenches of my experience with some of these override appeals.

And I have seen capital tied up in the Mobil and Marathon case, that ended up before the Supreme Court, for 19 years, $158 million in bonus monies first put into the Federal Government in a lease sale in 1981. It was ultimately returned to the lessees in the year 2001.

But all of that investment capital, which could have been working several other places, was tied up.

All of these appeals tie up investment capital.

Mr. MILLER. For me, it raises and interesting point, because I guess I hearken back to when we wrote the OCS Act and there was a great debate. I was one of those who believed that we should have gotten rid of the bonus bid system, on the theory that there was always a discussion—to some extent, I think, with great

pride—that they left X hundreds of millions of dollars on the table from people. And then it didn't pan out, or what have you.

My sense was always that the bonus bid—and the industry fought very, very hard to hold onto the bonus bid—that that sort of defined who the players were, because obviously you had to come up with a substantial amount of money. And as you point out, you may leave it there for a long time and not be successful.

And I never quite understood why the industry didn't go to a straight royalty bid system and say, "If we win, you win," to the government. So you don't have any money laying around in an escrow account or you don't have any money laying around in the government that we have already spent and then we have to figure out how to return it to you or buy back a lease or what have you.

If those aren't successful, you know, why don't we just move to that system? And then the industry won't have this money sitting around in accounts unused that could be used for research and development or to buy something else or whatever you want to do with it.

Mr. WYMAN. Congressman, I am not your man on finance issues. If I was better at finance, I would be retired by now or something like that.

I really don't—

Mr. MILLER. But it is crucial because in your first statement you say the OCS leases require to pay an up-front bonus. We don't require an up-front bonus at all. It is one system that may be selected by the Secretary of Interior.

Mr. WYMAN. I agree with you.

Mr. MILLER. And if Secretary Norton thinks that this is unfair in terms of the dormant use of capital, we can go to a lease bid. There is a whole array of systems that can be used.

I just don't think that argument justifies changing CZMA. It justifies changing the bid systems.

Mr. WYMAN. I am really not prepared to address that. I realize the OCS Lands Act has provisions that allowed for a lot of imaginative ways to approach lease sales and how you can even apportion royalty after you find production.

My focus is really on these more narrow issues right now.

Mr. MILLER. Then let me suggest that I think that you ought to address this, because, as I read what you are saying, you are using that as leverage to say that "we have to knock down these appeal processes because we are denied access to our capital."

In one case, I guess it is the North Carolina case, the capital was tied up for 15 years or whatever and then finally we got a refund. I quite believe we should have refunded that.

But all I am saying is, I don't think you can come here with that argument when there are alternatives to that system that don't require you to put capital at risk.

What I suspect is, when we were debating to get rid of bonus bid systems, the industry, the major players, liked the bonus bid systems because it defines the people who are going to show up to make the bids and where the better bids go.

Mr. WYMAN. Well, I think that—

Mr. MILLER. You then can't come say, you know, "We fought to retain the bonus bid system but now the bonus bid system is what causes us to say you have to rethink the appeals process in CZMA."

Hell, put in a refundable bonus bid or however you want to design it.

I have never been one who believes that we should take all this money and think the government won and you lost because you didn't get the tracks or the oil didn't show up. It ought to be related to—you know, you spend a lot of money to figure out if you are going to get oil.

If you get the oil and if the royalty is 16 percent or 20 percent or whatever the hell it is, 12 percent, then we get that share, you get your share, and we on about our merry way.

I just don't think you can use the bonus bid here.

So when you say you are not prepared to address it, I don't think it is fair to use it in an argument as a battering ram against the CZMA when it is the industry that has insisted on the bonus bid system.

Mr. WYMAN. Okay, I think we are at—

Mr. MILLER. There are people behind you shaking their heads yes, people behind you shaking their heads no.

[Laughter.]

So they can help clarify this.

[Laughter.]

Mr. WYMAN. For my approach—

Mr. MILLER. I appreciate your—

Mr. WYMAN. It is the reality of the moment and the foreseeable future that the bonus bids are a factor in the lease investment.

Mr. MILLER. You have an new Secretary of Interior; I don't know what the reality of the moment is, from my perspective.

[Laughter.]

This I don't think—if you use this as your argument, you are quite capable of saying this is about tens of billions of dollars and, therefore, it is these regulations that is causing the loss of this capital. No, it is not. It is because this is the preferred system that industry seeks to use and even in light and knowledge of these regulations.

And I think it is pretty simple, from my side, to change the bidding system—apparently not simple within the industry.

Thank you, Mr. Chairman.

Mr. GILCHREST. Thank you, Mr. Miller.

We will have all of those people who were shaking their heads sideways or up and down to come testify.

[Laughter.]

Mr. MILLER. Thank you, Mr. Chairman. Thank you very much for letting me sit with the Committee and to ask the questions.

Mr. GILCHREST. Thank you, Mr. Miller.

Thank you, all of you, for your testimony.

We apologize again for the fragmented nature of the House and our proceedings. But your information given to us is quite valuable.

I just want to make one mention. Dr. Burroughs, your evaluation of state coastal zone management program outcomes is very intriguing to us, and we will do what we can if not in fact plug that into the process. It has been very helpful.

Mr. BURROUGHS. I would be glad to help you.

Mr. GILCHREST. I do have to say that Congressman Lynn Woolsey would like to submit a statement into the record. So, without objection, we will do that.

[The prepared statement of Ms. Woolsey follows:]

Statement for the Record by The Honorable Lynn C. Woolsey, A Representative in Congress from the State of California

Mr. Chairman, I appreciate the opportunity to share my opposition to proposed amendments to the Coastal Zone Management Act (CZMA) that your subcommittee is considering. Like many of my California colleagues, I am opposed to these amendments that are strongly backed by the petroleum and gas trade associations. We are strongly concerned that these amendments undermine the CZMA by weakening the right of the states to review Federal activities inside or outside their coastal zone. States deserve this right to ensure that Federal activities are consistent with their own coastal management programs.

Californians, including my constituents in Marin and Sonoma counties, take seriously the protection of our coast. They recognize that it's our state's most precious natural resource. That's why our state established the California Coastal Commission, which has overseen the management of our coastal resources with a comprehensive statewide plan since 1965. The enactment of the CZMA seven years later solidified each state's right to review Federal coastal activities, such as offshore oil and gas development. California has fought to protect its coast from offshore oil drilling. Unfortunately, these proposed amendments to the CZMA would undermine this principle and erode California's ability to reject such activities that it believes would significantly impact its coastal zone. Considering California's leadership and success in protecting its coast, it's wrong to rewrite the CZMA in a manner that would remove California from the process of deciding what's best for our its coast.

Mr. Chairman, I urge your subcommittee to reject these proposed amendments. Instead, I urge you to recognize the critical role that states, in particular California, have provided in managing and protecting its coastal zone. Any reauthorization of the CZMA should only continue, or strengthen, this model of stewardship.

Thank you.

Mr. GILCHREST. And, again, thank you very much for your testimony.

The hearing is adjourned.

[Whereupon, at 1:05 p.m., the Subcommittee was adjourned.]

○