

**Testimony of Ted Diers  
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New Hampshire Department of Environmental Services on behalf of  
Coastal States Organization**

**Before the**

**House Committee on Natural Resources**

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**Introduction**

Good morning, Mr. Chairman and Members of the Committee. My name is Ted Diers and I am the Manager of the New Hampshire Coastal Program of the New Hampshire Department of Environmental Services. I also serve as Chair of the Coastal States Organization which represents the Governors of the nation's thirty-five coastal states on the sustainable management of the nation's ocean, Great Lakes and coastal resources. Thank you for holding this important hearing this afternoon and for inviting me to testify on behalf of the coastal states.

Let me start by saying that the 35 coastal states, territories, and commonwealths that are members of the Coastal States Organization are at the forefront of ocean and coastal management in this nation. Whether it's addressing sea level rise and hazards in the Gulf States, renewable energy proposals off the northeast coast, or coral bleaching in the pacific islands, coastal states are on the front lines of these issues. Our ocean and coastal resources are not only important to us at the state level, but to citizens throughout this nation.

Coastal and ocean areas also represent an important source of energy for the U.S., including oil, natural gas, and renewable energy in the form of tidal, wave and wind energy. Use of the oceans for energy production requires a commitment to responsible development that promotes protection of living marine resources, seafloor habitats, and coastal communities. Such development must proceed from an understanding that our oceans are held in public trust for all citizens, and that multiple uses (including energy production) must be consistent with the long-term productivity of these resources.

As the U.S. crafts a national energy policy, including coastal and offshore energy development, it is important to consider three key factors which I will address today: 1. the retention of state sovereignty and consistency authority; 2. the planning for the nation's Exclusive Economic Zone including traditional and renewable energy development; and, 3. the establishment of a permanent trust fund.

Our position is simply stated – The development of offshore renewable and traditional energy must be part of a comprehensive plan in which the states are full partners,

addresses regional needs and opportunities and uses the best science possible. And, that effective planning and good science has costs associated with it.

### **State Sovereignty and Consistency Authority**

While offshore energy production benefits the entire nation, the impacts from activities associated with exploration, development and production on state coastal lands and federal offshore lands are felt most in coastal states. Thus, it is vital for state authority and sovereignty to be maintained. CSO recommends that Congress and the Administration consult with coastal states in the development of any new leasing program or formula of revenue sharing. In the past, offshore moratoria have been the result of a fractured, exclusive and federally-driven energy policy. If indeed we are heading in direction of a “post-moratorium” world, the ability for a state to review actions related to offshore oil and gas drilling is essential.

Section 307 of the Coastal Zone Management Act, known as the federal consistency provision, grants states authority to review federal activities, licenses and permits that have reasonably foreseeable effects on any land or water use or natural resource of the coastal zone. These activities must be consistent to the maximum extent practicable with the enforceable policies of a coastal state's federally approved coastal management program. This has been a primary method of ensuring more sustainable development of the nation's coasts.

Consistency applies before a federal permit is issued; thus, it facilitates early consultation between states, federal agencies and permit applicants in order to avert disputes from arising after substantial commitments have been made by agencies and applicants. In practice, consistency is important as a “ticket to the dance” -- allowing states to have a seat at the table in decisions related to the coasts. Without these early reviews, there would be much more uncertainty, litigation and calls for federal legislative intervention in actions in coastal communities. To increase efficiency for states, federal agencies and applicants, many states have created streamlined approaches to energy related activities.

In granting states consistency authority, Congress recognized that federal interests and activities must be balanced with the sovereign interests of states in managing coastal resources. This is the underlying philosophy of the CZMA and the consistency provision. State coastal programs must receive federal approval for a state to exercise its consistency authority; likewise, each enforceable policy upon which it relies must also receive federal approval.

Furthermore, the resources of the OCS and the coastal zone are many times difficult, if not impossible, to differentiate. Fish, currents, wind and wave care little about an imaginary line drawn 3 nautical miles from our shores. As the committee considers offshore energy, the retention of consistency under the CZMA must be a priority.

## **Planning for the Exclusive Economic Zone including Oil and Gas and Renewable Energy Development**

Given the prices and impacts of oil consumption, offshore oil and gas development must be considered in the context of the development of renewable energy and both must be balanced with the care of oceans and coasts and the economic viability of coastal communities. The energy needs and even the offshore resources of any particular state do not occur in a vacuum. There is significant “regionality” to both offshore needs and opportunities. Thus, the regional scale is appropriate for science based planning. The states are moving to take on some of these regional needs through the development of regional ocean partnerships. From the Gulf of Mexico Alliance to the West Coast Governors Agreement, the Great Lakes Commission to by own back yard in the Northeast Regional Ocean Council, the state are working together to create the framework for large-scale problem solving. This regional ocean partnership movement is a distinct opportunity for the state and federal government to work together.

Development of diverse and numerous sources of alternative renewable energy is critical to our nation’s energy security and environmental well-being. The federal role is crucial because virtually every site where ocean renewable energy technology is likely to be tested or deployed is subject to federal jurisdiction. Unlike conventional wind and solar, ocean renewable energy technology cannot be tested or deployed on private land. The industry will emerge and mature in the United States only if the federal government uses its resources and authorities to plan for and encourage appropriate use of the marine areas it controls.

While the Minerals Management Service plans for offshore oil and gas drilling, no federal or interstate body has taken on the task of planning for renewable energy development. Furthermore, there are myriad other coastal offshore uses and resources to consider when planning for energy development. CSO encourages the consideration of renewable energy in a national energy policy and legislation, including planning that addresses uses, resources, and impacts.

## **Establishment of a Permanent Trust Fund**

Great science and planning cost money. In the first OCS hearing in this series by the Committee on February 10, Chairman Rahall, you noted that “money from the ocean appears to go to everything but the ocean.” Indeed, even though coastal states are affected exponentially by the impacts of offshore energy development, receipts derived from sales, bonus bids and royalties under the mineral leasing laws are paid to the Treasury through the Minerals Management Service. But, these revenues are not directly applied to pay for Federal or State agencies’ examination, monitoring and managing wildlife, fish, water and other natural resources related to energy and mineral exploration and development.

The establishment of a Trust Fund provides a mechanism for *reinvestment* of the revenues generated from these public lands toward protection of coastal resources and communities. The Trust Fund can support the focused efforts of coastal states, territories and commonwealths, other appropriate coastal authorities, and federal agencies in addressing critical ocean and coastal management needs of our nation including restoration, protection, and enhancement of natural processes and habitats. This will help minimize the impacts of relative sea level rise, global warming, and ocean acidification and provide technical assistance and research to better anticipate and plan for the impacts of global warming and ocean acidification on ocean and coastal resources.

In its Final Report, the U.S. Commission on Ocean Policy identified a myriad of challenges to improve the management of our nation's ocean and coastal resources. The Commission recognized that to meet these challenges additional investments would be necessary, and Outer Continental Shelf receipts were identified as the primary source of funding. Additionally, the Commission recommended that a portion of OCS revenues should be shared with coastal states (Recommendation 24-1). Revenues shared with the states should further the goals of improved coastal and ocean management.

In 2006, the Coastal States Organization adopted a policy on revenue sharing which states that "Because the coastal states face a number of challenges in conserving their coastal resources and protecting their coastal communities, OCS receipts should be used to further the goals of coastal and ocean restoration, conservation, preservation, mitigation, research, and education." While the coastal states may not agree on the presence of offshore oil and gas drilling off their shores, they do agree in the reinvestment of funds from these public resources. Furthermore, these funds should be provided over and above existing appropriations to meet the increasingly complex and unmet needs of ocean and coastal managers.

It has been said that we know more about the surface of Mars than we do about the bottom of the ocean. The problem with that is we are not yet trying to manage use conflicts on Mars, but we are here on Earth.

## **Conclusion**

The oceans will continue to play an important role in access to sustainable and reliable energy. By retaining the state review authority, reinvesting a portion of public trust revenues on marine and coastal resources, and planning for both traditional and renewable energy development, new energy legislation will enhance our nation's ability to meet pressing ocean and coastal needs in an economical, efficient, and sustained manner.

In legislation regarding OCS activities, CSO requests:

- . Federal consistency authority under the Coastal Zone Management Act should be maintained and states' authority within their own jurisdictions should not be weakened in any way.

- . Congress and the Administration should commit to planning for the EEZ that includes energy policy based on development of traditional and renewable energy sources, and is enhanced by state-led regional partnerships.  
Revenues should be shared with coastal states and used to further the goals of coastal and ocean management, restoration, conservation, preservation, mitigation, and research.

Thank you again for the opportunity to address the Committee and for holding this important series of hearings. The Coastal States Organization stands ready to work with you to continue this progress of making important improvements to energy policy and coastal and ocean management. We look forward to the advancements that we can make in the coming year.