

**WRITTEN TESTIMONY OF
JOHN H. DUNNIGAN
ASSISTANT ADMINISTRATOR
NATIONAL OCEAN SERVICE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE**

**HEARING ON REAUTHORIZATION OF THE COASTAL ZONE
MANAGEMENT ACT, AND H.R. 3223, H.R. 5452, AND H.R. 5453**

**BEFORE THE
COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON FISHERIES, WILDLIFE, AND OCEANS
U. S. HOUSE OF REPRESENTATIVES**

FEBRUARY 28, 2008

INTRODUCTION

Good afternoon, Chairwoman Bordallo and members of the Committee. I am John H. Dunnigan, 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 future of the Coastal Zone Management Act and H.R. 5451, as well as H.R. 3223, H.R. 5452 and H.R. 5453.

The *Coastal Zone Management Act (CZMA)* has served as a cornerstone for national coastal policy for more than 30 years. When enacted in 1972, it was the first attempt to balance multiple national interests along the coast. The *CZMA* created an innovative intergovernmental partnership that has been of great benefit to the nation, the states, and the public. The *CZMA* recognizes and balances national objectives for development and conservation of coastal and ocean areas with the historical interests and role of the states in governing near shore development and land use. Under the *CZMA*, federally-approved state coastal management programs are provided assistance to coordinate their environmental resource management programs, and to promote sustainable coastal development and long-term conservation objectives. The *CZMA* also authorized the National Estuarine Research Reserve System.

State Coastal Management Programs

Thirty-four of the 35 eligible coastal states, commonwealths, and territories are implementing federally-approved coastal management programs. NOAA is working with the final eligible coastal state, Illinois, to approve its coastal management program. Through the *CZMA*, NOAA provides funding for developing and implementing these programs, and provides technical assistance on best practices for addressing important coastal management issues. Funding for the coastal zone management program is allocated to eligible coastal states based on shoreline mileage and coastal population. This funding is required to be matched on a dollar for dollar basis, yet many states far

exceed this match requirement and are able to leverage additional state resources using CZMA dollars. For example, the Maine Coastal Program has been successful in matching state dollars to federal dollars at a ratio of more than 5:1. In past years this ratio has been as high as 11:1.

State programs address a wide range of national objectives, including:

- Maintaining and restoring the natural beach and dune systems for protection from erosion and storms,
- Ensuring appropriate coastal development,
- Protecting and restoring ecologically important coastal habitats,
- Controlling nonpoint source pollution,
- Improving public access and recreational opportunities in coastal areas,
- Enhancing public awareness through education and outreach, and
- Revitalizing local waterfronts.

The National Estuarine Research Reserve System

Under the CZMA's estuarine research reserve program, the states — often in partnership with academia and federal agencies — implement research and education programs to better understand complex coastal processes and share this information with coastal decision makers at the federal, state, and local levels. Critical, long-term research takes place at the 27 federally designated National Estuarine Research Reserves (Reserves) in 22 coastal states and commonwealths. Connecticut and Wisconsin are currently working to develop new Reserves. The Reserves play an important role in meeting the *U.S. Ocean Action Plan's* goal to “expand our scientific knowledge of oceans, coasts and Great Lakes.”

Reserves currently protect over one million acres of estuarine lands and waters, and Reserve programs conduct important research, monitoring, education, and stewardship activities within coastal watersheds. The Reserves have developed system-wide efforts and standards to ensure data compatibility and consistent methodologies are used at all sites. The Reserve's System-Wide Monitoring Program includes 108 water-quality monitoring stations and 27 weather stations. The system provides important environmental data in support of the Integrated Ocean Observing System identified in the *U.S. Ocean Action Plan*. The Reserve system also supports a fellowship program, training up to 54 graduate students each year in estuarine science. This fellowship program not only facilitates important research, but also encourages the development of the next generation of scientists to sustain the workforce necessary to meet the nation's future coastal research and management needs.

Factors Impacting the Future of Coastal Management

While the CZMA has served as a cornerstone for national coastal policy for more than 30 years, it has become apparent that the evolving nature of the challenges we face in coastal management will require changes in our approach. As federal partners with the states, we need to position ourselves to take greater leadership on coastal issues by anticipating the

problems the nation will face in the next thirty years and by identifying and promoting needed changes in management approaches.

Coastal management issues in the next 30 years are likely to be different, or in a very different context, from the last 30 years due to:

- Unanticipated effects and dynamics resulting from climate change,
- Globalization, which will result in changes to the nation's energy, transportation, communications and manufacturing infrastructure,
- New technologies, and
- The changing demographics of coastal communities (greater in number and density, older, more ethnically diverse, and wealthier with a greater economic disparity between those who live on the coast and those who do not).

With greater competition for coastal resources, coastal decision-making, resource allocations, and risk acceptability will become even more complex. To address these complexities, new management approaches are needed to incorporate principles of ecosystem and adaptive management.

Achieving management objectives requires more effective implementation at the local level, where most of the decisions that cumulatively affect coastal resources occur. These objectives can be reached by:

- Building and enhancing local planning capacity for growth management,
- Incorporating natural resource planning and protection tools into local planning processes, and
- Making data and information more accessible and usable for local decision-makers.

ENVISIONING THE FUTURE OF COASTAL MANAGEMENT

In July 2006, NOAA and the Coastal States Organization (CSO) embarked on an effort to envision the future of coastal and ocean management. The process sought input from stakeholders, coastal management professionals, experts from multiple disciplines, NOAA, and other federal agencies. The response and engagement from across the country was encouraging as hundreds of people shared ideas about how we as a nation can become better stewards of our coasts. Participants exhibited much enthusiasm about new and innovative ways to protect and manage our coastal and ocean resources. They also were clear that a major effort is warranted to meet these challenges.

What We Heard

- Managing growth and development in coastal areas was the most frequently identified challenge; water quality ranked second.
- Local governments were identified as primary partners for addressing growth pressures.
- Climate change was the top emerging issue.

- Federal interagency coordination was stated to be ineffective, as states often have to meet different requirements from different agencies for similar programs such as water quality monitoring. The state resource managers also stated that access to assistance is inefficient and confusing.

What We Concluded

Following the stakeholder process, NOAA and CSO developed a set of four cornerstones and 13 principles that we agreed to consider in drafting our respective legislative proposals for reauthorizing the *CZMA*. They are intended to reflect both what we heard as well as important concepts that both organizations agreed should be the basis for a new integrated coastal and ocean statute.

The cornerstones identified through the visioning process are:

- The *CZMA* should ensure the long term sustainability of coastal resources and communities.
- The *CZMA* should be goal driven and results oriented.
- The *CZMA* should coordinate and align federal, state, and local governments to address issues of national importance.
- The National Coastal Management Program should remain a voluntary partnership between the federal government and the states, in which each bears responsibilities for achieving program goals.

These cornerstones provide a foundation for the development of more detailed proposals for a reauthorized *CZMA*. Following the visioning process, NOAA has begun an internal dialogue regarding what concepts to include in a *CZMA* reauthorization proposal. While our internal discussions are still in the early stages, I would like to share with you some of the concepts we are considering.

TAKING COASTAL AND OCEAN RESOURCE MANAGEMENT TO THE NEXT LEVEL: GOALS, ASSESSMENTS, PLANS, AND MEASURABLE OBJECTIVES

Clear, Focused Goals

The *CZMA* currently has a very broad scope, calling for the development of programs to “preserve, protect, develop, and where possible, to restore or enhance the resources of the Nation’s coastal zone for this and succeeding generations.” A reauthorized *CZMA* should continue to address a comprehensive set of issues, and could additionally focus on two distinct national priorities: sustaining healthy coastal ecosystems and increasing coastal community resilience.

Understanding Coastal Conditions: Periodic Coastal Assessments

The *CZMA* requires each participating state to develop a program with adequate policies to manage coastal resources, but does not require periodic assessments of coastal conditions or updating of state programs. Periodic assessments of coastal trends and

conditions of natural, social, cultural, historical, and economic resources could help to better direct planning and resource management activities at the state, regional, and national levels. NOAA would work with the states and other agencies to compile and prepare these coordinated assessments.

To understand the true national status of our coastal and ocean resources, we must also have a uniform understanding of what defines the coastal area. Currently, each state coastal management program develops its own boundaries based on the needs of the state's enforceable policies. These range from the entire state or territory (Delaware, Florida, Guam, and Rhode Island), to local units of government (Maine, North Carolina, Washington, and Wisconsin), to certain physical features or a set distance from the shoreline (California, Massachusetts, Ohio, and Alabama). This has made it difficult to develop a consistent set of indicators of the coastal condition that can give a regional or national picture. It also has caused confusion among federal agencies and the regulated community in implementing the federal consistency provisions of the *CZMA*. In an effort to resolve these issues, each state's coastal planning area would be based on uniform national criteria, and coastal watersheds and the territorial sea would be included in state assessments and plans.

Outcome-Based Planning and Measurable Objectives

Today, the *CZMA* requires participating states to have "programs," but not action-oriented plans and measurable objectives. State programs must identify enforceable policies that address general areas articulated in national guidance, but they are not required to set and meet benchmarks or measurable objectives. This has hampered efforts to demonstrate and articulate the success of state programs.

Strategic and targeted plans — developed at relevant scales and designed to meet national objectives — would be prepared by each state and approved by NOAA as a requirement for funding. Plans would include measurable objectives to help monitor state progress in achieving the goals of the *CZMA*. National objectives, such as protecting habitat and making communities more resilient to coastal hazards and climate change, would be established as a foundation for state programs. Each state would then prepare a management plan that would include strategies and measurable objectives to address the national priorities.

Today, funding for coastal management is allocated according to a formula that is driven by state coastal population and shoreline mileage. While these variables are useful for calculating continued support for operation of basic state programs, as coastal management programs move forward the majority of funding would be awarded competitively on the basis of achievement of national objectives. Program performance measures, based on indicators developed through state assessments, would also be used to guide funding.

Federal Agency Involvement

Currently under the *CZMA*, NOAA and other federal agencies have a limited role in coastal management with no responsibility for substantive outcomes. Research and

technical assistance at the federal level are not specifically tied to implementation of the *CZMA*. In order to supplement the existing federal role, a national level integrated, coastal and ocean management program would be created under the Secretary of Commerce to provide additional leadership for our state and local resource management partners and federal colleagues.

The primary objective of the national program would be to serve as a coordinator for the delivery of the federal government's diverse expertise to complement the expertise and knowledge available at the state and local level. The program would coordinate and build upon existing efforts, such as the National Sea Grant College Program, Coastal Services Center and others while not preempting any existing authorities of other agencies. It would integrate federal research and technical capabilities, and serve as the conduit for moving research to operations through the development of targeted products, services and related technical assistance.

Program Coordination

Developing national goals and the more detailed objectives and outcomes articulated in state plans would allow other NOAA programs and centers to more effectively coordinate, align and contribute to these efforts. The result could be a more integrated effort across NOAA to help support the national and state goals for management of the nation's valuable coastal resources. In addition, the National Marine Protected Area System and the Coastal and Estuarine Land Protection Program could be incorporated into the *CZMA*, and it could be required that the plans for these programs be developed collaboratively with the state coastal management plans.

Reserves offer a wealth of scientific expertise and conduct extensive outreach at the State and local level. Consequently, States would benefit from coordinating with Reserves on their state resource assessments and plans. The Reserves are currently authorized in a separate section of the *CZMA*, and in some states Reserves are not integrated with the State's coastal programs.

Implementation of the state coastal nonpoint programs developed under Section 6217 should be refocused on achievable objectives. States should be given more ability to focus on activities that the coastal programs do well, such as influencing land and water use decisions and working with landowners for cooperative conservation. Improved coordination could include working with programs in the Department of Agriculture and the Environmental Protection Agency to target specific nonpoint pollution-related challenges.

The U.S. Commission on Ocean Policy and the Pew Oceans Commission both called for the development of better regional governance structures. The *CZMA* should more clearly encourage and support regional coastal and ocean partnerships, both for federal agencies and among the states. State-coordinated, regional efforts should be eligible for competitive federal funding under *CZMA*. In addition to providing a forum for planning and resource management across jurisdictional boundaries, these partnerships could help

leverage resources to address regional research needs and improve distribution of applied science to managers.

OTHER PENDING LEGISLATION

The Subcommittee has requested the Administration's views on three bills, each of which would make separate amendments to the *CZMA*. Comments on each provision are provided below. In general, the Administration does not support this *ad hoc* approach to amending the *CZMA* because it contradicts the underlying premises of both ocean commissions and the *U.S. Ocean Action Plan* to pursue an integrated and coordinated approach to coastal and ocean management.

H.R. 5452: Coastal State Renewable Energy Promotion Act of 2008

H.R. 5452 would amend the State Grant Program under the *CZMA*. As amended, the program would support voluntary state efforts to initiate and complete outer continental shelf surveys adjacent to a state's coastal zone and coastal waters. These surveys would identify potential areas that are suitable for the exploration, development, and production of alternative energy in a manner consistent with the enforceable provisions of Coastal Zone Management plans (approved pursuant to section 306A of the *CZMA*).

We are concerned that this program may result in considerable duplication of effort. NOAA and other federal agencies already have extensive expertise and existing hydrographic, oceanographic and geographic data for many of these areas. Section 388 of the Energy Policy Act of 2005 provided the Minerals Management Service (MMS) in the Department of the Interior with the authority to grant leases, easements, or rights-of-way on the Outer Continental Shelf for the siting of alternative ocean energy activities. Thus, any new surveying or observations should be done in a partnership with MMS, NOAA, any other relevant agencies, and the states, including on a regional basis where appropriate. Any such effort should be consistent with the standards and objectives of pending legislation (H.R. 2342) to authorize the Integrated Ocean Observing System (IOOS). They should also be consistent with ongoing efforts to promote integrated ocean and coastal mapping, including the basic principal to "map once, use many times." The emphasis should be on using existing data and not on funding new surveying activities unless clearly warranted.

H.R. 5453: Coastal State Climate Change Planning Act of 2008

H.R. 5453 would amend the *CZMA* to require the Secretary of Commerce to establish a coastal climate change resiliency planning and response program. This program would provide assistance to coastal states to voluntarily develop coastal climate change resiliency plans (as amendments to *CZMA* management plans), and provide financial and technical assistance to enable coastal states to implement these plans through their enforceable policies.

NOAA supports the development and implementation of plans by states and territories for addressing the effects of climate change. With respect to requiring long-term

monitoring, NOAA has concerns over the cost to states and Reserves and how the monitoring would be integrated with the IOOS and other ongoing monitoring efforts. While developing plan content, coastal management programs should coordinate with appropriate federal agencies and other state or regional entities to ensure that they are taking advantage of existing resources. Specifically, we encourage states with a Reserve to incorporate the contributions of the Reserves' monitoring efforts into the Climate Change Resiliency Plans.

H.R. 3223: Keep Our Waterfronts Working Act of 2007

H.R. 3223 would amend the *CZMA* to establish a new grant program to preserve and expand access to “water-dependent commercial activities including commercial fishing, recreational fishing, aquaculture, boat-building, or other water-dependent coastal-related businesses.” The Federal grants created by the bill could cover up to three quarters of the cost of supporting these activities in competing against other uses for waterfronts, such as residential development.

The national policy set by the *CZMA* currently addresses working waterfronts by directing state coastal management programs to give priority consideration to coastal-dependent uses when siting major facilities, including fisheries development, or new commercial and industrial development in areas where such development already exists (*CZMA* § 303(2)(D); 16 U.S.C. § 1452(2)(D)). The *CZMA* provides, as a national policy, that state programs should assist in the redevelopment of deteriorating waterfronts and ports, as well as sensitive preservation and restoration of historic, cultural, and esthetic coastal resources (*CZMA* § 303(2)(F); 16 U.S.C. 1452 (2)(F)).

The Administration supports efforts to preserve working waterfronts. However, the Administration does not believe the grant program established by H.R. 3223 is the right tool to address this agreed upon goal. The program, which would have an authorization level of \$50 million in 2009, is inconsistent with the President's Budget. Moreover, the Administration believes that Federal funds should be used for public benefit, and is concerned that H.R. 3223 appears to promote one type of commercial activity over others.

CONCLUSION

Thank you for the opportunity to appear before you today. I look forward to working with you on reauthorizing this important program.

I will be glad to answer any questions.