



OCT - 2 2007

The Honorable Daniel K. Inouye
Chairman, Committee on Commerce,
Science, and Transportation
United States Senate
Washington, D.C. 20510-6125

Dear Mr. Chairman:

This letter provides the views of the Department of Commerce on S. 1142, the "Coastal and Estuarine Land Protection Act." The legislation builds on the National Oceanic and Atmospheric Administration's (NOAA) existing Coastal and Estuarine Land Conservation Program (CELCP) established by P.L. 107-77. It creates a voluntary, competitive grant program that gives willing sellers an opportunity to conserve their lands for future generations and gives states a lead role in determining which areas need to be protected. This program would protect important coastal lands, such as wetlands, which provide habitat for fish and shellfish, offer protection against coastal flooding and erosion, and filter pollutants. As a cost-sharing program, this legislation leverages federal funding with state, local and private sources, and provides an incentive for cooperative conservation efforts at the state and local level. However, the Administration has two principal concerns with the bill as drafted, as discussed below.

First, S. 1142 reduces the non-federal cost share for this coastal grant program, which limits the leveraging power of these funds. The existing statute currently requires a 50 percent contribution from non-federal sources for each grant. S. 1142 would reduce the amount of non-federal funding required for matching grants to 25 percent. In general, participating entities have not demonstrated difficulty meeting the current matching requirement. As a result, we see little reason for decreasing the non-federal matching ratio, and we support the current CELCP matching ratio of 1:1. It is important to maintain high levels of non-federal support for grants awarded under the program to ensure that limited federal funds go further to protect more of these important lands.

In addition, we are concerned that S. 1142 would simultaneously expand the type of contribution that could be counted as a non-federal match. Participating states, communities, and other non-federal entities have been able to meet the matching requirements of the CELCP by using currently eligible sources of cash or other in-kind value. As a result, it is not necessary to broaden the types of in-kind match that would be eligible. Further, if these non-cash sources are used to meet matching requirements, it will be necessary for the federal funds to pay for a greater share of the projects, ultimately resulting in less land protection through this program.

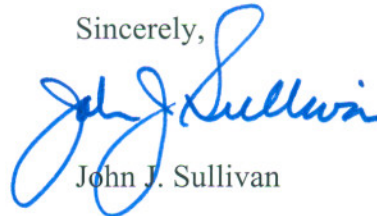
In particular, S. 1142 expands the sources of non-federal contribution by allowing the value of land that is held by a nongovernmental organization to be used as a non-federal match if it is held in perpetuity by a qualified conservation organization. We are concerned that such a "third party" match would create a financial liability for the grant recipient, who will neither own nor have control over the management of the property, and that there is no exchange of value

between the "third party" and the grant recipient. Further, Section 3(g) provides assurances that lands acquired with funds under the program will be managed in perpetuity and not converted to other uses. We are concerned that this provision does not specifically apply to a property used as a match.

The Department also recommends that S. 1142 either amend or replace the existing language from the FY 2002 Appropriations Act, as codified at 16 U.S.C. § 1456d, that established the existing CELCP. This change would provide a single authority under which the program would operate and a seamless transition from NOAA's current CELCP guidelines and program implementation.

In sum, while the Department supports the overall goals of this legislation, we are concerned that the bill simultaneously reduces the federal cost share and expands the sources of non-federal contributions. Additional technical comments on the bill are enclosed. The Office of Management and Budget has advised that there is no objection to the transmittal of these views from the standpoint of the Administration's program.

Sincerely,



John J. Sullivan

Enclosure

cc: The Honorable Ted Stevens, Vice Chairman,
Committee on Commerce, Science, and Transportation

The Honorable Maria Cantwell, Chair,
Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard

The Honorable Olympia J. Snowe, Ranking Member,
Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard

**Technical Comments of the Department of Commerce on S. 1142,
the “Coastal and Estuarine Land Protection Act”**

1. The Department strongly recommends Section 3(g) be amended to read as follows (addition shown in italics):

“(g) TITLE AND MANAGEMENT OF ACQUIRED PROPERTY.—If any property is acquired in whole or in part with funds made available through a grant under this section *or any property is used as a non-federal match*, the grant recipient shall provide assurances as the Secretary may require that—”

2. The Department strongly recommends Section 3(d)(4)(A) be amended to read as follows (deletion shown in strike-through):

“(A) The value of land or a conservation easement may be used as a non-federal match if the lands are identified in project plans and acquired within three years prior to the submission of the project application or after the submission of a project application until the project grant is closed (not to exceed three years). The appraised value of the land at the time of project closing will be considered the non-federal cost share. ~~The value of land that is held by a non-governmental organization may be used for such purpose if it is held in perpetuity by a qualified conservation organization, as determined by the Secretary.~~”

3. The Department requests that the Committee clarify the meaning of “correct value” in Section 3(g)(3), regarding the exchange or divesting of lands.

4. The Department requests that the Committee clarify whether the “time of project closing” in Section (3)(d)(4)(A) refers to the closing date of the property to be acquired under the Coastal and Estuarine Land Conservation Program, or the closing date for the property to be used as a match.