

# THE COASTAL ZONE MANAGEMENT ACT

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**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON OCEANS AND FISHERIES  
OF THE  
COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION  
UNITED STATES SENATE  
ONE HUNDRED SIXTH CONGRESS  
FIRST SESSION

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MAY 6, 1999

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ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

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# THE COASTAL ZONE MANAGEMENT ACT

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THURSDAY, MAY 6, 1999

U.S. SENATE,  
SUBCOMMITTEE ON OCEANS AND FISHERIES,  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 2:35 p.m. in room SR-253, Russell Senate Office Building, Hon. Olympia J. Snowe, chairman of the subcommittee, presiding.

Staff present at this hearing. Sloan Rappoport, Republican counsel and Stephanie Bailenson, Republican professional staff; and Margaret Spring, Democratic senior counsel.

## OPENING STATEMENT OF HON. OLYMPIA J. SNOWE, U.S. SENATOR FROM MAINE

Senator SNOWE. The hearing will come to order. Before I begin, I would like to welcome the witnesses and others here in attendance today. We will be addressing in the course of this hearing the reauthorization of the Coastal Zone Management Act, or the CZMA.

The United States has more than 95,000 miles of coastline along the Atlantic, Pacific, and Arctic Oceans; the Gulf of Mexico; and the Great Lakes. Nearly 53 percent of all Americans live in the coastal regions that account for only 11 percent of the country's total land area.

This small portion of the country supports approximately 200 seaports, contains most of our largest cities, and serves as the critical habitat for a variety of plants and animals. Further, it is expected that the United States coastal population will reach 165 million by the year 2015, up from 110 million in 1990. With this rise in population, there will be a tremendous increase in the demands that are placed both on the coastal resources and infrastructure.

To help meet these challenges, Congress enacted the Coastal Zone Management Act in 1972. The CZMA provides incentives to States to develop comprehensive programs balancing many competing uses of coastal resources, and to meet the needs for the future growth of coastal communities.

So far, 32 of the 35 eligible coastal States and U.S. Territories have federally approved plans. Two of the remaining eligible States are currently completing their plans. I am proud to say that my State of Maine has had a federally approved plan since 1978.

The approved plans encompass 99 percent of the eligible U.S. coastline. As a voluntary program, the framework of CZMA pro-

vides guidelines for state plans that address multiple societal, cultural, economic, and environmental objectives. This allows the states the flexibility necessary to prioritize management issues and utilize existing state regulatory programs and statutes wherever possible.

As an incentive for their participation, the States receive Federal funds to help implement these programs. The states provide matching funds for many of these activities. Under the CZMA, States with approved plans also have the right to review Federal actions to ensure that they are consistent with state policies.

The coastal zones managed in the CZMA are quite varied. They range from Arctic to tropical islands, from sandy to rocky shorelines, and from urban to rural areas. They include wetlands, estuaries, beaches, and coral reefs. Because of these varying habitats and resource types, management issues differ from state to state. No two state plans are the same.

Likewise, there are multiple uses of the coastal zone. Coastal managers are asked to strike a balance among the residential, commercial, recreational, and industrial development; harbor development and maintenance; controlling shoreline erosion; and commercial and recreational fishing. Coastal programs address these competing needs for resources, steer activities to appropriate areas of the coast, and attempt to minimize the effects of these activities on coastal resources.

As we can all imagine, being able to balance economic development while protecting public resources requires the cooperative effort of the Federal Government, the coastal states, local jurisdictions, nongovernmental organizations, and the public. There are many of these partnerships working together within the state coastal programs.

An excellent example of this collaborative approach can be found in the Maine coastal program. During the fall of 1996, they conducted an intensive outreach effort to gauge public opinion about coastal issues and needs. The results of these efforts have been used to shape priority areas for the programs through the year 2000, and I am sure that our witnesses will be providing us with more examples of how the States have tailored the CZMA to address their needs.

The authorization of the Coastal Zone Management Act expires at the end of the current fiscal year. The 1999 reauthorization of the CZMA provides us with a unique and well-positioned opportunity to provide a vision and framework for coastal and ocean resource management into the next century.

We have assembled an excellent slate of witnesses to tell the committee what should be the best course of action, and what kinds of issues we should address during the course of this reauthorization. Certainly, this reauthorization process affords us the opportunity to begin to examine any additional issues that we ought to consider and other challenges that are before us with respect to the coastlines across this country.

So I would like to welcome our first panel. First, we have Terry Garcia, who is the Assistant Secretary of Commerce for Oceans and Atmosphere. I was happy to participate—it does not seem that long ago—in your confirmation, but it was 2 years ago, and I welcome

you back. How time flies when you are having a good time. [Laughter.]

Senator SNOWE. I welcome you back, Mr. Secretary. Thank you for being here, and you can proceed.

**STATEMENT OF TERRY D. GARCIA, ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, ACCOMPANIED BY SALLY YOZELL, DEPUTY ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, U.S. DEPARTMENT OF COMMERCE**

Thank you, and good afternoon, Madam Chairwoman. I am accompanied today by Sally Yozell, the Deputy Assistant Secretary of Commerce for Oceans and Atmosphere. I have a written statement which I would like to have inserted into the record, and will make some brief oral remarks.

Senator SNOWE. Without objection, so ordered.

Mr. GARCIA. The Coastal Zone Management Act has created a unique State and Federal partnership, providing States with a framework, assistance, and resources to manage the land and water uses of the coastal zone. Federally approved State coastal management programs balance conservation of the coastal environment with human uses that depend on the coastal zone.

State coastal management programs receive annual grants from NOAA to help leverage State and local funds for coastal management activities to address a wide range of issues of national importance, including coastal erosion and storms, declining coastal habitat and water quality, public access, coastal development, and waterfront revitalization.

Among other examples, the coastal zone management program has undertaken the following. In Maine, the coastal management program worked with Washington County to develop and implement a strategy that currently focuses on building economic development in the marine resource business and ecotourism industries.

The Massachusetts coastal management program, working with many interests and agencies, is leading the State's efforts to improve the economic viability of its ports and harbors by developing municipal harbor plans for various communities, and administers the State seaport bond funds to ensure that infrastructure improvements are made to complement the harbor plans.

There is no better testament to the success of the CZMA than the fact that 32 of 35 eligible States, commonwealths, and territories have received Federal approval of their coastal management plans and that two more States, Minnesota and Indiana, are seeking to join the national CZM program in the months ahead.

The strong partnership developed with the States through CZMA is also seen in the 23 federally designated National Estuarine Research Reserves, in 20 coastal States and territories, including the new Jacques Cousteau Reserve designated in New Jersey just last year, and most recently, Kachemak Bay in Alaska in February. Four additional reserves are in development in Mississippi, Florida, California, and New York. Reserves provide an array of education, research, and other stewardship activities.

I want to commend the chairwoman and the subcommittee for scheduling this hearing. The Nation's coastal regions are of critical

importance 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 over one-third of the national employment, 28.3 million jobs. 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. Quite frankly, however, our country's coastal resources continue to be under siege, and the need for the CZMA is greater now than ever.

I would like to focus the remainder of my remarks on the Administration's proposal to reauthorize the CZMA. The Administration's steadfast support for CZMA was reinforced recently with a submission to Congress of the Administration's proposal called the Coastal Management Enhancement Act of 1999, and with the announcement of the President's Lands Legacy Initiative.

Under the Lands Legacy Initiative, which is part of the administration's CZMA proposal and the President's fiscal 2000 budget request, NOAA would receive an additional \$105 million over current funding levels. A significant portion of these funds is for the Coastal Management and Estuarine Reserve programs.

The Administration's CZMA proposal provides an overall increase of \$30.6 million over fiscal year 1999 levels for State coastal management programs. These funds and the Administration's CZMA proposal will help address three critical coastal concerns, smart growth, protection of coastal habitat, and polluted run-off.

Coastal communities are the most densely populated and fastest growing areas of the Nation. Over 3,600 people a day move to the coast. 40 percent of new commercial development and 46 percent of new residential development is occurring in coastal communities. This growth and resulting development fuels sprawl and impacts coastal communities by degrading water quality, marine resources, fragmenting coastal habitat, and reducing the quality of life for coastal residents.

Twenty eight million of new funding under the Lands Legacy Initiative is included in the Administration's CZMA proposal to develop smart growth strategies and land use planning innovations, to revitalize waterfronts and improve public access to the coast. In addition, to protect our pristine estuary resources from the ever-growing pressures of sprawl, the Administration's CZMA proposal includes an increase of \$14.7 million for the Reserves to purchase buffers, boundaries, and easements from willing sellers.

The coastal communities initiative will fund projects such as the one in the City of Glen Cove, New York, where CZMA funds helped the city revitalize its waterfront for commercial and recreational purposes by cleaning up a brownfields site.

Coastal habitats, including wetlands, estuaries, and coral reefs, provide critical spawning and nursery areas for living marine resources. In the southeast, over 90 percent of the commercial catch, and 50 percent of the recreational catch, are fish and shellfish dependent upon wetlands. Under the Administration's proposal and the Lands Legacy Initiative, funds will be provided to initiate re-

search and monitoring and cooperative restoration projects, and to leverage additional funding for on-the-ground restoration.

Polluted runoff from sources such as urban streets and parking areas is seriously impacting the coast. Polluted runoff is a prime suspect in contributing to shellfish harvesting restrictions and conditions that have led to pfiesteria and other harmful algal blooms. Our economy has lost well in excess of \$1 billion over the last decade as a result of such events. Polluted coastal waters also result in closure of beaches to swimming.

Under the President's Clean Water Action Plan, \$12 million in funding, an increase of \$4 million in fiscal year 2000, is requested under the Administration's CZMA proposal to develop and implement on-the-ground State polluted run-off control measures and to leverage other State and local resources.

In conclusion, the CZMA is one of the Nation's landmark natural resource management laws, and stands today as our most successful voluntary tool allowing comprehensive and cooperative management of our country's coastline. We urge the committee's active support of the reauthorization and the Administration's proposal.

On behalf of the Administration, thank you for the opportunity to testify today. I look forward to working with you, Madam Chairwoman, and the committee on this important law and the legislation. I would be happy to answer any questions.

[The prepared statement of Mr. Garcia follows:]

PREPARED STATEMENT OF TERRY D. GARCIA, ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, U.S. DEPARTMENT OF COMMERCE

#### INTRODUCTION

Good afternoon, Ms. Chairwoman, and members of the Subcommittee. My name is Terry Garcia, and I am the Assistant Secretary for Oceans and Atmosphere for the National Oceanic and Atmospheric Administration (NOAA). I thank you for this opportunity to testify today on the reauthorization of the Coastal Zone Management Act, or CZMA. The CZMA is a landmark resources management law that has benefited the Nation, the States and the citizens of our country since its enactment in 1972. My testimony will focus on the President's Lands Legacy Initiative, the benefit of the CZMA to the nation, and the Administration's proposal to reauthorize the CZMA. The Administration's proposal has previously been submitted to the Subcommittee.

#### THE PRESIDENT'S LAND LEGACY INITIATIVE

The President recently announced a \$1 billion Lands Legacy Initiative to expand federal efforts to save America's natural treasures. The Lands Legacy Initiative would provide \$105 million to NOAA to protect America's valuable ocean and coastal resources and to strengthen state and local efforts to address the problems caused by sprawl.

America's ocean and coastal areas are under siege by a whole suite of activities, including coastal population growth, development, maritime commerce, commercial and recreational fishing, and tourism. The economic and environmental well-being we derive from the essential natural resources and beauty provided by these areas is being undermined by the economic and aesthetic uses that make these diverse areas valuable to the Nation. Escalating losses and degradation of coastal wetlands, fisheries habitat, and coral reef ecosystems must be reversed.

The Lands Legacy Initiative will target funds to strengthen and expand protection of the nation's most significant ocean and coastal areas; restore critical coastal habitat and vibrant coral reef ecosystems; and provide states and local governments with the tools and resources for environmentally-sound smart growth strategies. This includes \$32 million for Partnerships to Promote Community Based Smart Growth; \$15 million for the enhancement of our National Marine Sanctuaries; \$14.7 million to enhance the protection of critical estuaries through the National Estua-

rine Research Reserve System; \$10 million to determine ways to use dredged material in environmentally-sound beneficial ways; \$10 million to help restore fragile coral reefs injured by human impacts; and \$22.7 million to increase the number and geographical scope of community-based fish habitat restoration efforts.

The Lands Legacy Initiative provides us with a unique opportunity to ensure that our coastal and ocean areas are used, conserved and protected for the benefit of present and future generations.

#### THE BENEFIT OF THE CZMA TO THE NATION

The CZMA's goals and objectives, as provided for in the Act's findings and policy statements, describe the importance to the nation of the coastal zone for its variety of natural, commercial, recreational, ecological, industrial and aesthetic resources; and the need to preserve, protect, develop and restore or enhance these resources for this and succeeding generations. The CZMA defines and authorizes the Coastal Zone Management Program and the National Estuarine Research Reserve System. It emphasizes a partnership with the states. It is a critical national authority that works with all sectors of government to comprehensively manage and address the many and increasing pressures on the use of our coastal areas and our coastal and ocean environments.

The coastal management program is implemented by state coastal management programs and National Estuarine Research Reserves, in partnership with the federal government. Participation is voluntary and eligible states may develop coastal management programs or reserves pursuant to federal requirements. As part of federal approval, state coastal management programs and reserves receive annual operating funds through cooperative agreements with NOAA. These funds are used by state agencies and local governments for a variety of management, research, permitting, enforcement, education and project specific activities. In addition, federal approval of a state coastal management program activates the CZMA federal consistency requirement. Federal consistency requires that certain actions, in or outside the coastal zone, that affect any coastal use or resource must be consistent with the enforceable policies of state coastal management programs. The federal consistency requirement is a powerful tool that states use to address effects on coastal uses or resources that are the result of federal actions.

For over twenty-five years the CZMA has provided national goals, priorities and guidance for how states and the Federal Government manage the nation's coastal and ocean resources. States have made great strides implementing federally approved management programs which reduce threats to coastal wetlands, improve coastal water quality, expand public access to the coast, revitalize urban waterfronts and educate the public about the need to manage and protect coastal and ocean resources.

While the goals of the CZMA are clear, much remains to be done. Implementation of the CZMA's goals by state coastal management programs, estuarine research reserves, and NOAA requires ongoing vigilance, effort and resources to meet increasing pressures on coastal and ocean resources. Stresses on coastal and ocean resources are increasing dramatically, and so are the resulting management challenges. For example, from 1996-2015, the coastal population is projected to increase from 141 million to 161 million with the accompanying 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. These challenges include continued rapid population growth in coastal areas at much higher rates than inland, loss and degradation of habitats and biodiversity, water quality problems, continued user conflicts, and increased separation of coastal residents from natural resources. This is why the reauthorization of the CZMA in 1999 is so important to NOAA, the coastal states and to the nation.

The CZMA has received the near-unanimous non-partisan support among Congress over the years, and the wide-spread support of state and local governments, interest groups and the public. The benefits of the CZMA and the support it fosters 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.

Some of the accomplishments include the following: The national system of coastal management programs is nearly complete with 95,142 miles, or 99.7 percent, of the 95,439 miles of the nation's shoreline under management by 32 federally-approved state, territorial, and commonwealth coastal programs. Twenty nine of these states have also received conditional approval of their coastal nonpoint pollution control programs. Demonstrating the growing state interest in this federal program, three

new state coastal management programs, those of Ohio, Georgia, and Texas, have been approved by NOAA within the past three years. The nation's 33rd coastal management program, Minnesota's, only awaits final action by the new Governor, before approval by NOAA. In addition, we anticipate receiving Indiana's draft program for review later this year. Of the nation's 35 coastal states and territories eligible for participation under the CZMA, only Illinois is not currently participating.

The benefit of the CZMA is also seen in the growth and importance of the National Estuarine Research Reserve System. Reserves are protected land and water areas in 20 states and territories that are part of a national system administered by NOAA. The states operate the individual reserves, participate in developing goals for the System, and implement System-wide activities. Reserves protect representative examples of estuarine habitat and conduct a suite of activities that improve the stewardship of estuaries, including: long-term research, system-wide water quality monitoring, technical training for coastal decision makers, public education and interpretation programs, and demonstration projects. Reserves are important for habitat protection since they manage discrete protected lands and waters and help forge community-based solutions to estuarine environmental problems, such as voluntary changes to farming practices, development of new septic tank standards, or restoration of wetlands.

There are 23 federally designated National Estuarine Research Reserves in twenty states and territories, including the Jacques Cousteau reserve designated in New Jersey just last year and the Kachemak Bay (Alaska) reserve designated in February of this year. Four additional reserves are in development in Grand Bay (Mississippi), Guanama-Tolomato-Matanzas (GTM)(Florida), San Francisco Bay (California), and in the St. Lawrence River in upstate New York. The Grand Bay and GTM reserves are on schedule to be designated by NOAA in the Summer of 1999. Over 900,000 acres of estuarine habitat are now protected by the National Estuarine Research Reserve System. Habitat protected by the System will increase this year to over 1,000,000 acres with additional acquisitions by existing reserves, and with the designation of the Mississippi and Florida reserves. Visitors to reserves now number over 1 million per year.

The reserve system has initiated a unique system-wide monitoring program for water quality and weather parameters that can link short-term events to habitat changes. Reserves also are helping local decision makers and professionals in coastal areas apply new and innovative methods and technologies. In response to the Administration's Clean Water Action Plan, Reserves are joining their efforts with EPA's National Estuary Programs (NEPs) to share more broadly lessons learned with coastal programs and communities. In addition, the coastal management programs are working to further enhance their links with NEPs and to work together in providing support to local coastal communities to address impacts and pressures on estuary resources.

The Biennial Report that NOAA sends to Congress documents the benefits of these programs. The report, as required by the Act, is a comprehensive account of the accomplishments of NOAA, the coastal states and reserves, in advancing the goals of the CZMA during the fiscal years 1996 and 1997. Before I move on to the Administration's reauthorization proposal, let me highlight for you some specific CZMA and Reserve success stories.

In San Francisco Bay, 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. This effort has been aided by the efforts of the California Department of Fish and Game, and other Federal agencies including the Department of Interior's Fish and Wildlife Service, the Environmental Protection Agency, and the Army Corps of Engineer.

Under section 306A of the CZMA, the Coastal Resource Improvement Program, states have used federal and state funds to provide substantial public access to the coast through coastal parks, fishing piers, boat launches, dune walkovers, foot and bike trails, beach clean-ups, parking lots and access roads, land acquisition, historic structure restoration, urban waterfront revitalization and other projects. Rough estimates show that states have used over \$50 million in federal funds, equally matched with state and local funds, since 1985 for over 1,000 access and resource protection projects.

State coastal management programs have provided support to numerous coastal communities for environmentally-sound waterfront revitalization. Virginia has used limited CZMA funds to spur development of an eco-industrial park in Cape Charles, Virginia. 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 dilapidated warehouses and piers, created vessel and public access to the City's wa-

terfront, and turned the waterfront into a vibrant economic and social center for the City.

These are just a few of the examples of the benefits of the CZMA program. The Biennial Report provides additional examples.

#### THE ADMINISTRATION'S 1999 CZMA REAUTHORIZATION PROPOSAL

Turning now to the 1999 reauthorization of the CZMA, NOAA fully supports the CZMA and is committed to working with Congress, the coastal states, and other interests, to continue the Act's national programs. The Congress and the Administration have an opportunity to position the CZMA to meet the requirements of the next century, while maintaining the aspects of the CZMA that have served the country well for over a quarter of a century. These include the flexibility of the state-federal partnership, using state programs as the "on the ground" delivery mechanism, and consideration of the national interest in coastal uses and resources.

The Administration's proposal is built around the following four concepts to address these issues and challenges. These concepts are then discussed in more detail below.

- *strengthen the CZMA's habitat focus;*
- *support coastal communities;*
- *support national coastal management objectives; and*
- *strengthen the National Estuarine Research Reserves.*

*Strengthen the CZMA's Habitat Focus.* The Administration's proposal addresses emerging habitat issues, such as protection of coral reefs, protection of essential fish habitat, and habitat restoration. This is accomplished by the addition of these issues in the Act's findings and declaration's of policy and, primarily, by focusing the implementation phase of the coastal nonpoint pollution control program within the CZMA on NOAA's traditional habitat protection and restoration mission, and specifying state coastal management program agencies' responsibilities in the management of polluted runoff.

#### THE ADMINISTRATION'S PROPOSAL WOULD ALSO MAKE THE FOLLOWING CHANGES TO THE ACT

- CZMA section 306(d)(16) is proposed to be amended to clarify that state Coastal Management Program (CMP) agencies should focus their polluted runoff efforts on habitat issues and to specify the responsibilities of state CMPs for implementing their coastal nonpoint pollution control programs. Addressing polluted runoff issues in the CZMA would not impose any new requirements on states or citizens. The Administration's proposal would provide an important mechanism to address polluted runoff, a major contributor to the decline of coastal habitat and resources and effects the economic viability of coastal communities. The increasing numbers of algal blooms and closed shellfish and fishing areas is linked to polluted runoff from our streets, lawns and farms. This polluted runoff is linked to the degradation of coastal habitat and coral reefs, the "dead zone" in the Gulf of Mexico, and the outbreaks of *Pfiesteria piscidia* in the Chesapeake Bay. The CZMA offers a unique opportunity to protect and restore coastal waters and habitat by bringing multiple programs and people together to address polluted runoff problems.
- CZMA section 306(c) is proposed to be amended to provide for funding to implement the coastal nonpoint programs. It is important to note that, the Administration's proposal would not fund the nonpoint program at the expense of base program funds. Essentially, the Administration's funding proposal would continue to build on the funding and progress already made by the states to control polluted runoff through the \$8 million appropriated in FY 1999 for polluted runoff activities. In addition, the efforts of coastal states to control polluted runoff are at a critical juncture. Coastal states have invested substantial effort in developing their programs and need increased financial support to successfully implement their plans for improving management of polluted runoff. Otherwise, the state coastal nonpoint programs will be in limbo, with little guidance as to how coastal management programs should proceed in addressing polluted runoff.
- CZMA section 309 is proposed to be amended to include habitat as an eligible enhancement area. This would include development of, enhancements to, and satisfying the conditions of, a state's coastal nonpoint pollution control program.

*Support Coastal Communities.* The Administration's proposal provides support to local and tribal coastal communities to develop environmentally protective solutions

to the impacts and pressures on coastal uses and resources by encouraging revitalization of previously developed areas. To accomplish this, the Administration proposes the following changes to the Act:

- The findings of the CZMA are proposed to be amended to provide for the support of coastal communities.
- CZMA section 309 would include coastal communities as an eligible enhancement area for state efforts.
- CZMA section 310 would be used to provide grants to local, tribal and regional governments, through state coastal management programs, to support, plan and build capacity for coastal communities' to address environmentally protective smart growth and community revitalization efforts, and to provide much needed technical assistance in these areas. The Administration's proposal strengthens coordination between states and American Indian tribes. Including tribes will help address emerging tribal and state coastal management issues and implement Administration policy regarding consultation with tribes, but will not affect the current state-federal partnership in the Act. There are many community-type projects that could be accomplished by tribes.

*Supporting National Coastal Management Objectives.* The Administration's proposal recognizes that coastal management decision-making can be improved by strengthening the ability of coastal states and NOAA to make sound coastal management decisions and plans. The Administration proposes to amend CZMA section 310 to clarify the use of section 310 funds and provide the authorization and funds needed to adequately address the demand for NOAA technical assistance, management-oriented research, innovative technology development, mediation services and coordinated NOAA capabilities. Of the \$28 million in the Administration's proposal and the President's FY 2000 budget request for section 310, the Administration expects that 15 to 20 percent of this amount would be used for these technical assistance efforts, with the remainder available for the coastal community grants.

*Strengthening National Estuarine Research Reserves.* The Administration's proposal enhances the link between the estuarine reserves and coastal management programs by making technical amendments that would strengthen the capabilities of estuarine research reserves to address coastal management issues. These technical amendments would also forge a stronger link between the reserve program and state coastal management programs. Reserves are also eligible under the section 310 coastal communities initiative.

*Other Technical Amendments.* The Administration's proposal also makes other technical, but important, amendments to the CZMA to improve the effectiveness, efficiency and flexibility of the CZMA's state-federal partnership. These are detailed in the Administration's proposal.

#### CONCLUSION

In closing, the 1999 reauthorization of the CZMA provides a unique opportunity to provide a vision and a framework for coastal and ocean resources management and stewardship into the 21st century. The effectiveness of the CZMA and the broad-based support for the Act can enable the Administration and the Congress to accomplish the Act's objectives. A reauthorized and enhanced Act, as described in the Administration's proposal, will set in motion the means by which we can ensure that the Nation's coastal and ocean uses and resources are used, conserved and protected for the benefit of present and future generations. The Administration looks forward to working with you on this task. That concludes my remarks and I would be glad to answer any questions.

Senator SNOWE. Thank you, Mr. Garcia, for your testimony. I am going to begin with the Lands Legacy Initiative being proposed by the President. Exactly how would that work? First, how would NOAA develop the criteria for grants under section 310 of the Administration's CZMA proposal?

Second, how would the money be implemented? I gather the grants are issued on a competitive basis, and again, how would you determine what would be included in the award process? Also, how would NOAA grapple with the whole issue of population growth and sprawl, which is at the core of this whole issue? Urban sprawl is obviously spilling over to the coastal areas, and it will have a major impact in future years.

Mr. GARCIA. As I mentioned, the Lands Legacy Initiative would provide a total of \$105 million of new funding for NOAA programs. These funds would come from off-shore oil and gas leasing activities. Approximately \$35 million would be for the Coastal Zone Management Program. Another \$15 million for the National Estuarine Research Reserve program.

Of that \$35 million, 28 is proposed for competitive grants under section 310 of the Coastal Zone Management Act, and this would be to provide grants on a competitive basis to States, local communities, to encourage activities that provide smart growth, that promote revitalization of already developed areas, as well as to provide certain technical assistance from NOAA to these localities to assist them in developing these plans, but again, it would be on a competitive basis, and these would be nonmatching funds.

Senator SNOWE. Have the criteria been developed yet?

Mr. GARCIA. The criteria has not yet been developed. We would obviously want to work with the committee and the States in developing that criteria.

Senator SNOWE. Do you think NOAA has the capability to determine exactly how the States ought to be grappling with the issue of urban sprawl?

Mr. GARCIA. Well, we are not trying to tell the States precisely how they are going to spend the money, but rather, we have identified this as a critical area deserving of attention and deserving of resources. I do believe that we have the expertise to evaluate, with the assistance of other outside parties, the relative merits of proposals, but we view this as a partnership. We intend to work with States as partners in addressing these concerns.

The problem of sprawl and growth in these coastal areas is now manifesting itself in a number of ways, as you are well aware—as you took the leadership role last year in introducing legislation to deal with harmful algal blooms. We are now seeing the consequences of this growth. We are seeing the consequences of not controlling nonpoint pollution.

It has to be dealt with, but it can be dealt with in a way that does not involve the Federal Government proscriptively issuing conditions, but, rather, working with the States and communities to develop proposals that work for both of us. The CZMA is the intersection of environmental policy and economic development, and I think we have got a good track record in that regard.

This is one of the programs, I think, that enjoys widespread bipartisan support throughout the country, so I am confident that we can implement this in a way that will be satisfactory to all.

Senator SNOWE. Was this included as a result of input by the various States that have submitted management plans with respect to this initiative and nonpoint source pollution?

Mr. GARCIA. It certainly was done in consultation with the States. I do not know if the specific proposal was submitted by any one State or organization, but we and the States have identified nonpoint pollution as an issue that has to be addressed, and the Administration feels very strongly that sprawl and uncontrolled growth has to be a priority and has to be addressed in the coastal zone.

Senator SNOWE. Yes, and I agree, but also I think that the approaches that have been taken in the past in the Coastal Zone Management Act have been rather flexible. I think that one of the concerns that has developed on this issue is a question of how we approach the issue of nonpoint source pollution, whether or not we are going to mandate it as a percentage of the State's allocation. I think this approach changes fundamentally the direction that has been taken historically within this legislation. The question is whether or not the Administration's approach is preferable, or, rather, is it better to maintain the provisions in the current statute?

Mr. GARCIA. Let me be clear, the States will draft and prepare their own competitive proposals and we will be flexible, as we have been in the past.

I think that there has been some misunderstanding between us and the States on what we have proposed on nonpoint, and that somehow we may be, by suggesting in the legislation that 10 to 20 percent of the section 306 funds should be set aside for nonpoint, that somehow that is taking away from core programs. It is not. That is not the intention. We are merely adding to those core programs' funding for dealing with nonpoint.

Senator SNOWE. But are we not taking away the States' flexibility to determine exactly what the needs are by setting a certain allocation? After all, it is whether or not we have confidence in the States to determine what their needs are and what are the most egregious problems that they are facing.

Mr. GARCIA. I do not think so. I do not think we are taking away from them the flexibility. We are saying, however, and this is the case under the current law, that they have to address nonpoint pollution.

Senator SNOWE. Right.

Mr. GARCIA. Run-off pollution must be addressed, and they will continue to have flexibility to do that, but we think it is important that nonpoint be included in this legislation.

This is the only Federal law that deals with the creation of partnerships, with States and communities. It is the only Federal law that brings together all of these various agencies that have responsibility for authorizing or managing growth in coastal areas, and nonpoint is one of the most significant issues that we face, and so we felt it was appropriate to be in the legislation. We think there is flexibility for the States.

We intend to work with the States to ensure that there is that flexibility, but we also intend that the nonpoint issue be addressed.

Senator SNOWE. Are you saying that you have not heard concerns from States with respect to the Administration's proposal that would require not less than 10 percent and not more than 20 percent of section 306 funds to be set aside for nonpoint source pollution?

Mr. GARCIA. No. I have heard from the States on that, or at least from their organization on that. We understand that they are concerned that this will take away from core funding of the CZMA grants, and again, our view is that it will not. What we are proposing to do under our legislation is to add additional funding to

those core programs. That additional funding is well within the 10 to 20 percent that we are talking about.

Now, if the appropriation should decline, we made it a percentage so that the other programs would not be adversely impacted, but they would still have to spend resources and money on nonpoint pollution control.

Senator SNOWE. Finally on this issue, is it the Administration's belief that the States are not doing enough?

Mr. GARCIA. No, we think that the States have been very proactive in this, but we have a responsibility to see that this issue is addressed, to make sure that funds are provided, and to ensure that those funds are used in the most effective way possible.

Senator SNOWE. How did the Administration come to the 10 to 20 percent allocation? How was that determined?

Mr. GARCIA. The 10 to 20 percent allocation would be roughly equivalent to the funding that we would propose to add in addition to those core programs.

Senator SNOWE. How does this dovetail with the EPA programs and the Clean Water Act on nonpoint source pollution?

Mr. GARCIA. Well, our programs focus more on the impact of nonpoint on the resources, on coastal resources, and the measures necessary to mitigate or reduce the impact on those resources, whereas EPA has a different focus, principally on human health.

Senator SNOWE. Would the entire Federal nonpoint source pollution program be reviewed for performance, or just this section that is included under the Coastal Zone Management Act?

Mr. GARCIA. Reviewed?

Senator SNOWE. Reviewed for performance.

Mr. GARCIA. Well, the entire program under the CZMA would be subject to review.

Senator SNOWE. OK, but just under the Coastal Zone Management Act. Only the nonpoint source pollution program under the CZMA would be subject to review in terms of its performance, but not the nonpoint provisions under the EPA and the Clean Water Act?

Mr. GARCIA. Yes, that is correct.

Senator SNOWE. You would be able to distinguish between the two?

Mr. GARCIA. Yes, we can.

Senator SNOWE. On your administrative cost, I understand that the base program funds have been insufficient to meet all of the States' needs, but that you also told the States that you will be retaining a portion of their funds for the purposes of meeting the shortfalls that occurred in the administrative expenses for NOAA, and that the administrative expenses would be paid for under section 308. Is that correct?

Mr. GARCIA. I am not sure about 308, but yes, it is true that we have proposed to pay for certain overhead cost from these grants.

Senator SNOWE. Aren't your administrative expenses paid for in another section of the CZMA?

Mr. GARCIA. Well, there is an administrative fund that takes care of the operation of this program, but NOAA's administrative cost, such as security, accounting, various other costs associated with running the agency, including these programs, grants admin-

istration, for example, have gone up, and each program in NOAA, including each grant program, shares a portion of that cost each year. In fact, the only program that did not share was the CZM grant program.

We have proposed that 2 percent be applied to these overhead costs, which is much lower than most of these other programs are paying right now, and if there were some other way of funding it, we would certainly have welcomed that, but the fact is, there is no other way.

Senator SNOWE. Well, it was my understanding we paid \$4.5 million for administrative expenses, and obviously that was insufficient for fiscal year 1999. Is that right?

Mr. GARCIA. Well, yes. That money is for operating the coastal zone program itself, for the CZM office, but it is not sufficient to cover these other costs. In fact, it is not sufficient to cover all of the costs associated with running the program.

Senator SNOWE. So that must have been the case in the past. Other than expanding responsibilities, what is attributing to the increase in administrative expenses? Why not just come in and ask for an increase in administrative expenses as opposed to taking it out of the States-based allocation?

Mr. GARCIA. Well, we have not been very successful in getting increases for our administrative expenses, Senator.

Senator SNOWE. What is the shortfall?

Mr. GARCIA. The shortfall, or at least the amount that is proposed to be moved from the CZMA program, is about \$1 million, I believe. The total increase in administrative cost for NOAA, though, is \$12 million, and as I said, it is a wide range of activities, such as grants administration or security.

One of the problems that we have had, all agencies have had, is with security. For example, we have had to increase security at all of our facilities because of some well-publicized incidents. These are costs that simply have to be borne. We cannot ignore them, and we have to find a way of paying them, if not through an increase in the administrative line item, then from the programs. There is no other source of funding.

Senator SNOWE. The States have already developed their plans for fiscal year 1999. How will it affect their programs and the implementation of their plans if they now find themselves in the position where funds are being rescinded?

Mr. GARCIA. I do not think it is going to affect their performance. This is the first time, this year, as I said—it is 2 percent, it is about \$1.3 million. I do not think that it is going to adversely impact them or affect the way they perform under the program.

Again, if there were some other way to do this, we would do it. This is the first time we have had to do this. All programs, though, in NOAA, whether they are CZM or not, have had to pay administrative costs in the past. We have been able to avoid taking it out of CZM, but we just could not do it this year.

Senator SNOWE. I guess the concern that I have is whether or not it impacts the States' ability to implement their programs, and whether you are going to take that into account when they are being reviewed for performance. \$1 million may or may not affect

them. I do not know what impact you have had from the various States.

Mr. GARCIA. As I said, I do not think it is going to impact them, but if it does, if their performance is impacted as a result of something we have done, then yes, that is taken into account.

**STATEMENT OF HON. JOHN F. KERRY,  
U.S. SENATOR FROM MASSACHUSETTS**

Senator KERRY. Thank you very much, Madam Chairwoman. I appreciate this hearing very, very much, and thank you for your leadership, and I apologize for being late.

Let me just make a couple of comments if I can, and then perhaps ask a few questions. I will submit my full prepared statement for the record.

[The prepared statement of Senator Kerry follows:]

PREPARED STATEMENT OF HON. JOHN F. KERRY,  
U.S. SENATOR FROM MASSACHUSETTS

I want to thank Senator Snowe for holding this hearing and our panel of witnesses for joining us today. Our witnesses bring a range of expertise, including law, policy and science. I congratulate the Chair for assembling them.

In 1972 when the Congress first enacted the Coastal Zone Management Act it made a critical finding: "Important ecological, cultural, historic, and esthetic values in the coastal zone are being irretrievably damaged or lost."

As we consider reauthorizing the Act this Congress, I believe that we must measure CZMA's performance against this finding.

Have we stopped coastal damage and the loss of habitat? Have we reversed that trend and are we now restoring damaged habitat? For me, these questions are at the heart of today's hearing and the discussion we will have over the coming months.

*First*, I want to discuss what is at stake in our consideration of the Coastal Zone Management Act.

Coastal habitat is enormously valuable. It has ecological, cultural, historic and esthetic value, but it also has great economic value. Since we last reauthorized this Act in 1990, economic analysis has been done that I hope will inform our discussion today and help us understand just how valuable coastal areas are.

In 1997, economist Robert Constanza of the University of Maryland estimated the dollar value of coastal ecosystems worldwide at \$27 trillion.

His work was groundbreaking—not because it argued that healthy ecosystems have economic value—we all understood that. It was groundbreaking because it quantified that value in dollars and made it comparable to the other assets in the modern economy.

In his analysis, Dr. Constanza evaluated the "ecosystem services" that a healthy habitat provides. This includes the cleansing of air and water, regulation of watersheds, waste treatment, renewal of soil fertility and other environmental processes that we often take for granted.

He estimated that a single hectare of healthy wetlands provides almost \$15,000 in "services." In other words, it would cost nearly \$15,000 to purchase water filtration, flood control and all of the other services that a hectare of wetlands provides to a community.

In a single case in New York, he concluded that the City could spend \$1.5 billion to protect a watershed in the Catskills or spend 4 times that amount—or \$6 billion—on the construction of a water filtration plant that would replace the clean water provided by the healthy watershed.

Of course a great deal more than just clean water is at stake when we lose wetlands and other coastal areas.

In my State of Massachusetts, healthy fisheries depend on a healthy coast. Over the past fifteen years, we have faced a dramatic rise in shellfish bed closings, which have been caused by pollution from septic systems, farms and other runoff. When we are forced to close a shellfish bed, we are forced to put fishermen out of work.

The problem is not only the pollution, it is also that in Massachusetts, as in so many other states, development is encroaching on the coastal wetlands and overwhelming their ability to act as natural filters.

Protecting our coastal land means protecting the environment, biodiversity, open space and other societal benefits. It also means protecting an enormously valuable economic resource.

*Second*, I want to highlight the flexible, community-based and collaborative nature of the CZMA program. This is one of the best features of the CZMA, and I would like us to build on it.

Let me offer one example from Massachusetts: Cape Cod is facing significant environmental stress from increased development and runoff pollution. One of the challenges the state faces in solving this problem is monitoring coastal water quality. Environmental managers need good information to set a baseline for water quality and periodic measurements to evaluate progress.

Without this kind of information we cannot know what works and what doesn't work, and we cannot be certain we are using our limited resources wisely.

The CZMA program helped Massachusetts find a cost-effective and environmentally-effective solution to this problem.

There are 17 citizen groups that monitor water quality on Cape Cod and the Islands. Four years ago the staff at the Waquoit Bay National Estuarine Research Reserve realized that if each of these groups used comparable methods and sought comparable data, a regional water quality monitoring system could be created.

The Reserve established a Volunteer Water Quality Coordinator position to provide training, communication, technical and funding assistance, and now these groups are working together and comparable data are available for the entire region.

This solution was possible because of the flexibility of the CZMA program. It allows states to set priorities, collaborate and use resources as efficiently as possible. I commend NOAA, Massachusetts Coastal Zone Management and the staff at Waquoit Bay for this work.

*Third*, I want to discuss the financial support for the CZMA program.

I understand that the Clinton Administration is seeking to increase funding for the program to \$102 million as part of the President's Land Legacy Initiative. This would amount to a \$35.7 million increase over last year—which is just more than a 50 percent increase.

In general, I support the President's CZMA request. This Committee will, of course, craft its own proposal, and I look forward to working with Chairman Snowe in that process. But, I want to state that I strongly support the Administration request for additional funds. In my opinion, this program has been drastically underfunded.

I have examined the appropriations for CZMA since 1980. Although appropriation levels have varied, when you examine the base programs and account for inflation, you find that funding has generally stagnated. This current fiscal year CZMA has been better funded than it was in the past few years, but it is receiving far less than it did in 1980 and other years. This is not a criticism of past Congresses. Many programs have faced cuts because of tough fiscal times.

But nevertheless, at the same time that federal support for this coastal program has lagged, coastal population growth and its associated environmental stresses have continued to grow rapidly.

In 1960, about 95 million Americans lived on our coast. By 1980, that number climbed to almost 120 million. Today, there are 145 million Americans living on the coast. And projections show that by 2010, more than 159 million Americans will live on the coast.

We have not kept pace with our needs. More people, more development and more stress, have created a greater need for the CZMA programs. Unfortunately, we have provided less to our states and communities for coastal protection as the challenge has grown.

I want to add that I believe that this program will use additional funding efficiently and effectively, particularly in the effort to control nonpoint source pollution.

CZMA programs to control runoff have been drastically underfunded, in part because of resistance from states. We need to get funding to states that are ready to act and not hold the entire program hostage to states that are moving at a slower pace—too slowly some have suggested. I hope that we tackle that issue in this reauthorization so that states that are ready to act will get the assistance they need.

In closing, I want to thank the Chair and witnesses again. I look forward to our discussion today and to working with the Committee in the coming months to reauthorize this important program.

Senator KERRY. The majority of the State CZMA programs came into reality between 1978 and 1982. I came here in 1985. In 1990,

during the CZMA reauthorization, we tried to respond to what we felt were some ongoing needs of the program.

Now, I am not going to bear down on you, because I know the degree to which the money is restricted, not just to you, but in so many sectors of our agencies today. We have built a system here where through the budgeting process everybody gets to run for cover by hiding under the caps, or hiding under the budget rules, and we do, too.

I am not just talking about OMB. The budget caps are a great way for Congress to dodge responsibility these days. We've got to live within the caps, but somebody sets those caps, and somebody decides where money is going to be spent. This is an area that enormously concerns me.

In 1972, Congress first enacted the CZMA, and it made the following critical finding. It said, important ecological, cultural, historical, and aesthetic values in coastal zones are being irretrievably damaged or lost, and it strikes me that in 1999, in what will really be a millennium act, we have got to measure the realities of where we find ourselves against the standard that we set back then and the reality of what is happening now.

If I ask whether we have stopped coastal damage and loss of habitat, I think you would have to say no, and you would. If I said, have we reversed the trend, and are we now restoring the habitat, you would have to say no, and I would have to say no. That is the standard against which, in my judgment, we have to measure what NOAA does, what the CZMA is doing, and what each of the States are doing.

Maybe it is a factor of time passing, but I get more and more impatient about this, Mr. Garcia. I am wondering if we should take stronger action, as in the Magnuson Act, where we finally said, enough monkey business, we are going to give the power to the Secretary of Commerce to make the decisions, because local councils are not doing so.

That power has now been exercised by the Secretary in several ways: on scallop fishing, amendment 5, George's Bank and so forth. Many have disagreed with this but, frankly, I think it will be judged as the only act that may wind up saving the fishing industry.

Now, that said—and I do not want to answer my own questions here.

Mr. GARCIA. You are doing fine, though. [Laughter.]

Senator KERRY. Believe me, it is tempting. [Laughter.]

You are familiar with Professor Costanza's work, and how he quantified the value of wetlands and what is happening to these areas. When we began our efforts, to control wetlands and habitat loss in 1980, more than half the wetlands in the contiguous United States had been destroyed. That is where we began.

Now, while loss of wetland areas has slowed, we are still witnessing a loss rate of over 100,000 acres a year. In addition, I do not think we have begun to fully measure the long-term impacts of nonpoint source pollution on coastal waters and habitat. We are going to hear in the next panel about some of these impacts. But the President's budget requests about a 50 percent increase of some \$35 million in the CZMA program.

Now, I think it is terrific to see an increase, but the fact is, a lot of States are not proceeding forward on their nonpoint source programs because other States are not agreeing to do so, so they do not get their money, even though they are prepared to move forward.

We are just stalled—I hate to say it—but every State, every population is in a process of sleep-walking through an enormous long-term potential negative impact of polluted run-off, which contains spilled oil, gas from gas stations, pesticides, and fertilizers. Polluted run-off is having a profound impact on our bays, estuaries, rivers, and in the long run on our wetlands. When you combine the current impacts with the continued rate of growth, I think we are behind the curve.

The purpose of the CZMA is not, obviously, to simply slow this process. It is to reverse the process, it is to protect our coastal areas, and I do not think we have yet achieved that.

So the question is, as we approach this reauthorization, does the Administration believe, do you believe that we can simply proceed with a reauthorization that simply puts a little more money in the program and chooses to highlight a few areas, or do we need to dramatically alter our course and think out of the box about how we are approaching this entire question? While progress has been made, is it sufficient to simply measure that progress in and of itself, or must it be measured against the mission that we set for ourselves in 1972, and the task that we are trying to accomplish?

I would ask you if you would address that rather long introductory comment and question.

Mr. GARCIA. You have raised several interesting points and, I must say, I have to agree with you, not enough money has been raised. I will hide behind the budget. We have submitted a budget here that we think is adequate.

I do want to say that, while we have not made enough progress, and while we have not reversed the decline of these coastal resources, we are beginning to make progress. I do not know what specifically you might refer to when you say dramatic changes to the relationship between the Federal Government and the States, but it is my belief that if we are going to make progress on this issue or, for that matter, any of the various resource issues we are confronting, and these are all difficult management issues, the only way we are going to do it is if we do it cooperatively.

I do not think we can—as we have sometimes tried in the past—impose solutions on people. It has not worked. It has encountered resistance. I think that this law, while imperfect, and yet to achieve its full potential, is still very promising. This notion that we can develop partnerships with State and local communities has not been fully realized or fully exploited yet, but we are making a lot of progress, and if we can continue to devote the kind of resources that are necessary, I think we are going to achieve our goals.

Senator KERRY. You say we should continue to apply resources. What do you mean by that? If States are not cooperating and coming to closure on nonpoint source pollution—you are suggesting there is no leverage?

Mr. GARCIA. No, there is leverage, but States are starting to come to terms with that. We have conditionally approved I think 29 of the nonpoint plans.

I concede the point that we have not made as much progress as we would like. I concede the point that we still confront serious problems in coastal areas. We saw that last year. We saw it the year before, with the increasing level of outbreaks of harmful algal blooms and pfiesteria around the coast.

Senator KERRY. Let me ask a question on that. Is it sufficient to say, we are making progress, while we are experiencing increased problems? Again, I am not dumping this on you. I am trying to get to the definitions and to the realities of the problem.

We have got whole dead zones that are being extended and growing, increased coral die-off, and more and more clam beds closed. We have had increased developmental problems and so forth. I am not sure how you measure the programs progress against events that can be a literal killing of a system, where mitigation and retrieval become almost impossible, if not impossible. If we are not willing to put the money into saving these are as, what on earth makes you believe we will ever put the money into the rekindling, of life in these areas?

Mr. GARCIA. I agree. It is a question of priorities. We have, within the confines of the budget, submitted a proposal that we think will advance our objective of addressing these problems.

As I said earlier, more is always better. The States have told us they need additional resources to implement these programs. We have provided the resources that we think we are capable of providing. We will be happy to work with the Committee and explore other alternatives, but as you say, it is a question of priorities, and what is important to this country.

Do we have to wait for another disastrous season of outbreaks of harmful algal blooms, or another dead zone in another part of the country to realize the impact that this phenomenon is going to have on our economies and on the health of our citizens, on resources we depend upon? Hopefully not.

Senator KERRY. What about the possibility that, just as we did in the Magnuson-Stevens Act, we put an exasperation clause in the Act providing that if States do not respond within a certain period of time to the goals and standards set out, we will do more than have this loosely networked implementation process and be perhaps more defined and rigorous in what we empower the Secretary to do to ensure those standards are being met?

Mr. GARCIA. Well, I do not know. I do not know if that is necessary at this point. We are just now moving into the implementation phase of nonpoint, so it is a bit early to say whether or not the States are going to be successful in implementing these various plans.

If at some point we determine that these efforts are failing, or that communities are not implementing the plans that have been approved, then we are going to need to reassess where we are, but we are not at that point.

Senator KERRY. Would the States be more likely to take bold action and implement rapidly if they knew there was that dreaded

prospect that the Federal hand might reach in with its dirty tentacles and tell them what to do?

Mr. GARCIA. I guess there are two points there. One, we are going to have to make sure that the resources are there for the States, and only then could we ask such a thing. Number 2, I am not sure how effective the threat of Federal preemption or some Federal action is in encouraging the States to move forward on these programs.

As I had said earlier, the only way we are going to be successful in addressing this problem is through the development of effective partnerships. If it is a one-sided deal, I am not sure we will be effective. We can throw a lot of money at the problem, but the kind of resistance that we would encounter would presumably take away from the effectiveness of the program.

I would like to give this program and the voluntary efforts that it represents a chance to succeed.

Senator KERRY. You think that the 25 years of experience are not a legitimate period of experiment with respect to that?

Mr. GARCIA. I do not know. I think that the 25 years of experience in large part, is a success story. We do have an effective program in place. The fact that we have not solved the nonpoint problem should not be evidence that it is a failure.

The fact is that we, the Federal Government, State governments, the scientific community, are just now beginning to grapple with this. We have dealt with the point source pollution problem. This is the last problem in terms of pollution that we have to deal with, and it is a difficult one. It is complex.

It is nonpoint. There is no single source you can point to that says, this is responsible for the problem. There are hundreds, thousands of different reasons for the problem that have to be dealt with, and the only way you are going to deal with it is through some kind of very comprehensive and a cooperative effort at a State and Federal level.

Senator KERRY. Do you think that our science has sufficiently established the sources of polluted runoff, i.e., how much of it is agricultural versus how much of it is whatever other component you want to pick? Is the breakdown on that adequate, or are we going to need as a part of this effort to build a greater scientific, factual foundation on which to be able to build the coalition necessary to achieve our goals for the programs?

Mr. GARCIA. I think we have made substantial progress on that, and we have been devoting, at least within the Department of Commerce, increased resources. The Administration as a whole, through the ECOHAB program that we have testified before the Committee on in the past, is a multiagency, Federal effort to address the research and monitoring needs in this area.

The fact is, as with so many of these issues, we do not know as much as we would like to know, and I suppose that will probably be the epitaph of this agency and of man, that we did not know as much as we would have liked to know. We base our actions on the best knowledge we have in front of us. It is getting better.

The information, I would say that we have now, is not comforting. We are witnessing significant changes, and you alluded to it a moment ago. Changes in coastal and ocean waters. Sea surface

temperature has increased over the last 2 decades. The chemistry of the ocean is changing, and it is changing in a significant way, and the impact of that change is going to have a very profound effect on all of us, maybe more profound than the changes we are seeing in climate, and that is why we are proposing that these matters have to be dealt with.

We can discuss whether the level of funding is adequate to deal with those, but there is no disagreement from me or the Administration that these are critical issues, and that they must be dealt with. There really is no option.

Senator KERRY. Can you tell me something about the time line for the grant distribution? Some have complained that it takes 6 months or so for States to receive allotments. Is there a reason for that, or is that accurate? Is there something that can be done about it?

Mr. GARCIA. I am not sure that is accurate. I would have to ask my staff.

Well, I am told that the grants office says it takes approximately 60 days on average. If, in fact, there is a problem in getting grants out, and it is taking 6 months—

Senator Kerry: Does it vary by State for any particular reason?

Mr. GARCIA. It may. I do not know. We will have to look into that.

Senator KERRY. Would you? It might be helpful to get us—and I will ask my own staff if we could look at whether there is a cross-State differential there.

[The information referred to follows:]

To address the question on the time required for processing of CZM grants - please refer to this table which shows, for the last 3 fiscal years: each eligible state, and a listing of the number of days between submission of state grant applications to NOAA and NOAA's final approval and payment of grant funds to states.

For the information provided below, the date is when the *final* application was sent to the NOAA grants office by OCRM. The number of days in parentheses is the grants office's actual processing time for the award until award of funds to the state. (Please note that even if the grants office's processing time went beyond 60 days, and approval of the grant occurred after July 1 or October 1, the effective award date was specified as the July 1 or October 1 start date so that the state will not have an unfunded gap in time.)

CZMA Section 306 Grants			
STATE	FY 1997	FY 1998	FY 1999 <sup>1</sup>
AL	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
AK	5/12 (30 days)	5/1 (42 days)	5/4 (37 days)
AS	6/30 (66 days)	7/1 (65 days)	7/1 (65 days)
CA	5/2 (41 days)	5/1 (42 days)	5/4 (37 days)
CNMI	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
CT	5/15 (33 days)	5/1 (42 days)	5/4 (37 days)
DE	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
FL	5/16 (32 days)	5/1 (42 days)	5/6 (39 days)
GA	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
GU	7/3 (63 days)	7/1 (65 days)	7/1 (65 days)
HI	5/12 (30 days)	5/1 (42 days)	5/4 (37 days)
LA	5/16 (32 days)	5/1 (42 days)	5/4 (37 days)
ME	5/6 (35 days)	5/1 (42 days)	5/4 (37 days)
MD	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
MA	5/15 (33 days)	5/1 (42 days)	5/4 (37 days)
MI	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
MN	N/A	N/A	4/30 (43 days)
MS	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
NH	5/14 (33 days)	5/15 (33 days)	5/18 (31 days)
NJ	5/15 (32 days)	7/1 (65 days)	7/1 (65 days)
NY	5/14 (33 days)	5/1 (42 days)	5/4 (37 days)
NC	5/12 (35 days)	5/1 (42 days)	4/30 (43 days)
OH	N/A	5/1 (42 days)	5/4 (37 days)
OR	5/12 (30 days)	5/1 (42 days)	5/4 (37 days)
PA	5/1 (42 days)	7/1 (65 days)	7/1 (65 days)
PR	6/30 (66 days)	7/1 (65 days)	6/16 (77 days)
RI	5/15 (32 days)	5/1 (42 days)	5/6 (35 days)
SC	5/12 (35 days)	5/1 (42 days)	4/30 (43 days)
SC <sup>2</sup>	N/A	N/A	4/9 (41 days)
TX	6/30 (66 days)	5/1 (42 days)	4/30 (43 days)
VI	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
VA	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
WA	5/14 (33 days)	5/1 (42 days)	5/6 (35 days)
WI	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)

<sup>1</sup> The FY 1999 dates and times are estimated.

<sup>2</sup> South Carolina Beaufort SAMP grant.

Senator KERRY. Now, you have made the CZMA request part of the Lands Legacy Initiative. Is there a rationale for wrapping it in? Is there a point being made there? Does that affect how the CZMA may fit into your overall agenda?

Mr. GARCIA. Well, the point is that—as you know, the Lands Legacy Initiative is relying upon funds from off-shore oil and gas leasing activities, and it is the Administration's position that since we are taking something out of coastal areas, something very significant, then we should be putting something back into those coastal areas, and that is what we are proposing to do here.

Senator KERRY. Fair enough. That makes sense.

Thank you, Madam Chairman.

Senator SNOWE. Thank you.

You will have a report shortly with respect to the evaluation of the State programs. Is that correct?

Mr. GARCIA. Yes. There is a report on the effectiveness of the program that is due out soon.

Senator SNOWE. When would that be? I think it would be helpful, as we become active in the reauthorization, to have a chance to examine it as we are drafting the legislation.

Mr. GARCIA. Let me see if we can at least provide you with a preliminary result. I am not sure the final report will be out in time, but we can certainly get you the preliminary information.

[The information referred to follows:]

The Effectiveness Study group has just published their findings in the most recent volume (Vol. 27) of the journal *Coastal Management*. This journal will be provided to the Subcommittee shortly. The Study found that state Coastal Management Programs were effective, but also recommended that a national set of outcome indicators be developed.

Senator SNOWE. I understand you are developing a process for outcome indicators.

Mr. GARCIA. That is part of the discussion with the States on the effectiveness study.

Senator SNOWE. Are you doing this in consultation with the States?

Mr. GARCIA. Yes, that's correct.

Senator SNOWE. Well, I guess that concludes my questions for Mr. Garcia.

Senator KERRY. Just a couple of quick ones. You have a \$5.5 million outlay for administering CZMA. Is that a sufficient amount, or does NOAA have a greater demand to be able to accomplish the goals we have set for you?

Mr. GARCIA. What we have proposed in the reauthorization is to pay for administrative costs out of the operations research and funding line. The fund itself, which relies upon repayments of loans, has been inadequate in the past to cover the cost of operating the program.

The loan collections are projected to be approximately \$4 million over the next several years, and the costs have been running in excess of that, so rather than do something that we know is going to result in a shortfall, what we are proposing is that the funds be appropriated for the expenses of operating the program, and that any loan collections, any revenues that come in, be used as offsets to the appropriation.

Senator KERRY. Fair enough. Thank you.

Senator SNOWE. Thank you. Thank you, Mr. Garcia.

Mr. GARCIA. Thank you.

Senator SNOWE. The next panel, we are pleased to welcome Mr. David Keeley, who is the State Planner for the Maine State Planning Office, the lead agency for Maine's coastal zone management program. Mr. Keeley served as the Director of the Maine Coastal Program from 1987 through 1994.

Also before us is Ms. Sarah Cooksey, President of the Coastal States Organization. Ms. Cooksey is also the Administrator of the Delaware Coastal Management Program.

We will also hear from Tim Eichenberg, Counsel for the Center for Marine Conservation. Mr. Eichenberg will also be testifying on behalf of the American Oceans Campaign, Coast Alliance, and the Natural Resources Defense Council.

Our final witness for the afternoon will be Dr. Sylvia Earle, the National Geographic Explorer in Residence at the National Geographic Society. While many of us are familiar with Dr. Earle's deep sea work, she has also conducted many coastal studies.

I thank you all for being here today. We will include your statements in the record. So we would ask you to summarize your statements. Please try to limit your statement to 5 minutes, because we have a vote in probably 20 minutes. We would like to see if we can move it along as best we can.

Mr. Keeley, why don't we start with you.

**STATEMENT OF DAVID KEELEY, STATE PLANNER,  
MAINE STATE PLANNING OFFICE**

Mr. KEELEY. Sure. Thank you. I am David Keeley, with the State Planning Office in Maine. Your timing is excellent, because I need to fly back home this afternoon. So moving this along is just great.

Today I would like to just touch on three things. You have my testimony before you. One is Federal agency coordination. The second is technical assistance. The third is community planning.

Before I get into that, every time I come to D.C., I am made aware that somehow as we begin to discuss Federal support for coastal zone management programs, we forget that in fact the States are contributing significant sums of dollars to these programs. I appreciate that the revolving doors on this building and many other buildings around the Hill, people continually have their hand out for additional resources. In that context, it is just important to say that all States are making significant investments, whether it is on land acquisition or nonpoint source pollution or other programs, to address priorities in the CZMA.

I can say, for the good State of Maine, that when we do a very quick review, we are probably 7 to 1 in terms of State dollars to Federal dollars to support coastal zone management. So we obviously believe in the coast and are investing in it. There are clearly national interests in the coast, and that is why it is appropriate that the CZMA continue to strike that balance between State and Federal interests.

I do have to rise to the occasion, given our last speaker, and say that the notion of—my term—NOAA skimming off resources off of State grants is simply unacceptable. This is a gimmick to me. We would much prefer, as you suggested, Senator Snowe, to see NOAA come forward and document what they need for their resources, and have Congress decide what the appropriate level is.

I know that in our Statehouse, that if I come forward with a State request and my legislature provides it, those are the funds I am able to work with. I think then do not turn around and try and work through the back door and get other funds that in fact the legislature was unwilling to give me. So I need to live within my budget, and I am suggesting that they need to do the same.

In terms of Federal agency coordination, there is a chronic lack of Federal agency coordination working on coastal and marine

issues. Through the CZMA, NOAA is designated as the lead agency. They often say that they are too small of an agency or that their budget is too small to work with some of the larger, more aggressive, shall we say, agencies. I am suggesting that, through the Oceans Act that you had envisioned last year, there was clearly a suggestion that there would be improved Federal agency coordination. I believe that whether it is in the CZMA or some other statute, there needs to be recognition that NOAA needs to be empowered to lead on ocean and coastal affairs.

My second point has to do with management-oriented research and technical assistance. That is Section 310 of the Act. NOAA has been self-described, and described by other States, as a dense and impenetrable agency, with some of the best-kept secrets. They do high-quality science but, for whatever reasons, cannot seem to get it out to the States who are so desperately seeking it.

So the suggestions of providing increased funding for support for research and development is really on point. They know that the information transfer is an area where substantial improvements are needed, and in fact are working in a number of areas. So I applaud those efforts. But, needless to say, there is much more that needs to be done.

The suggestions of management-oriented research really originates from the States, who have suggested that there is great efficiencies in having that research done once, rather than five times or 10 times all around the Nation. But we want to be sure that in fact the clients of that research are engaged in both the design and the dissemination of that work.

Finally, in terms of technical assistance, the best example I can offer is we were working with someone in senior management in NOAA several years ago. We needed some help in putting together a monitoring program. As I say, a great example of technical assistance was they provided somebody to sit in the State Planning Office for about 3 weeks. They worked with a number of State agencies and, in a very short amount of time, helped us make considerable gains. To me that is genuine technical assistance.

We, in turn, do the same kind of thing at the State level, and I know other States do, as well, in terms of hands-on, technical assistance to municipalities. That is the hallmark of what the State Planning Office does.

My last point has to do with community planning. It is real bright spot of the Administration's reauthorization proposal. In fact, much of the idea came from the States, suggesting that this was an area the CZMA needed to be more involved in. In Maine, we have been working on this kind of a program since 1987, through something we call the Coastal Planning and Investment Program. Capacity building is definitely a long-term effort. We should not enter that lightly.

Like nonpoint source, we created these problems for years; it is going to take us years to respond to them. We are certainly willing to offer some lessons learned if you are interested. We also have some suggestions on how those funds might be used in Maine if they were appropriated.

Thank you. I would be glad to answer some questions.

[The prepared statement of Mr. Keeley follows:]

PREPARED STATEMENT OF DAVID KEELEY, STATE PLANNER,  
MAINE STATE PLANNING OFFICE

Senator Snowe and members of the Subcommittee on Oceans and Fisheries, I am David Keeley. Thank you for providing me with an opportunity to testify on behalf of the State of Maine. I am the State Planner within the State Planning Office—the lead agency designated by the Governor over twenty years ago for Maine's Coastal Zone Management Program. I served as the Director of the Maine Coastal Program from 1987 to 1994.

People throughout the world know the State of Maine through our lobsters, our 3,500 miles of coastline and the renown independent Mainer. Fewer people however are aware that although our coastal zone consists of only 12% of the state's land area, it is home to over 60% of our population and over 70% of all employment. These statistics are mirrored in virtually every other coastal state where coastal populations are burgeoning.

We treasure our coastal resources and have the distinction, along with Oregon, of being one of the first states to enact environmental legislation in the early 1970's—before it was in vogue. At this very time a woman from Auburn, Maine stepped into the spotlight and defeated her opponent Alfred Brodeur in a 2-1 landslide victory for a seat in our State House of Representatives. Representative Snowe served in the State House for two terms and in 1977 became a State Senator. Throughout her State House career she was associated with marine issues of importance to Maine. So it is of no surprise that I sit here before you today. I applaud your leadership in seeking reauthorization of the Coastal Zone Management Act and for your other efforts to strengthen the manner in which our nation wisely manages its coastal and marine resources.

Before I offer some specific reauthorization suggestions let me touch on two things, first to reinforce what the CZMA is all about and the second is to share Maine's vision for our coastal and marine environment. We just celebrated twenty-years of coastal management through the CZMA. We did this on the very year that the world was celebrating the International Year of the Ocean. In Maine we took stock of what we have done through the CZMA. The incredibly diverse list of resource conservation and development accomplishments is impressive and addresses real-world issues Maine and the other 34 states participating in this national program are dealing with.

Dredging our harbors	Managing our beaches	Providing public access to the shore
Protecting coastal ecosystems.	Purchasing public lands	Improving coastal water quality
Regulating land use activities.	Improving fisheries management.	Strengthening local capacity
Increasing aquaculture jobs.	Collaborating in the Gulf of Maine.	Training volunteer stewards

Our Legislature has invested millions of dollars each year in these and related activities that we have determined to be vital to our environment and economy. I highlight this because I believe this state commitment of resources, which is happening throughout the nation, often gets overlooked as Congress discusses what the appropriate levels of federal investment are in the CZMA. This Subcommittee is well aware the CZMA is a partnership program and there is no better way to see that partnership at work than when someone is committing financial support. Indeed Maine is providing approximately \$7 dollars for every federal dollar we receive through the CZMA.

My second point has to do with clarity of vision for the future. Our vision for the Maine coast includes clean water and healthy shell fisheries, working waterfronts, retention of marine related jobs and creation of new marine technologies, use of remote sensing for applied research, preserved public access to the shoreline, well planned communities, reduction of properties at risk to coastal hazards ..... and the list goes on. Every coastal state has looked ahead and is preparing to address those issues of greatest importance. In this regard the CZMA is a very important tool to ensure the national interest in these issues is considered and addressed.

## CZMA REAUTHORIZATION

As you are aware, the Coastal States Organization has prepared a series of amendments to the Administration's proposed reauthorization bill. These amendments represent a collaborative approach by the 35 coastal states to come to consensus as an organization. Maine is supportive of these changes although on specific provisions we might have a more strident view.

*#1. Nonpoint Source Pollution*—Declining water quality due to nonpoint source pollution is a priority for Maine. This is best demonstrated by the level of activity that municipalities and state agencies are engaged in. Our Department of Environmental Protection has reorganized to better address this issue, the legislature has strengthened state construction, agriculture, forestry and water quality statutes, and Maine voters have authorized, by general referendum vote, bond funds for nonpoint source control purposes.

Maine has received conditional approval of our coastal nonpoint source plan but we need additional funding, beyond base funds in the CZMA, to affect change in coastal water quality.

*Recommendations*—With regard to the Administration's bill we take exception to the proposed requirement that a percentage of core funds (e.g., Section 306) that support Coastal Program implementation be set aside for NPS purposes. We believe the states, and not a federal agency are in the best position to determine how these core funds should be expended. Yes, it should be an eligible activity. No, the statute should not prescribe the amount.

The Administration's bill also proposes to include state performance on nonpoint source program implementation in the periodic reviews required in Section 312. We believe accountability is important and that it is appropriate to address these issues within an overall Coastal Program evaluation.

*#2. Community Planning and Investment*—Maine enacted a locally-based growth management program in 1987 and has developed considerable experience in program management and evaluation. One issue I would bring forward is that our efforts have focused almost exclusively on developing municipal growth management solutions in the form of comprehensive plans, capital investment strategies, and land use ordinances. While this effort is producing fruit we have not adequately addressed associated regional issues where governmental efficiencies are significant and when solutions to natural resource management issues transcend municipal boundaries.

*Recommendations*—Substantively the Administration's proposals in Section 310 (Providing for Community-based Solutions for Growth Management and Resource Protection) are thoughtful however a competitive grants delivery mechanism seems unduly complicated. Our experience convinces us that capacity building at the local and regional level requires years of sustained investment. Consequently a performance-based formula allocation to the states is a more reliable and hence preferable way to proceed. Finally, there is no matching requirement contained in this Section. We believe this is a very important initiative that must be state supported. Consequently we would not be adverse to a matching requirement that in essence doubled the level of resources committed to this effort.

*#3. Management Oriented Research and Technical Assistance*—NOAA, as the nation's lead coastal agency, must take a more proactive role in sponsoring management oriented research, in working with other federal agencies to improve the dissemination of those agencies sponsored research and to serve as a single point of entry for state coastal programs seeking to access the coastal and marine expertise of the federal government. I've lost count of the NOAA work groups that I have participated on over the past 15 years that have made incremental and modest changes in this regard. In each of these NOAA has been described as a "dense, impenetrable federal agency with some of the nation's best keep research and management secrets." The Administration has acknowledged this problem and in 1998 put in place a reorganization of the National Ocean Service including the formation of a Science Office. This effort and others just begin to address this issue.

*Recommendations*—Through Section 310A of the Administration's CZMA reauthorization proposal seeks to strengthen NOAA's role in research and technical assistance. We applaud that effort but believe the proposed language should be clarified. First, that NOAA will be a sponsor of the research meaning that they may conduct research as well as support the work of others. Second, there is no mention of NOAA providing technical assistance to their state partners on environmental monitoring, data management, resource assessment, to name but

a few issues all states are addressing. Third, we would highlight that NOAA funding for the international Gulf of Maine Program was critical at the inception of the program in 1989. It provided us with the initial planning funds which has allowed us to become an international model others are emulating. Consequently we urge that "regional and interstate projects" be given a higher priority within Section 310A. Finally, in the spirit of efficiency in government NOAA should be empowered to coordinate federal agency activities that are within the scope of the CZMA.

*#4. Outcome Indicators*—The public is demanding accountability in government. In Maine this has resulted in a performance budgeting initiative that is now codified in state statute. At the state level we must describe, through our agency strategic plans and budgets, what the taxpayer can expect for the dollars they pay. This same standard should apply to the Coastal Zone Management Act.

*Recommendation*—Maine supports the proposal by the Coastal States Organization that would amend the CZMA to establish a common set of measurable outcome indicators that would be used to evaluate the effectiveness of state Coastal Management Programs. It seems appropriate for this concept to be integrated into Section 316—Coastal Zone Management Reports.

These measurable results and outcomes should embrace the model contained with the 1972 CZMA that articulated national goals and priorities which the states then responded to in their own way. Each state's coastal conditions are different and require an approach specific to their needs.

*#5. Authorizations*—The Coastal Zone Management Act is Congresses plan for managing coastal resources. It was a bold initiative in 1972 when it was enacted and remains so today. However over the past 25 years the scope, complexity and sophistication of the nation's coastal zone management programs has changed dramatically. Flat or modest increases in federal appropriations have not kept pace with these changes placing an ever increasing burden on state legislatures to "make up the difference." In addition I mentioned earlier that state investments in coastal management far exceed federal support lending credible evidence that this is a partnership effort between the states and federal government.

*Recommendations*—Maine supports the authorization levels proposed by the Coastal States Organization. In particular, I would highlight the separate line items for Section 306A (resource improvement), 310 (technical assistance), and 315 (Research Reserves). Maine also believes there should be separate funding for nonpoint source pollution control.

As CZMA appropriations increase the level of funding for states like Maine are constrained by a Congressional cap. I would urge this committee to examine this issue to ensure an equitable distribution of funding.

In light of the continued decline of coastal resource quality it is time we became serious and committed the resources necessary to do the job.

Finally, we were stunned to learn that NOAA is proposing to use funding Congress committed to the states to pay for NOAA's overhead and operating costs. This seems highly inappropriate and we hope this Congress will quickly clarify their intent.

Thank you for this opportunity to provide comments. I would be pleased to answer any questions.

Senator SNOWE. Thank you, Mr. Keeley.

Ms. Cooksey.

**STATEMENT OF SARAH W. COOKSEY, ADMINISTRATOR, DELAWARE COASTAL MANAGEMENT PROGRAM, AND PRESIDENT, COASTAL STATES ORGANIZATION**

I want to thank you for inviting me here today. My name is Sarah Cooksey. I am the Administrator of the Delaware Coastal Management Program and our Estuarine Research Reserve. I am here today in my role as Chair of the Coastal States Organization.

Since 1970, CSO has represented the interests of the coastal States, including the Great Lakes and island territories, as an advocate for sound and balanced coastal, Great Lakes and ocean resource management. I am here to represent the people working at

the State and community level, that make the day-to-day decisions that impact the long-term effect of those decisions on our Nation's coastal zone.

For example, in Maine, the State Planning Office is working with the Port of Portland and Federal agencies to help facilitate the dredging of the harbor, while assuring the protection of lobster resources. The Massachusetts CZM program is supporting statewide efforts to develop harbor master plans and to identify priorities for investments in harbor infrastructure and develop a statewide dredging material disposal plan.

In Louisiana, they are working with communities and a variety of Federal agencies, and they recently completed a 50-year plan to restore up to 25 miles of coastal wetlands that are lost each year.

States from Washington to Texas need to provide assistance to communities to help them help themselves to make better-informed local decisions regarding the cumulative impacts of the hundreds of coastal management decisions they make every day.

I will focus my oral comments on basically two things. First, we need tools to assist communities to address the unprecedented growth in development in these precious areas, and to assure the conservation of vital resources, and to increase support for the administration, implementation and enhancement of State coastal zone programs to further the protection and restoration of our coastal resources, while allowing for reasonable coastal economic growth.

I will also address some of the comments that you all mentioned earlier. In addition to the basic objectives of the CZMA to have good coastal land use planning, wetlands preservation, assure public access, restore waterfronts, and minimize coastal hazards, there are three other fundamental coastal issues that the CZMA can help us address. They are the pervasive and persistent effects of land-based sources of coastal pollution, the cumulative and secondary impacts of increased development in coastal areas on habitat and assisting local communities in revitalization efforts and waterfront developments, and identifying and implementing key coastal conservation needs.

I have a couple of examples of things that we have done in Delaware. We have done a special area management plan for Pea Patch Island, where we brought together parties that commonly disagree—agriculture, developers and environmentalists—to agree that the largest heronry on the East Coast is worthy of protection. Together we are implementing strategies to protect it, while ensuring that the industries in the region are not adversely impacted.

The CZMA should be amended to include a new section to provide dedicated support to States, to assist in the development and implementation of local, community-based solutions to the impacts on coastal uses and resources caused by increased development. In 1998, there were 124 ballot initiatives approved by voters, calling for improved management of development and conservation of open spaces.

For example, the Massachusetts CZM program provided support for the four towns abutting Pleasant Bay on Cape Cod, a State area of critical environmental concern, to develop local consensus around a resource management plan. However, the State does not

have the resources to support plans in the remaining 13 other ACEC's in the coastal area.

Last year, Congress approved billions of dollars for highway investment. In the State of Delaware, a significant portion of those funds will undoubtedly go, as they should, to improve access to our increasingly popular coastal resort communities. \$700 million were spent to manage 10 summer weekend tie-ups, and only \$1 million was spent on beach nourishment. Even less on helping beach communities that may be impacted by the increased use and development of those areas.

In response to Senator Kerry's comments earlier, I think it is time for a comparable commitment to coastal resource conservation. I think the time is now.

While the development of computer-generated geographical information systems, commonly known as GIS, have greatly expanded the ability to identify the relationship of existing development, future growth patterns and natural resources, few local governments have the capacity to utilize these or other sophisticated tools to help plan and accommodate this growth, while preserving the quality of life and ecosystem vitality.

In Delaware, our CZM program is working with Kent County, which is in the metropolitan area of Dover, our State capital, to design and build the capacity to create build-out scenarios, determine prime areas for environmentally compatible development, and control urban sprawl. The project has also resulted in decreasing preliminary permit reviews from weeks to minutes. We would like to expand this to other communities, but we cannot because of lack of resources. I have an example of that.

We recommend that \$30 million be authorized to support these community revitalizations and management efforts. Despite clear national benefits and increasing demand, Federal support for State CZM management has not kept up with growing challenges. Funding for State coastal programs in real terms has declined due to inflation and the addition of States participating in coastal programs. Texas, Ohio and Georgia are new. Minnesota will have a new CZM program. In larger States, grants have been capped at \$2 million for the past 8 years.

In increasing authorization levels for 306/309 programs, we recommend \$75 million in order to address this shortfall. This will also help States address polluted runoff, consistent with their coastal program responsibilities and priorities, including inter-agency and State/local coordination.

We also approve of NOAA's commitment of the application of science and research to on-the-ground decisionmaking. This was clearly demonstrated last year during the Pfiesteria crisis. Current provisions under Section 310 of the CZMA, calling for management-oriented research and technical assistance from NOAA to the States should be strengthened. The Secretary should be required to prepare a report and recommendations to this committee regarding the effectiveness of NOAA.

Before I conclude Madam Chairman, I would like to briefly address a few concerns regarding the Administration's bill. First, the Administration, like the States, proposes amendments to the CZM to support community planning and assistance grants. However, it

appears as if their proposal would set up a Federal competitive grants program rather than provide the funds directly to States through the CZMA formula. There is no need for a new Federal administrative program. These funds are best administrated at the State and local level, in consultation with the communities.

Second, although the States recognize that polluted runoff is a significant problem in coastal States, we do not support the provisions of the administration's proposal that would mandate the Secretary withhold up to 20 percent of State 306-based programs to implement polluted runoff.

I will be happy to answer any questions that you might have. Thank you.

[The prepared statement of Ms. Cooksey follows:]

PREPARED STATEMENT OF SARAH W. COOKSEY, ADMINISTRATOR, DELAWARE COASTAL MANAGEMENT PROGRAM, AND PRESIDENT, COASTAL STATES ORGANIZATION

#### INTRODUCTION

I want to thank Chairman Snowe and the other members of the Subcommittee for the invitation to testify on the reauthorization of the Coastal Zone Management Act (CZMA). My name is Sarah Cooksey, and I am the Administrator of Delaware's Coastal Management Programs. I am testifying today in my role as Chair of the Coastal States Organization (CSO). Since 1970, CSO has represented the interests of the coastal states, including the Great Lakes and island Territories, as an advocate for sound and balanced coastal, Great Lakes and ocean resource management and development. CSO's membership consists of Delegates appointed by the Governors of the 35 States, Commonwealths, and Territories bordering the Atlantic and Pacific oceans, the Gulf of Mexico and Great Lakes. We greatly appreciate the early attention the Subcommittee is giving to the reauthorization of the CZMA, and urge Congress to complete action this year on this important legislation.

#### SUMMARY

The Coastal Zone Management Act (CZMA) provides a flexible framework to develop collaborative, innovative community-based strategies to balance the challenges posed by growth and development with the need to preserve and restore critical habitat and other natural resource values. The CZMA is unique among federal statutes. It provides incentives to the states to identify their own coastal management priorities consistent with broad national objectives. In developing their coastal management programs, States determine the right mix of regulation, cooperation and education needed to address those priorities. Where states adopt enforceable policies, federal activities, licenses and permits must be consistent with those policies.

The population of coastal communities and coastal tourism continues to grow at a steady pace, placing ever increasing demands on coastal resources. The population densities of coastal counties are already five times the national average, and coastal areas are becoming more crowded every day. From 1996-2015, coastal population is projected to increase from 141 million to 161 million. Yet, funding for coastal programs under the CZMA not increased.

The CZMA should be amended to take advantage of its inherent strengths to provide increased support for state coastal programs under §§ 306 and 309, and provide support for direct assistance to coastal communities assess and manage the impacts of growth and conserve critical natural coastal resources. Funding for community assistance under the CZMA has been very limited and, where it is available, it competes with coastal program administration, implementation and enhancement funds. This puts the states in the untenable position of choosing between preserving and improving its ongoing CZM program or providing assistance for communities to undertake specific priorities protection or restoration in critical areas. For example, while 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 plan, the state does not have sufficient funds to support plans in the remaining 13 ACEC's in the coastal area.

These amendments, which are discussed in more detail below, seek to redress this by providing direct assistance for communities, in addition to that provided by in-

creases to base program administration and enhancement grants under Sections 306 and 309 of the CZMA, that will enable states to:

- (1) improve their ability to assist local decision-makers to understand the impacts and manage growth and development more efficiently, to identify a compatible mix of residential, commercial and open space uses, and to revitalize communities;
- (2) provide for increased protection, conservation and restoration of critical coastal resources;
- (3) access management-oriented research which provides new technology and tools that enhance the capacity of coastal decision-makers to assess, monitor and cumulative and secondary impacts.

CSO supports other technical changes and clarifications of the CZMA which will: (i) assure funding under the Coastal Zone Management Fund for regionally significant projects, international projects; emergency response to coastal hazards, and innovative demonstration projects; (ii) provide for the development, in consultation with the states, of outcome measures to assure effectiveness "on the ground"; and, (iii) increase support for the National Estuarine Research Reserve System (NERRS.) CSO supports the reauthorization recommendations of the National Estuarine Research Reserve Association which are included in the attached outline.

#### BACKGROUND

Our nation's history, economy and culture are inextricably linked to and dependent upon the natural resources and economic development of the coasts. Our future is linked to their continued health. The story of our coast is, in many respects, the story of our nation which includes...the ports around which our nation's largest cities grew.... the fishing and beach communities along the coast of Maine and Cape Cod; the habitats of Galveston Bay...the indigenous cultures unique coastal needs of Alaska and the Pacific islands...the wetlands of coastal Louisiana...I am sure that each one of us can add to the list.

It has been estimated that economic activity in coastal areas currently supports 28.3 million jobs while generating incalculable indirect economic benefits. Significant sectors of our nation's economy, including maritime trade, fisheries and mariculture, recreation and tourism, and oil and gas development depend directly on a healthy coastal ecosystem. Neither our picture post card memories nor our current economic prosperity will last for without careful "stewardship." By stewardship, I mean the actions we take (or refrain from taking) to ensure that we are able to sustain both the coastal natural resources and the coastal economic opportunity for future generations.

States have recognized the importance of conservation of open space, discouraging sprawl development in rural areas, and protecting agricultural lands. The public also has indicated its strong support for these initiatives. *In 1998, 124 ballot initiatives were approved by voters calling for improved management of development and the conservation of open space.*

#### THE COASTAL MANAGEMENT CHALLENGE

Activities last year in connection with the Year of the Ocean began to focus attention on the critical coastal and ocean resources challenges that we face. These challenges include: the pervasive and persistent effects of land-based sources of coastal pollution; the cumulative and secondary impacts of increased development in coastal areas on habitat and water quality; the potential for inefficient investment in public infrastructure resulting from urban sprawl; and the inefficient investment in environmental protection resulting from conflicting mandates and lack of adequate multi-objective planning.

As States and the federal government continue actively to support initiatives to enhance our nation's prosperity and economic development, we have a joint responsibility to address the increased demands that growth and development places on our coastal resources. That is particularly true along the coasts where thriving economies rely directly on healthy ecosystems. Healthy coasts support maritime activity, fisheries and other marine life, the aesthetic and natural resources values coastal tourism and recreation, the wise management of mineral and energy resources, and numerous other activities.

In both economic and human terms, our coastal challenges were dramatically demonstrated in 1998, by the numerous fish-kills associated with the outbreaks of harmful algal blooms, the expansion of the dead zone off the Gulf coast, and the extensive damage resulting from the record number of coastal hurricanes and el Nino events. Although there has been significant progress in protecting and restor-

ing coastal resources since the CZMA and Clean Water Acts were passed in 1972, many shell fish beds remain closed, fish advisories continue to be issued, and swimming at bathing beaches across the country is too often restricted to protect the public health.

Last year, the H. John Heinz Center III Center with support from NOAA brought together a cross-section of leaders from all major sectors concerned with coasts and oceans to identify key issues affecting the nation's coastal and ocean future. In May 1998, they issued a Report entitled "*Our Ocean Future*" which, among other specific recommendations, concluded that:

*To meet the challenge of protecting and conserving the coastal environment, the United States will need to manage the oceans and coasts in new ways. The economic and other consequences of coastal storms and erosion need to be reduced, and sustainable economic growth needs to be achieved in maritime recreation, marine resource development, global trade, and other activities. Progress in these areas increasingly lies beyond direct federal control. A rich experience base is emerging on partnership approaches that build on the roles and capabilities of the private sector; the knowledge base provided by scientific researchers; and the conservation and economic development tools of local, state and federal governments.*

#### THE CZMA

The CZMA is the only federal statute which sets forth a federal-state partnership to achieve the goal of maximizing sustainable economic and environmental objectives. The CZMA incorporated the essential principles of the "smart growth" and "sustainable development" movements over twenty years before the terminology came into vogue. Congress was prescient in 1972 when it passed the Coastal Zone Management Act (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 USC 1452(2))*

With the enactment of the Coastal Zone Management Act in 1972 (CZMA), Congress improved the management of the coasts in two fundamental ways.

- First, it provided incentives that encouraged states to develop and implement plans, based on local priorities, to achieve a variety of national economic, environmental and societal objectives related to the coasts.
- Second, it provided states with the authority to ensure that federal activities, licenses and permits would be consistent with the enforceable policies of federally approved state coastal zone management programs.

It is not surprising that the principles of smart growth and recognition of the need to balance environmental and economic concerns was recognized first as essential to proper management of coastal resources because that is where the concentration of people and their demand for the use of natural resources was, and still is, the most acute.

Over the past six months, CSO has solicited the views of the states, NOAA, the National Estuarine Research Reserve Association and others about how the CZMA reauthorization can help to address these challenges. There are clear needs which have emerged from our discussions.

- There is a need to support coordinated decision-making across programs and at the federal-state-regional and local level.
- The focus of resource protection must expand from the resource specific mandates of the past to developing tools to accommodate multiple objectives and improve the quality of life.
- The focus of problem solving is increasingly shifting to locally-based solutions, which should be developed and applied within the context of broader ecosystem and regional systems.
- Few local governments have the capacity to address adequately the complex social, scientific, technical, fiscal and legal dimensions of the problems resulting from the growth of coastal communities.

34 of the 35 eligible state have either developed or are developing programs to protect and restore wetlands, increase public access to the shore, address the threats of coastal hazards, identify and manage the potential cumulative and sec-

ondary impacts of development, and revitalize waterfronts. In that time, states have measurably—

- Reduced the loss of wetlands and are beginning to reverse those losses through restoration;
- Assured that federal activities are consistent with state coastal management plans;
- Increased public access to coastal resources, and;
- Revitalized rundown waterfronts .

In Louisiana, where 25-35 miles of wetlands are lost each year, a 50 year plan for coastal restoration has just been completed. Other states have set out equally ambitious agendas for the future protection of coastal resources.

Other success stories are set out in two recent NOAA publications the *“Coastal Zone Management 25th Anniversary Accomplishments Report”* and the Biennial Report to Congress, *“Coastal Stewardship Towards a New Millennium: 1996-1997.”* These reports just scratch the surface of the activities in the states, and I hope each Member will have a chance to contact their states directly to find out not only what they have done so far to address coastal management challenges but, more importantly, what they need to accomplish in the future and how we can support these efforts through the reauthorization of the CZMA.

#### NEW CHALLENGES—COMMUNITY REVITALIZATION AND CONSERVATION PLANNING

Despite the accomplishments, we have also learned some surprising lessons. In some cases we have discovered that the solutions of the past are part of the problem of present. For example, transportation investment can operate as an indirect subsidy for sprawl, creating demand for housing, school construction and other public infrastructure while destabilizing the urban tax base. Overly rigid environmental regulations can discourage downtown revitalization and encourage development in distant underdeveloped areas.

In 1997 the National Research Council issued a study entitled: *“Striking the Balance: Improving Stewardship of Marine Areas”* that concluded, in part, that:

*The governance and management of our coastal waters are inefficient and wasteful of both natural and economic resources. The primary problem with the existing system is the confusing array of laws, regulations, and practices at the federal state and local levels. The various agencies that implement and enforce existing systems operate with the mandates that often conflict with each other. In many cases, federal policies and actions are controlled from Washington with little understanding of local conditions and needs.*

The multi-purpose objectives of CZMA and its recognition of the need to coordinate activities among various agencies and levels of government make it an excellent vehicle for addressing these conflicts. Zoning intended to protect residents from offensive development can lead to the segregation of activities in general. We live in one place, work in another, shop in another. The result—we drive to work, our children are driven to school, drive to the mall, and (for those whom shopping at the mall is not sufficiently recreational) drive to the park. State, local and community officials and planners will tell you that the resulting sprawl costs money and lots of it. Sprawl is coming to be understood as economically inefficient land use. In addition to the much greater infrastructure costal, traffic congestion associated with sprawl results in substantial economic losses in terms of time and energy consumption. Most frustratingly, planners have found that sprawl is self-sustaining in that it inevitably leads to demands for transportation by-passes which open up new areas for similar development and result in the economic stagnation and decline of areas only recently developed.

Few local governments have the capacity to plan adequately to accommodate the inevitable future growth of communities while preserving the quality of life and ecosystem vitality. For example, while 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, local community officials and planners do not have the resources to get past the entry-level threshold of acquiring the equipment, expertise and data to make use of these technologies. It is important to recognize that advances like GIS are simply tools and that their effectiveness in improving decision-making will depend assuring that the data is scientifically valid, current, accessible and usable by constituents at the state and local level.

CZMA provides a ready-made framework for addressing these issues. The focus of coastal management has begun to change in response to the realization that a process and project oriented approach to coastal management is not going to keep up with the demands being placed on coastal communities and resources. It is becoming increasingly clear that coastal communities need help to improve their ability to plan and manage growth and development efficiently, and assure conservation of remaining critical open space in crowded coastal areas.

It is time for a major commitment through the CZMA to support state efforts to provide new and improved planning and management tools to assist local communities to understand better and address the complex economic and ecological dynamics of coastal systems and communities. This can be done both through improving the responsiveness of NOAA research to state and local management needs and providing assistance directly to states to work with local communities.

While all of our natural resources are valuable, some are more important than others in their relation to an ecosystem, and some are critically essential to the long-term viability of an ecosystem. For example, small tidal creeks have been identified as one of these essential areas. In their natural condition, these areas are among the most productive biologically, but because of their interface with the land and shallowness, they are also the more easily stressed. Advances in management-oriented science and technology are not only allowing us to identify these critical areas, but can assist us to establish impact thresholds, such as tolerance and impact levels for specific percentages of paved or other impervious surface area. This kind of information allows us to both protect resources and accommodate growth through improved design and location.

#### ADMINISTRATION'S CZMA REAUTHORIZATION PROPOSALS

While CSO's reauthorization proposals (which are explained in detail in the following section) agree in large part with the Administration's proposals, they do differ in a few significant ways.

First, both CSO and the Administration agree that Section 310 of the CZMA should be amended to authorize substantial new resources to support community revitalization and conservation assistance grants. However, while CSO proposes the allocation of grant funds to *all* states under the CZMA formula for providing direct assistance which can be tailored to meet community needs; the Administration's proposal creates a competitive federal grant program using CZM programs as intermediaries. CSO believes that decisions are best made at the state and local levels and that all states should participate in the program without requiring new bureaucratic federal administration and oversight responsibilities.

The Administration's proposal also establishes a confusing relationship between the community assistance provisions of section 310 and the NOAA technical assistance provisions of the proposed section 310A. For example, the amendment to section 310 provides that the secretary shall allocate a "substantial portion" of funds to community assistance grants. Does this mean that funds directed from section 310 grants provide funding for NOAA technical assistance and programs under 310A? To what extent, if any, is funding authorized for section 310 for community grants under section 318 available for section 310A activities? CSO would like to assure that NOAA is more accountable for utilizing its significant science, research and technical capabilities to provide "management oriented research" that is relevant and accessible to the states.

Secondly, CSO strongly opposes the provisions proposed by the Administration to amend section 306(c)(2) to mandate that 10-20 percent of the 306/306A grants be retained by the Secretary to reduce the impacts of polluted runoff. This change would fundamentally alter the framework of the CZMA which is based on the principle that states should have the flexibility to set priorities among the national objectives established under the CZMA. Rather than providing additional funds, the proposed set-aside would divert funds from the base CZM programs undermining a broad range of CZMA objectives including waterfront revitalization, wetlands protection, increased public access, and the reduction of coastal hazards. As proposed, the Administration's bill does not authorize any additional revenues for state administration and implementation of the broad purposes of the CZMA under section 306 and 306A. As a result of the mandate, all increased authorizations proposed would be available only to the Secretary to target polluted runoff and not to the states to address other state-based priorities such as wetlands protection, public access, coastal hazards and waterfront development.

While the states agree that polluted runoff is a significant concern in coastal areas, these decisions are best made at the state and local level, not based on top-down directives. Establishing specific funding set-asides undermines the federal

state partnership that is the cornerstone of the CZMA. When the CZMA was amended in 1990 to add the requirements for the development of coastal nonpoint source pollution programs, funding was proposed to supplement, not compete with, CZM program funding. Additional funding for state CZM programs to administer coastal nonpoint should be incorporated into CZMA without a mandated set-aside or provided as a separate authorization, and be in addition to funding levels authorized for implementing 306, 306A and 309. CSO also opposes the Administration's proposal to have coastal nonpoint programs reviewed as part of the section 312 CZMA review process.

#### CSO'S CZMA REAUTHORIZATION PROPOSALS

The following draft legislative proposals are offered for consideration of the Committee in drafting the CZMA Reauthorization legislation. We look forward to working with the Committee, states and other interested constituents to reach a consensus on final amendments.

#### 1. BETTER ENABLE STATES TO BUILD COMMUNITY CAPACITY FOR COASTAL MANAGEMENT

The CZMA should be amended to provide dedicated support to states for the development of local, community-based solutions to manage the impacts on coastal uses and resources caused by or which may result from, increased development or urban sprawl. These initiatives should be directed to revitalize previously developed coastal areas, discourage development in undeveloped, environmentally sensitive or other coastal areas of particular concern, and emphasize water dependent uses. Targeted support for these place-based, community and critical area initiatives is necessary to address problems in the most sensitive watersheds and coastal communities.

#### DRAFT PROPOSED LANGUAGE

Amend the CZM Findings to add the following:

There is a need to enhance cooperation and coordination among states and local communities and to increase their capacity to identify development, public infrastructure and open space needs and to develop and implement plans which provide for continued growth, resource protection and community revitalization. Delete section 310 and insert the following new section:

*Section 310—Planning and Managing Community Growth and Resource Protection.*

(a) The Secretary is authorized to enter into cooperative agreements with state coastal management programs to provide assistance to coastal communities to support the planning, development and implementation of local, community-based initiatives which will increase their capacity to identify development, public infrastructure and open space needs and which provide for resource protection and restoration while addressing the need for community revitalization and continued growth consistent with the purposes of this Act.

(b) In developing and implementing the program, states shall provide such assistance as needed to improve community capacity to:

- (1) identify and provide for better planning and management of critical coastal habitat, land use and growth patterns;
- (2) identify and plan for the impacts of the placement of new public facilities, housing, and commercial and industrial development and for efficient investment in transportation and other public infrastructure; revitalize and restore coastal waterfronts communities and water dependent uses; and preserve open space areas for recreation, habitat and scenic views; and
- (3) enhance public awareness of and participation in planning and managing growth and conservation in coastal communities consistent with the purposes of this Act.

(c) States shall demonstrate that projects have the support and participation of affected local governments, and maximize environmental benefits to the extent practicable while supporting coastal dependent growth and development consistent with the purposes of the Act. Funding shall be distributed to the states pursuant to the formula established under Section 306(c) (16 USC 1455(c)).

#### 2. DIRECT NOAA TO PROVIDE MANAGEMENT-ORIENTED RESEARCH AND TECHNICAL ASSISTANCE

Current provisions calling for "management-oriented" research and technical assistance from NOAA to the states should be strengthened to provide greater accountability and closer coordination with the states, including a request for a report

and recommendations to Congress regarding the effectiveness of NOAA in providing such research and assistance.

DRAFT PROPOSED LANGUAGE

Delete provisions of section 310; insert a new section 310A as revised:

*Section 310A—Management-Oriented Research and Technical Assistance*

(a) The Secretary, in consultation and cooperation with the states and National Estuarine Research Reserves, shall undertake a program for management-oriented research and technical assistance necessary to support the implementation of coastal management objectives, identification and development of innovative technology and technology transfer which addresses coastal management issues, and such technical assistance and training as may be needed to increase the capacity of state and local communities as provided in Section 310. In implementing this section, the Secretary shall provide for coordination of support for the services and activities under this section with all other activities that are conducted by or subject to the authority of the Secretary.

(b) The Secretary shall identify services and activities undertaken by other departments, agencies or other instrumentalities of the Federal Government which support the purposes of this section, and enter into memoranda of agreement or other arrangements as appropriate which provide for coordination and mutual support.

(c) In carrying out programs under this section, the Secretary may enter into contracts or other arrangements with qualified persons but shall, to the maximum extent practicable, coordinate with and utilize state coastal management programs and estuarine research reserves for the purposes of carrying out this section.

(d) By January 2001, the Secretary shall provide a report to the Senate Commerce Committee and House Resources Committee evaluating the Agency's effectiveness in providing management-oriented research and technical assistance; identifying the applicable services and activities and steps that have been undertaken to provide for coordination and mutual support of coastal programs, and making specific recommendations on changes that should be made to improve the delivery of such services. In preparing the report, the Secretary shall include participation from representatives of the Governors of the coastal states and National Estuarine Research Reserves.

3. INCREASE SUPPORT FOR THE ADMINISTRATION AND ENHANCEMENT OF CZM PROGRAMS AND THE PROTECTION AND RESTORATION OF COASTAL RESOURCES

Despite clear national benefits, federal support for state Coastal Zone Management programs has not kept pace with growing challenges. Funding for state coastal programs in real terms has declined due to inflation and the addition of states participating in coastal programs. Federal support for state and local communities efforts to plan for and manage our nation's coasts is diminishing despite increasing demands. This is particularly true in larger states where state grants have been capped at \$2 million a year for the past eight years, despite substantial increases in population in the coastal areas and an increased recognition of the importance of improving management of polluted runoff, habitat protection and restoration, and community growth patterns.

Adequate funding should be provided under Section 306/309 state grants to assure states' abilities to address polluted runoff consistent with their coastal program management responsibilities, including interagency and state-local coordination of initiatives to address the causes and impacts of nonpoint pollution, particularly as they relate to land use and linking state water quality with other coastal resource protection objectives. The states recommend increasing appropriations levels for base 306/309 programs for administration and enhancements to \$75 million, in order to address this shortfall and provide for equitable distribution among all coastal states and territories.

In addition, existing authorities under Section 306A of the CZMA (16 USC 1455A) provide adequate authority to preserve or restore specific areas of the state with particular conservation, recreation, ecological or aesthetic value, as well as to provide public access and address revitalization of waterfronts of particular concern. However, funding for these targeted place-based activities to protect and restore "priority areas" competes with base program administration and enhancement funds and is limited to 10 percent of overall appropriations. This puts the states in the untenable position of choosing between preserving and improving its CZM program or providing support for addressing its most significant problems. These limitations should be removed and specific funding authorized for 306A to enable states to ad-

dress preservation and restoration of these “priority” areas. CSO has proposed a modest annual funding level of \$12 million to be targeted to 306A activities. For example, along the Louisiana coastline, the San Francisco Bay Delta in California, and Florida Everglands, coastal management agencies are participants in large-scale, multi-year wetland restoration efforts involving coordinated efforts of numerous agencies.

These changes will enable state coastal programs to target preservation and restoration in areas of the state where they are most needed. It will also help support integration of state activities with federal, state and local initiatives including, but not limited to, efforts under State Unified Watershed Assessments to address polluted runoff and restore the most degraded areas, as well as activities to address the protection and restoration of fish habitat and coral reefs.

DRAFT PROPOSED LANGUAGE

§ 1464. Authorization of appropriations (Section 318)

(a) Sums appropriated to Secretary. There are authorized to be appropriated to the Secretary, to remain available until expended—

(1) for grants under sections 306 and 309 of the Act (16 U.S.C. §§ 1455, 1455a and 1456b), for grants under sections 306, 306A, and 309 [16 USC §§ 1455, 1455a, 1456b]—

(A) \$ 75,000,000 for fiscal year 2000;

(B) \$ 78,000,000 for fiscal year 2001; and

(A) \$ 75,000,000 for fiscal year 2000;

(C) \$ 82,000,000 for fiscal year 2002; and

(A) \$ 75,000,000 for fiscal year 2000;

(D) \$ 85,000,000 for fiscal year 2003; and

(E) \$ 90,000,000 for fiscal year 2004; and

(2) for implementation of the purposes in section 306A of the Act as amended, \$12,000,000 for fiscal year 2000; and such sums in excess of \$12,000,000 as are necessary for fiscal years 2000-2004. (3) for grants under section 315 of the Act (16 U.S.C. § 1461); for grants under section 315 [16 USC § 1461]—

(A) \$ 12,000,000 for fiscal year 2000;

(B) \$ 14,000,000 for fiscal year 2001; and

(C) \$ 16,000,000 for fiscal year 20002; and

(D) \$ 18,000,000 for fiscal year 20003; and

(E) \$20,000,000 for fiscal year 2004.

(4) for implementation of the purposes in section 310 of the Act as amended, \$30,000,000 for fiscal year 2000; and such sums in excess of \$30,000,000 as are necessary for fiscal years 2001-2004. These amounts are in addition to those authorized in subsection (3); and

(5) for costs associated with administering this title, \$5,500,000 for fiscal year 2000; and such sums as are necessary for fiscal years 2001-2004.

(b) Limitations. Federal funds received from other sources shall not be used to pay a coastal state’s share of costs under section 306 or 309 [16 USC § 1455 or 1456b].

(c) Reversion of grants to Secretary. The amount of any grant, or portion of a grant, made to a State under any section of this Act which is not obligated by such State within three years from when during the fiscal year, or during the second fiscal year after the fiscal year, for which it was first authorized to be obligated by such State shall revert to the Secretary. The Secretary shall add such reverted amount to those funds available for grants under the section for such reverted amount was originally made available to States under this Act.

(d) Federal funds allocated under this title may be used by grantees to purchase Federal products and services not otherwise available.

4. OTHER CHANGES

A. Clarify The Policy To Support Coastal-Dependent Development

Changes to the CZMA Congressional Policy should be made to clarify that the primary objective of the CZMA and state coastal management programs is to support “coastal-dependent” development compatible with resource protection priorities, not to support any new commercial developments adjacent to existing development. The objective of steering development into existing developed areas regardless of whether it is compatible with surrounding uses or state policy, has been relied on as a “national benefit” in a successful challenge to a state consistency objection.

## DRAFT PROPOSED LANGUAGE

Amend Section 303(2)(D) (16 USC 1452(2) (D)) as follows:

(D) .... and the location to the maximum extent practicable of new, *coastal-dependent* commercial or industrial developments in or adjacent to areas where such development already exists.

## B. UTILIZATION OF NON-PROFITS TO IMPLEMENT 306A PROJECTS

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. However, NOAA has imposed unnecessary restrictions on states. Therefore, CSO proposes that Section 306A(e) be amended to make it clear that funds can be allocated to "not-for-profit organizations." However, such grants should be available only to undertake the objectives of section 306A and not directly to benefit such groups.

## C. COASTAL ZONE MANAGEMENT FUND (CZMF)

For the past several years payments into the CZMF from loan repayments under the old Coastal Energy Impact Program have been earmarked to cover OCRM Administrative costs and diverted to offset funding for the National Estuarine Research Reserves. As a result no funds have been provided for other eligible purposes including international, regionally significant and interstate projects, and emergency grants to address disaster related circumstances. It is projected that there will be appropriated \$4-\$3.8 million annually as a result of loan repayments into the CZMF. Section 308 should be amended to eliminate funding for OCRM Administration which should be funded through a direct appropriations from NOAA operations accounts. (See 14 USC 1464(a) (5) above.) CZMF funds should be made available to the states to support other eligible projects. Without these funds there is no way to support innovative regional or interstate projects, or to respond to emergencies resulting from coastal disasters which result in increased demands on state coastal programs.

## DRAFT PROPOSED LANGUAGE

Deletions are stricken and new language in italics

§ 1456a. Coastal Zone Management Fund (Section 308)

(a) (1) The obligations of any coastal state or unit of general purpose local government to repay loans made pursuant to this section as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990 [enacted Nov. 5, 1990], and any repayment schedule established pursuant to this title as in effect before that date of enactment, are not altered by any provision of this title. Such loans shall be repaid under authority of this subsection and the Secretary may issue regulations governing such repayment. If the Secretary finds that any coastal state or unit of local government is unable to meet its obligations pursuant to this subsection because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such State or unit to meet such obligations in accordance with the appropriate repayment schedule, the Secretary shall, after review of the information submitted by such State or unit, take any of the following actions:

(A) Modify the terms and conditions of such loan.

(B) Refinance the loan.

(C) Recommend to the Congress that legislation be enacted to forgive the loan.

(2) Loan repayments made pursuant to this subsection shall be retained by the Secretary; as offsetting collections, and shall be deposited into the Coastal Zone Management Fund established under subsection

(b) (1) The Secretary shall establish and maintain a fund, to be known as the "Coastal Zone Management Fund", which shall consist of amounts retained and deposited into the Fund under subsection (a) and fees deposited into the Fund under section 307(i)(3) [16 USC § 1456(i)(3)].

(2) Subject to amounts provided in appropriation Acts, amounts in the Fund shall be available to the Secretary for use *by the states* for the following:

(A) Expenses incident to the administration of this title, in an amount not to exceed for each of fiscal years 1997, 1998, and 1999 the higher of—

(i) \$ 4,000,000; or

(ii) 8 percent of the total amount appropriated under this title for the fiscal year.

(B) After use under subparagraph (A)—

- A (i) projects to address management issues which are regional in scope, including interstate projects;
- B (ii) demonstration projects which have high potential for improving coastal zone management, especially at the local level;
- C (iii) Emergency grants to State coastal zone management agencies to address unforeseen or disaster-related circumstances;
- (iv) Appropriate awards recognizing excellence in coastal zone management as provided in section 314 [16 USC § 1460];
- D (v) program development grants as authorized by section 305 [16 USC § 1454], in an amount not to exceed \$ 200,000 for each of fiscal years 1997, 1998, and 1999; and
- E (vi) to provide financial support to coastal states for use for investigating and applying the public trust doctrine to implement State management programs approved under section 306 [16 USC § 1455].
- (3) On December 1, of each year, the Secretary shall transmit to the Congress an annual report on the Fund, including the balance of the Fund and an itemization of all deposits into and disbursements from the Fund in the preceding fiscal year.

#### C. OUTCOME INDICATORS

The success of the Coastal Zone Management Act can and should be assessed with measurable outcomes. The establishment of outcome indicators for the program should be developed in consultation with and participation of State representatives, and should be flexible enough to address the variations among state programs.

#### DRAFT PROPOSED LANGUAGE

Sec.— (a) Not later than 24 months after the enactment of this Act, the Secretary of Commerce shall submit a report to the Committee on Resources of the U. S. House of Representatives that contains recommendations for a common set of measurable outcome indicators that would provide a mechanism to evaluate the effectiveness of State coastal zone management programs and activities in achieving one or more of the objectives set out in Section 303(2)(A)-(J) of the Coastal Zone Management Act of 1972. In preparing the report, the Secretary shall include participation of representatives of the Governors of the coastal states. Prior to submitting the report the Governors shall be provided an opportunity to comment on the report and their comments shall be included in the final report.

(b) Not later than 48 months after the enactment of this Act, the Secretary of Commerce shall submit to the House Resources Committee recommendations for such legislation, regulation or guidance necessary to implement a national coastal zone management outcome monitoring and performance evaluation system.

Senator SNOWE. Thank you. Mr. Eichenberg.

#### **STATEMENT OF TIM EICHENBERG, PROGRAM COUNSEL, CENTER FOR MARINE CONSERVATION (CMC), ON BEHALF OF THE CMC, THE AMERICAN OCEANS CAMPAIGN, COAST ALLIANCE, AND NATURAL RESOURCES DEFENSE COUNCIL**

Madam Chair and Senator Kerry, thank you very much for the opportunity to appear today to testify on the reauthorization of the CZMA. My name is Tim Eichenberg. I am Program Counsel for the Center for Marine Conservation. I am also Co-Chair of the Clean Water Network, a coalition of about 1,000 groups nationwide, working together to strengthen our clean water laws.

Today I am testifying on behalf of not only CMC, but also the American Oceans Campaign, Coast Alliance, and Natural Resources Defense Council, which support the CZMA and share a strong commitment to protecting coastal resources. We commend Senator Snowe for holding these important hearings, and look forward to working with you and your subcommittee to reauthorize the Act this year.

Prior to coming to CMC, I worked as Staff Attorney for the California Coastal Commission, and taught coastal law at the University of Maine, School of Law. I also worked on projects for the

Maine Sea Grant Program, the Casco Bay Estuary Program, and the Woods Hole Oceanographic Institution. So I am very familiar with the benefits of the CZMA. I am very familiar with its benefits in conserving valuable coastal resources, providing public access, reducing marine debris, managing coastal development, and protecting open space.

However, we believe that the CZMA's most significant contribution may be the way it addresses the Nation's No. 1 water pollution problem—polluted runoff. The Clean Water Act has made significant progress in addressing industrial and municipal wastewater point source discharges. However, it has had much less success in dealing with nonpoint sources of pollution.

Polluted runoff is the major reason why 40 percent of our Nation's assessed waters are not fit for swimming and fishing, and for some of the impacts described by Senator Kerry just earlier, including the dead zone, closed shellfish beds, fish consumption advisories, and harmful alga blooms that may be contributing to *Pfiesteria* and massive fish kills. Together, these impacts are destroying coastal resources and costing Americans billions of dollars in lost recreational opportunities, health care, jobs, and property values. For this reason, it is imperative that any reauthorization of the CZMA also address this serious problem.

In 1990, Congress created the Coastal Nonpoint Pollution Control Program, under Section 6217 of the Coastal Zone Act Reauthorization Amendments. This was based on a bill introduced by Senator Kerry, S. 1189. The Coastal Runoff Program is the only national program that deals with polluted runoff in an effective and comprehensive manner. It requires States to develop plans to control polluted runoff that meet national guidelines.

In States like Massachusetts, South Carolina, California, and Maryland, new initiatives are being developed to address runoff from storm water, feedlots, marinas and other nonpoint sources, according to NOAA's latest data. The Coastal Runoff Program provides a model for an effective national program.

Progress has been slow under the Clean Water Act 319 grant program. Despite the fact that it is the leading cause of water pollution, nonpoint source pollution under the Clean Water Act has received less than 3 percent of the funding provided to States. Section 319 also lacks an effective management approach. Although it requires States to prepare nonpoint source management plans, it does not require that such plans be implemented or enforced to control polluted runoff.

Despite its potential, the Coastal Nonpoint Pollution Control Program, established in 1990, has been hampered by lack of funding. The authorization for CZARA, the Coastal Zone Area Reauthorization Amendments, expired in 1995, and only \$1 million in Federal funds were appropriated to run the entire program between 1995 and 1998. Although Congress has appropriated \$8 million in fiscal year 1999, \$1 million is subject to a rescission in the Senate supplemental appropriations bill. Twenty-nine State coastal runoff programs have been conditionally approved, but no State or territory has yet achieved final program approval.

Significantly more funding is needed to help States meet conditions for final approval, and implement improved program ele-

ments. Given sufficient funding, we believe the Coastal Runoff Program is the Nation's best chance for saving the coastal zone from the damages inflicted by polluted runoff.

The CZMA has worked well for yesterday's coastal needs, but must be updated to contend with the challenges of tomorrow. These new challenges facing coastal States outpace the Act's ability to deal with today's problems. Any reauthorization of the CZMA must address the problem of polluted runoff. Authorization levels must also be boosted, to take into account future needs, so States can realistically address increased populations that are moving into the coastal zone at the astounding rate of 3,600 people per day.

Therefore, we urge the subcommittee to incorporate the following concepts into any reauthorization bill, similar to the approaches adopted in the draft administration CZMA bill and in H.R. 1110, Congressman Saxton's CZMA reauthorization bill. The approaches are as follows:

One, substantive changes are not needed in the current provisions of Section 6217 of CZARA. However, the Coastal Nonpoint Program must be reauthorized and integrated into the CZMA in its current form.

Two, key provisions of the Coastal Runoff Program must be retained to implement management measures to control polluted runoff. Penalties must be imposed for failure to submit approvable programs. Once those programs are approved, evaluations must be conducted to assure that they are being effectively implemented.

Three funds should be set aside for implementing the program in Section 306 or 306(a), or somewhere else in CZMA, to ensure that funding is targeted on federally approved Coastal Runoff Program elements. The set-aside is wholly consistent with congressional priorities for tackling the Nation's No. 1 water pollution problem, and is similar to the approach taken in the Section 309 enhancement grant program. Furthermore, as used in the Saxton reauthorization bill, this approach of set-aside would actually boost the CZMA base program funding by well over 30 percent, including increases of 42 percent for Massachusetts and 55 percent for Maine and South Carolina.

Four, new grant programs or projects should be created in the CZMA to address emerging coastal issues. However, they must be environmentally protective and maintain the natural, biological, chemical, and physical integrity of the coastal ecosystem.

Five, sufficient funds should be authorized for supporting the Coastal Runoff Program starting at a minimum of \$12 million per year. After the reauthorization, the subcommittee should work with the committee of appropriations to ensure that adequate funds are appropriated to States to implement programs and management measures to avoid the situation that occurred between 1995 and 1998.

We appreciate the opportunity to submit our testimony for the record and look forward to working with the subcommittee to protect and manager our valuable coastal resources.

Thank you very much.

[The prepared statement of Mr. Eichenberg follows:]

PREPARED STATEMENT OF TIM EICHENBERG, PROGRAM COUNSEL, CENTER FOR MARINE CONSERVATION (CMC), ON BEHALF OF THE CMC, THE AMERICAN OCEANS CAMPAIGN, COAST ALLIANCE, AND NATURAL RESOURCES DEFENSE COUNCIL

Madame Chair and members of the Subcommittee. Thank you very much for the opportunity to appear today to testify on the reauthorization of the Coastal Zone Management Act (CZMA). My name is Tim Eichenberg. I am Program Counsel for the Center for Marine Conservation. CMC is a nonprofit organization with 120,000 members committed to protecting ocean environments and conserving the global abundance and diversity of marine life through science-based advocacy, research, public education, and informed citizen participation. CMC is headquartered in Washington, DC, and has regional offices in California, Florida and Virginia. I am also co-chair of the Clean Water Network, which has over 1,000 groups nationwide working together to strengthen the Clean Water Act.

I am testifying today on behalf of CMC, the American Oceans Campaign, Coast Alliance and the Natural Resources Defense Council which share our commitment to protecting coastal resources. We support the Coastal Zone Management Act and look forward to working with this Subcommittee to reauthorize the Act this year. We commend Senator Snowe for holding these important hearings.

INTRODUCTION

Enacted in 1972, the CZMA provides incentives for coastal states and territories to plan and manage their coastal resources in accordance broad national policies. The Act has succeeded in fostering a unique federal-state partnership to address the concerns of coastal communities. The National Oceanic and Atmospheric Administration (NOAA) has worked well with state coastal zone management agencies to help them create state coastal zone management plans to manage our nation's vulnerable coastal resources.

Currently, NOAA has approved 32 state coastal zone management plans, covering 95,142 miles of shoreline or 99.7% of the country's total coastline. This is a remarkable achievement for the CZMA. These approved plans now provide states with an effective mechanism to manage the challenges and threats posed by an explosion in population on our coasts and the pollution resulting from new growth.

The coastal communities of the United States and its island territories currently face unprecedented development pressures. NOAA estimates that 3600 people move to coastal communities every day. At this rate by 2015, 166 million people - 25 million more than today - will live along our nation's coasts. Already, these communities are struggling to try to find ways to save vulnerable wetlands, coastal habitat, estuarine resources and preserve their quality of life while accommodating new growth. The impacts of 25 million new residents to the coastal zone will be severe. Any reauthorization of the CZMA must address these new realities. Since many beach communities were originally small towns, most do not have the capacity to plan for this rapid expansion of their hometowns. From idyllic New England coastal villages to the sunny beaches of Florida, the popular Jersey Shore and the productive Gulf fishing towns of Texas and Louisiana, unchecked growth threatens the very character of coastal America.

What exactly is at stake? The quality of life of current residents, the quality of life sought out by new residents, the viability of marine and estuarine ecosystems, and the sanctity and solitude many of these towns rely on to attract tourists. The economic and social culture of coastal regions dependent on healthy marine and coastal resources is being jeopardized not only by rampant growth itself, but the pollution it helps create, as well as the loss of critical marine and wildlife habitat that inevitably result from new development. The CZMA has worked well for yesterday's coastal needs, but must be updated to contend with tomorrow's challenges.

We believe that thoughtfully crafted and well-defined amendments to the Coastal Zone Management Act can offer much needed hope and support to coastal communities in crisis. While the CZMA has succeeded in addressing many important coastal issues by developing unique federal-state partnerships to encourage interagency coordination and comprehensive solutions, new challenges facing coastal states outpace the Act's ability to deal with today's problems. This is especially true with regard to authorized funding levels, which do not reflect current needs of coastal states. Any reauthorization of the Coastal Zone Management Act must take into account future needs by boosting authorization levels so states can realistically deal with the increased populations headed toward their coastal zones.

Any reauthorization must also address the number one source of water pollution, polluted runoff. In 1990, Congress created the Coastal Nonpoint Pollution Control Program (Coastal Runoff Program) under Section 6217 of the Coastal Zone Act Reauthorization Amendments. While states have been making progress in preparing

and submitting their Coastal Runoff Programs to NOAA and EPA for approval under these provisions, it is essential that the reauthorization of the CZMA also incorporate and reauthorize funding for the Coastal Runoff Program to ensure that the program will be sustained and implemented on a long-term basis.

We are optimistic that Congress recognizes the importance of its task with regard to coastal resource needs, and urge reauthorization of the Coastal Zone Management Act this Session. We believe that in order to achieve its goals, the Act must reflect the following principles:

1. To address the number one cause of water quality impairment threatening coastal economies, aquatic resources and habitats, it is essential that the funding for the Coastal Nonpoint Pollution Control Program be reauthorized and the Program be formally incorporated into the CZMA, and that sufficient funds be authorized for its support;

2. The current provisions that distinguish the Coastal Nonpoint Pollution Control Program from other, less effective programs that address polluted runoff must be retained, including the key requirement to implement economically achievable measures to control pollutants from existing and new nonpoint sources of pollution, and the option to withhold financial assistance for failure to submit an approvable program;

3. New projects or grant programs supported through appropriations under the CZMA must be environmentally protective, maintaining the natural biological, chemical and physical integrity of coastal ecosystems. While the impacts of some projects such as beach renourishment, dredging and shoreline stabilization may be a subject of debate, there are certainly many sources of funding available for such programs. Therefore, the financial resources made available through the CZMA should focus on projects that provide agreed-upon benefits to coastal resources, and not those with definite or potential ecological risks.

#### THE COASTAL NONPOINT POLLUTION CONTROL PROGRAM

Most water quality impairment - more than 60% - now comes from nonpoint sources of pollution, or polluted runoff. (EPA National Water Quality Inventory, 1996 Report to Congress) Polluted runoff occurs when pollutants such as fertilizers, pesticides, sediments, nitrogen, phosphorous, pathogens, salts, oil, grease, toxic chemicals and heavy metals from the land are washed into rivers, lakes and, ultimately, coastal waters. Runoff from agriculture (feedlots, grazing and crops), urban and suburban development, roads, bridges, construction sites, logging and mining activities is the major reason why 40% of the nation's assessed waters are not fit for fishing or swimming. It is a major cause of fish kills, beach and shellfish bed closures, fish consumption advisories, and the 7,000 square mile dead zone that appears each year in the Gulf of Mexico. It is also associated with doubling the number of harmful algal blooms, such as red tides and pfiesteria, during the past 25 years, producing an estimated \$1 billion in economic losses to coastal communities in almost every coastal state.

The creation of the Coastal Nonpoint Pollution Control Program, under Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA) of 1990, was a significant step forward in combating the nation's number one water pollution problem, nonpoint source pollution or polluted runoff. The 101st Congress recognized that efforts to control polluted runoff had not been successful and that coastal areas were especially vulnerable to this type of pollution. The Coastal Runoff Program is the only national program that requires the implementation of minimum, cost-effective management measures to fight polluted runoff.

Administered jointly by EPA and NOAA, the Coastal Runoff Program requires state coastal programs with approved Coastal Zone Management Plans to implement minimum, technology-based and economically achievable management measures "for the control of the addition of pollutants from existing and new categories and classes of nonpoint source pollution which reflect the greatest degree of pollutant reduction achievable." 16 USC § 1455b(g)(5). EPA and NOAA guidance provide states with reliable and cost-effective measures in preventing or controlling major sources of runoff from agriculture, forestry, urban areas, marinas and recreational boating, and hydromodification, and for protecting wetlands, riparian areas and vegetated treatment systems. These management measures address the most prevalent sources of runoff, offering real progress toward solving this vexing pollution problem. Failure to submit a program that meets the minimum national standards can result in reductions in funding under Section 319 of the Clean Water Act and the Section 306 of CZMA. 16 USC §§ 1455b(c)(3) and (4). These penalties are additional incentives to ensure that states will establish a workable plan to combat polluted runoff.

Unfortunately, the success of the Coastal Nonpoint Pollution Control Program has been hampered by lack of funding. After the authorization for CZARA ran out in 1995, only \$1 million in federal funds were appropriated to run the entire national Program between 1995-98. In FY 99, Congress appropriated \$8 million. While this is a significant improvement, \$1 million has been proposed for rescission in the Senate Supplemental Appropriations bill (S. 544). More funding is needed to assist states in developing and implementing their programs. Although 29 state Coastal Runoff Programs have been conditionally approved, no state or territory has yet achieved final program approval. Therefore, funds are needed to help states meet conditions for final approval, and to eventually implement their approved programs. We believe that given appropriate funding, the Coastal Runoff Program is our nation's best bet for saving our coastal waters from the damage inflicted by polluted runoff.

With adequate resources we believe the Program has tremendous potential and provides a model for a national program to address polluted runoff. While some progress has been made under the Clean Water Act Section 319 program, until recently EPA's nonpoint source pollution grant program has suffered from a lack of funding. Despite the fact that it is the leading cause of water pollution, nonpoint source pollution under the Clean Water Act has received less than 3% of funding provided to states. Section 319 also lacks effective requirements to prevent polluted runoff. Although it requires that states prepare nonpoint source management plans, there is no requirement that such plans be implemented or enforced to control nonpoint sources of pollution.

Since runoff is the prime suspect in so many coastal water quality problems, achieving the goals of the CZMA depends on a successful Coastal Nonpoint Pollution Control Program. It is a cornerstone of the CZMA, and 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. As described in more detail in a new report released by the Coast Alliance entitled, *Pointless Pollution: Preventing Polluted Runoff and Protecting America's Coasts*, the success or failure of this 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 that are on the verge of completion. The pay-off from that investment should be realized by ensuring the Program's completion. Therefore, any reauthorization of the CZMA must retain the Coastal Nonpoint Pollution Control Program as is, and integrate it fully into the Act. 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.

The CZMA is also strengthened by a provision that requires federal actions in states' coastal zones to be consistent with state coastal zone programs. 16 U.S.C. 1456. The Coastal Runoff Program benefits enormously from the CZMA consistency provision, as it ensures that federal projects adhere to states' pollution control requirements. This prevents large scale federal projects from undermining state efforts to protect their coastal zones. Due to the fact that the federal government has long been known to be a major polluter, these consistency provisions also serve an important purpose and must not be weakened.

#### HR 1110 AND THE ADMINISTRATION BILL

Chairman Jim Saxton's Bill to reauthorize the CZMA in the House (HR 1110) authorizes funding for FY 2000 and for each year through FY 2004 at the following levels:

- \$55 million for the Section 306 and 309 grant program;
- \$5.5 million for CZMA administration;
- \$12 million for Section 315 construction grants projects at National Estuarine Research Reserves, and \$7-10 million for other grants; and
- \$20-35 million over 5 years for Coastal Community Conservation Grants under section 306A.

We support these authorized funding levels because they represent a significant much needed increase over current appropriations. We also support setting aside funds for the Coastal Runoff Program in either Section 306 or 306A of the CZMA to ensure that adequate funds for approved program elements of the Coastal Runoff Program are provided.

We also support the draft Administration bill to reauthorize the CZMA which the following in authorization of appropriations for FY 2000 and "such sums as necessary" for FY 2001 - 2004:

- \$61.7 million for grants under Sections 306, 306A, and 309;
- \$7 million for Section 315;
- \$28 million for Section 310; and
- \$5.5 million to administer the Act.

The Administration bill also contains an important environmental safeguard that should be incorporated into any Senate CZMA reauthorization bill. The Administration bill creates a new grant program to support coastal communities against increased development and urban sprawl (Section 310(c)), and requires that eligible projects be "environmentally protective" to ensure that funds not be provided for projects that might harm coastal resources such as unsustainable and environmentally harmful dredging and erosion control projects.

For purposes of comparison with authorized levels of funding in HR 1110 and the bill, the table below shows recent figures (in millions) requested for CZMA in the FY 2000 budget for the 32 states with approved plans:

PROGRAM	FY98 enacted	FY99 enacted	FY2000 request
CZM Administration	\$4.5	\$4.5	\$5.5
CZM 306/309 Grants	\$49.7	\$53.7	\$55.7
CZM 310	0	0	\$28
CZM 6217 (implementation)	\$1	\$4	\$6
NERRS	\$5.65	\$4.3	\$7
Totals	\$60.85	\$66.5	\$102.2

We urge the Subcommittee to support the increases proposed in the FY 2000 budget.

We believe both the Administration's proposed bill and Chairman Saxton's HR 1110 make significant improvements to current law. Both bills integrate the Coastal Nonpoint Pollution Control Program into the CZMA. Retaining that authority is absolutely critical if coastal states are to make any real progress to combat polluted runoff. In addition, both bills set aside funds to implement management strategies and control measures of their approved Coastal Runoff Plans, and require the Coastal Runoff Programs to be evaluated along with other enforceable state program elements under Section 312 of the CZMA. Once the Coastal Nonpoint Program's are fully approved, program evaluations under Section 312 are one of the few ways to provide the necessary federal oversight to ensure that Coastal Runoff Programs are implemented adequately.

We favor this approach as we believe it will direct much needed resources toward solutions for polluted runoff, the primary threat to coastal water quality. A set aside in either Section 306 or 306A is an important check to hold states accountable for the use of federal grant dollars. We recognize that the Coastal Runoff Program has been woefully underfunded, and that states need increased funding and flexibility to meet federal guidelines. However, prioritizing federal aid to states under the CZMA to address the most critical pollution threat (polluted runoff) is common sense and good public policy. We are certainly open to exploring other approaches so long as the goal of prioritizing funds to the Coastal Runoff Program is accomplished.

We are also pleased that both the Administration bill and H.R. 1110 retain the enforceable policies and mechanisms in CZMA Section 306 (d)(16) and the penalty provisions for failure to develop approvable programs. Since many states must still satisfy conditions before their programs reach the stage of final approval, this could

take several years. It is imperative that these provisions be retained in the reauthorization. These enforceable provisions make the Coastal Runoff Program an effective tool in the war against polluted runoff, and are crucial to the Program's overall success. New program guidance strikes a balance by initially allowing the use of voluntary measures, so long as enforceable mechanisms are phased in pursuant to timetables and mileposts if voluntary measures fail. This federal backstop is essential to an effective program and it must be retained if the Coastal Runoff Program is to offer a real opportunity to control and prevent polluted runoff, and avoid the costly degradation of America's most valuable ecosystems.

#### CONCLUSION

It is no exaggeration to say that our coasts are under siege. We must find a sustainable way to accommodate larger populations, or risk losing coastal resources and creating unlivable communities. The many pressures which threaten to degrade the viability of our nation's coastal ecosystems are within the purview of the Coastal Zone Management Act. The successful reauthorization of this fundamental law is vitally important to the future of our coastal resources, and it is essential that it be reauthorized this session of Congress. As time passes, the threats to our coasts only loom larger. We urge that the Senate start immediately to construct a carefully crafted reauthorization of the Act that includes the integration of the Coastal Nonpoint Pollution Control Program as provided in the language proposed in Appendix A.

In summary, we strongly urge the Subcommittee to embody the following principles in reauthorizing the CZMA:

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 provisions requiring the implementation of management measures to control polluted runoff, and sanctions for the failure to submit approvable programs must be maintained.
3. Any new projects or programs supported through appropriations under this Act must be environmentally protective, maintaining the natural biological, chemical and physical integrity of coastal ecosystems.

We appreciate the opportunity to submit our testimony for the record. We look forward to working with this Subcommittee to protect our invaluable coastal ecosystems.

Senator SNOWE. Thank you, Mr. Eichenberg. Dr. Earle.

#### **STATEMENT OF SYLVIA A. EARLE, PH.D., EXPLORER IN RESIDENCE, NATIONAL GEOGRAPHIC SOCIETY**

Dr. EARLE. Thank you, Madam Chairman. I appreciate the opportunity to testify concerning the reauthorization of the Coastal Zone Management Act. I have a written statement that has been submitted.

I am appearing here today as the former Chief Scientist of NOAA, as the present Explorer in Residence at the National Geographic, and I am also associated with the Center for Marine Conservation, and a number of other organizations, but mostly I am here as a private citizen, concerned about the future of my country, aware as I am that whatever happens in the next century, the next millennium and beyond, depends on decisions that we are making right now about the land, water, the air, the living and natural resources that most people, most of the time, tend to take pretty much for granted.

Astronauts are not complacent about such things, because when they go up in the sky they take their life support with them and they know where every breath of air comes from, every drop of water, et cetera. So do those of us who are lucky enough to go down into the sea. You get a different perspective, and it comes into focus very quickly what a life support system is all about. What we are talking about here are critical elements of our life support sys-

tem—the parts of the planet that give rise to the oxygen that we take for granted, the water that, again, we have tended to take for granted.

I was interested in the comments about the level of funding, and Senator Kerry's astute observation about budgets and how they are limited, and how they are set. It is not exactly arbitrary, but there are priorities that are established. What we are seeing right now is a kind of priority being set in the time of war to find funding for situations that are really urgent. What we have here is, in a sense, a kind of war that we unwittingly are waging on the environment that supports us.

It is in slow motion, over 20 years or so, but, nonetheless, it is something that is affecting all of us in a way that really does impact our very lives. We should look at this matter with a similar kind of urgency, and not hold back from applying the resources needed to take care of those systems that are presently threatened by us and by our actions.

We have predecessors to thank for good decisions in the past about protecting the natural national assets in terms of land, air and water. I especially focus on the coastal zones here. We have the Estuarine Research Reserve System. We have a system of a dozen marine sanctuaries that are steps in the right direction. But they are just steps toward a much greater kind of effort that we must take in order to protect those systems that are vital to us.

In fact, about the budgetary issues, I agree totally that we should try to live within our budgetary means. But we are not living within our environmental budget, our environmental means. We are spending assets, actually consuming the capital needed to sustain us. We are paying right now the cost for the loss of wetlands, marshes, mangroves, forests, barrier beaches, the natural dunes, and other systems, with increasing costs dealing somehow with the services these systems once provided—the storm damage, the benign recycling of waste, the natural filtration, the cleansing of water, the production of oxygen—all those things.

We are further paying for the price of damaging the resilience of these systems through one of the key factors in the Coastal Zone Management Act provisions, about the nonpoint source pollution. Future generations will continue to pay and pay and pay unless we can take measures right now to reverse these costly trends.

The Coastal Zone Management Act has been doing just that—a good job in at least trying to slow, and in some cases reverse, those trends. As a nation, if we are to continue to effectively deal with growing human impacts on the coastal zone, it is critical that the Coastal Zone Management Act retain the enforcement provisions for polluted runoff currently in the law, and fully integrate the coastal nonpoint source pollution control program into the reauthorized statute.

Without enforceable measures to prompt States to create technology-based management measures to prevent polluted runoff, the health of the ocean and, in a very close relationship, our own health, our own well-being, is in jeopardy. Those inspired to halt the contamination of our coastal waters and the sea beyond really should think about starting at the tops of mountains, at the headwaters of rivers, the heartland of America, the fields, the farms,

the backyards, the lawns, the streets, the golf courses, the ball fields, where excessive application of biocides, fertilizers and other chemicals has yielded high concentrations of nitrates, phosphates and other materials that eventually go into groundwater, streams, into the ocean—some refer to this as the ultimate sewer—and ultimately back to us.

How many States are affected by what happens in the coastal zone? All of them.

How many States have an impact on the coastal zones? All of them.

Because we are not talking about being able to carve up the country into something that you can separate these things out. All things are impacted by all other things.

I have some specific suggestions or proposals to make, recommendations, concerning what should be perhaps done with respect to the reauthorization of the Coastal Zone Management Act. It comes certainly at an opportune time, a time when the need is the greatest it has ever been. The Federal Government, along with its partners at the State, county and local government level, must make a concerted commitment to the Nation's coastal and ocean resources.

So I recommend, respectfully, that with respect to the grants made to the States, that there be commitments on the order of \$55 million each fiscal year through 2004; \$30 million for 306(a) grants to States for the polluted runoff programs in fiscal year 2000; a strong coastal nonpoint pollution control program. The whole idea of nonpoint pollution is that people somehow miss the point that if you inject toxic materials anywhere into the system, they are going to infect the entire system.

Some say it does not bother or affect me if it is somewhere far away. It is like saying it is OK to inject poison in your ankle, but not into your shoulder. We have got to realize that everything connects.

Finally, we need provisions to ensure that grants under the Coastal Zone Management Act are environmentally protective. Meaning that they not be used for such things as beach-hardening projects, shoreline erosion structures or dredging projects that harm coastal ecosystems.

By authorizing this Act to include the above provisions, this subcommittee and the U.S. Senate will have lived up to the responsibility that we all have right now on behalf of the public, good, and will fulfill the objectives of the Act. This is an exceptional opportunity for Congress to pass a bipartisan bill, aimed at vital environmental and economic issues.

I urge you to take advantage of this momentous point in history, a time when, as never before and perhaps as never again, we can move forward into an era of greater stewardship, of protecting and restoring health to the Nation's natural, coastal and ocean assets. But at the same time, you will be crafting an enduring legacy.

Madam Chairman, Senator Kerry, thank you for your work on behalf of the coastal and ocean resources and for this opportunity to testify before you today. I will be pleased to work with you in any way I can.

[The prepared statement of Dr. Earle follows:]

PREPARED STATEMENT OF SYLVIA A. EARLE, EXPLORER IN RESIDENCE,  
NATIONAL GEOGRAPHIC SOCIETY

Mr. Chairman, Members of the Subcommittee, thank you for the opportunity to testify concerning the reauthorization of the Coastal Zone Management Act. I am appearing here today with a lifetime experience as an oceanographer, formerly Chief Scientist of the National Oceanic and Atmospheric Administration; as a businesswoman, founder of Deep Ocean Engineering, Inc., Deep Ocean Exploration and Research, Inc., and member of various corporate boards; as Spokesperson for the U.S. during the Year of the Ocean as well as for the organization, Sea Web on ocean issues; as a member of the board for numerous research and conservation organizations; as an author of numerous scientific, technical and popular publications; as the National Geographic's Explorer in Residence and Leader of a five year program of exploration, research and education focussed on the National Marine Sanctuaries—the National Geographic's Sustainable Seas Expeditions, as well as serving as the Center for Marine Conservation's "Ambassador for the Ocean." But most importantly, perhaps, I am here as a private citizen concerned about the future of my country, aware as I am that whatever happens in the next century, the next millennium and beyond depends on critical decisions being made right now about the land, water, air, living and other natural resources most people have always tended to take pretty much for granted.

Astronauts are not complacent about these things, nor are those of us lucky enough to venture deep in the sea. For us, the matter of "life support"—not taking it for granted—soon comes into focus. Those who are lofted into space must take with them every drop of water, every breath of air, every bite of food, every bit of clothing, and think and plan for the ultimate disposition of every scrap of paper, every bottle top, every cupful of waste generated. The same is true to those who journey in small submersibles far beneath the surface of the ocean. When it is necessary to think about, provide for, and pack along even the most basic goods and services required to stay alive, one sees the world with new eyes and recognizes clearly that the hospitable environmental circumstances here on Earth are special, rare, precious—vulnerable. It also is clear that water is the cornerstone of earth's life support system—and the most of it is ocean.

If I have learned anything in six decades it is that there is no free lunch, yet people generally have a way of regarding natural resources as free for the taking. In my lifetime and yours, there has been unprecedented squandering of this nation's natural resources representing an immense loss to the core asset base that has enabled us to come as far as we have with the power, strength, and leadership position that the United States now enjoys. When Lewis and Clark set out to explore the American west two centuries ago, the country was naturally blessed with abundant forests, wetlands, and wildlife. The skies above, the waters overall were essentially pristine. There was an illusion then that in large measure persists, that natural resources are infinitely resilient, and if by chance—or by design—parts of the natural endowment were destroyed—species lost, fish and bird populations diminished, forest cut, marshes drained, rivers polluted—nothing was subtracted from the GNP to account for lessening the nation's natural assets. Impacts on our life support system have largely been ignored.

We are now paying for the loss of wetlands, marshes, mangroves, forests barrier beaches, natural dunes and other systems with increasing costs of dealing somehow with the services these systems once provided—excessive storm damage, benign recycling of wastes, natural filtration and cleansing of water, production of oxygen back to the atmosphere, natural absorption of carbon dioxide, stabilization of soil, and much more. Future generations will continue to pay, and pay and pay unless we can take measure now to reverse these costly trends.

The Coastal Zone Management Act has been doing just that. As a nation, if we are to continue to effectively deal with the growing human impacts on the coastal zone, it is critical that the CZMA retain the enforcement provisions for polluted runoff currently in the law, and fully integrate the Coastal Nonpoint Pollution Control Program into the reauthorized statute. Without enforceable measures to prompt states to create technology-based management measures to prevent polluted runoff, the health of the ocean—and our own well being—is in jeopardy.

Those inspired to halt contamination of our coastal waters and the sea beyond must start at the tops of mountains, the headwaters of rivers, the heartland of America—the fields, farms backyards, lawns, streets, golf courses and ball fields - where excessive applications of biocides, fertilizers and other chemicals has yielded high concentrations of nitrates, phosphates, and other materials that eventually make their way through ground water, streams and rivers to the ocean—laconically referred to by some as "the ultimate sewer."

Anyone who doubts the land-sea connections should peer over the shoulder of an astronaut, at least vicariously, to get the big picture—not only about what flows from the land into the sea, but also, to understand how the sea affects the land, no matter how far from the shore we might live. Watching the T.V. weather station helps make the connection. The sea shapes planetary climate, weather, temperature, chemistry, and is home to most of life on earth.

Pollution of our coastal waters has yielded a legacy of degraded rivers and streams, beach closures, loss of valuable shellfish resources, and a so-called “Dead Zone” covering more than 6,000 square miles in the Gulf of Mexico. Polluted runoff has also promoted the toxic *Pfiesteria* outbreaks on the Mid-Atlantic Coast, made bathers sick on beaches in California, clogged important shipping channels in the Great Lakes, and given rise to dramatic problems in Florida Bay and the adjacent coral reefs in the Florida Keys.

Increased nitrates in coastal waters may be linked to spread of diseases such as cholera. These are costly consequences of not paying attention to the importance of taking care of the natural systems that, in effect, take care of us.

As the same time, in our time, there has been a dramatic reenactment of the wholesale consumption of wildlife in the 1800’s and early part of this century, only now instead of buffalo, passenger pigeons, songbirds shorebirds, beaver, wolves and bears our attention for mass markets of wildlife has been directed toward life in the sea. The extremely costly collapse of cod pollack, haddock, capelin, flounder, swordfish, bluefin tuna and dozens of other commercially valuable species has come about for many reasons, not the least being in indifference to history. We might have learned from precedents set on the land, yet we continue to extract wild creatures from wild systems using highly destructive methods that undermine our nation’s natural treasury.

No species can withstand the relentless high-tech predation now being imposed on hundreds of kinds of creatures that have developed to natural means of defense against our present means of finding, capturing, processing, and distributing them as commodities throughout the world. Lost in the process are not just potentially valuable sustained uses of marine life for food at more conservative levels, but also for all the other valuable services they may yield in terms of maintaining our “life support system”. For example, shellfish in Chesapeake Bay at the turn of the century filtered and thereby cleansed the entire contents of the bay in a few days; now, with oysters reduced to about 2% of what they were in the early 1900’s, and with greatly increased nutrient loads that stimulate plankton growth, it is estimated that it takes more than a year for a shellfish to filter the bay’s volume.

The buzzword for addressing this problem today is “sustainable development.” How can we, in fact, continue to use the natural resources that sustain us—without using them up? The first step toward resolving what may seem to be a hopeless catch-22 is recognizing that problems exists. For many citizens of the United States, even those who live by the sea, there has been widespread complacency and a troubling sense of detachment about what is happening to the nation’s coastal region. But that is changing as the links between the health of the ocean and our own well-being become increasingly obvious.

Last year was designated the Year of the Ocean, and 1997 was celebrated internationally as the Year of the Reef—both drawing attention to the problems now facing coastal areas worldwide. A clear need was demonstrated to develop more responsible ocean policies than those that have given rise to present degradation of valuable resources. Since the Stratton Commission was formed over thirty years ago, the United States has not had a national, comprehensive ocean policy. Since that time, technological breakthroughs, transportation improvements and global pollution have made the ocean seem a lot smaller and proven that they are much more vulnerable than once was believed.

I am presently engaged in a five year program of exploration, research and education—the Sustainable Seas Expeditions—a public-private partnership involving the National Geographic Society and NOAA with funding from the Richard and Rhoda Goldman Fund in cooperation with various private and governmental institutions including NASA, the U.S. Navy, the EPA, the Monterey Bay Aquarium Research Institute, and the Mote Marine Laboratory. Hundreds of scientists and educators are involved as well as numerous student participants. Our focus is on the coastal zone. There are several objectives, including the strengthening of the nation’s system of young but promising National Marine Sanctuaries—an underwater counterpart of the National Park System. Twelve are now included and a new one is soon to be designated in the Great Lakes at Thunder Bay. The goal is to develop a stronger ethic of caring, an ocean ethic that will reinforce and extend the stewardship provisions of the CZMA. No doubt about it, the CZMA, if fully implemented, will help us to better care for the nation’s vital coastal resources.

As policy makers, I urge you to back and to strengthen the CZMA for a long list of good reasons ranging from sound short term economic good sense to sound long term economic good sense to sound environmental sense, near term and long term. These are not only compatible reasons; they are inextricably linked reasons. Sound economy, sound environment. It does make sense. There are ethical considerations, too, of course. Protecting natural resources so your sons and daughters and their children, the descendants of all of us for all time will either thank us for our foresight because we took care of the assets and delivered them safely into the future, as Theodore Roosevelt implored us to do. . . . “enhanced, not impaired in value. . .” or, they will look upon us with disdain and despair for having squandered in our lifetime the distillation of four and a half billion years.

Reauthorization of the CZMA comes at an opportune time—a time when the need is the greatest it has ever been. The federal government, along with its partners at the state, county and local government level, must make a concerted commitment to the nation’s coastal and ocean resources. I respectfully recommend that the following provisions be included in the reauthorization of the CZMA:

1. \$55 million each fiscal year through FY 2004 for 306 grants to states;
2. \$30 million for 306a grants to states for polluted runoff programs in FY 2000,
3. a strong Coastal Nonpoint Pollution Control Program;
4. provisions to ensure that grants under the CZMA are environmentally protective, meaning they not be used for beach hardening projects, shoreline erosion structures or dredging projects that harm coastal ecosystems.

By reauthorizing the CZMA to include the above provisions, this subcommittee and the United States Senate will have lived up to its responsibility to act on behalf of the public good and will fulfill the objectives of the Coastal Zone Management Act.

In addition to increased funding as outlined above, it is crucial that any updated CZMA include a Coastal Nonpoint Pollution Control Program that can help states prevent the major sources of pollution threatening water quality. The federal polluted runoff program, administered jointly by NOAA and the EPA, must maintain the requirement that state coastal programs contain enforceable policies and mechanism to implement nonpoint pollution controls. Without enforceable mechanisms, there is no guarantee that this federal program will be effective. By requiring that funds be withheld under the CZMA and CWA if adequate coastal nonpoint programs are not prepared, coastal states are compelled to develop workable plans to prevent polluted runoff. Once their plans are approved by NOAA, they will then be eligible for additional grant money for implementation. This mild form of encouragement is warranted given the urgency of the problem and the high cost of inaction.

This is an exceptional opportunity for Congress to pass a bipartisan bill aimed at vital environmental and economic issues. I urge you to take advantage of this momentous point in history, this time when as never before and perhaps as never again we can move forward to an era of greater stewardship, of protecting and restoring health to the nation’s natural coastal and ocean assets. In the short term, you will be acting on behalf of those now living—including you and me—but at the same time, you will be crafting an enduring legacy.

Mr. Chairman, Members of the Committee, thank you for your work on behalf of coastal and ocean resources and for the opportunity to testify before you today. I shall be pleased to work with you and will help any way that I can.

Senator SNOWE. Thank you. Thank you all for your excellent testimony.

We have a vote that has been called. Senator Kerry, did you have any questions you would like to ask?

Senator KERRY. Just a couple of quick things. I am not going to be able to come back after the vote.

Ms. Cooksey and Mr. Keeley, you are both practitioners at the State level at this point. That is of enormous importance to us as we think about this. You have heard the challenge from those who are deeply involved but not within a State government specifically at this moment. How do you respond to the questions I asked earlier about the adequacy of the current relationship?

Obviously you want your independence. You, I know, cherish not being pushed around. But do you think that the capacity to respond is adequate, or is there a gap at the Federal level that leaves

you sort of clawing uphill? What is your overall assessment of where you find yourself?

Mr. KEELEY. Well, from my Maine perspective, we enjoy solving our problems at home. We certainly beg, borrow and steal ideas from others who are successfully doing something. But we believe that we know what our priorities are and know how to work on them.

The issue of capacity—this is a scalable exercise that, if we were looking today at a CZMA appropriation of \$100 million or \$200 million, there is a lot of work that needs to be done. My point is that at what CSO is suggesting, of \$75 million a year, that will allow us to go to the next level and make some significant inroads.

Senator KERRY. Of course, Maine is the kind of State that would stand out as a model, as are a few others, from New England, I am happy to say. Perhaps this is because people in these areas have always had a special relationship with the environment and the sea. There are other places in the country—I am not going to name them now, but some of them know who they are, and we all know who they are—where there just does not exist that kind of individualistic and independent self-start capacity.

Some of them slow some of us up. For instance, Massachusetts, which is ready to proceed with a nonpoint source effort, is held up because other States have not signed off and will not sign off. So we are sort of the prisoners in that regard.

How do we break out of that mold? You would, I would think, rarely be told what to do or imposed upon, but it is the other states that we somehow need to leverage. Do you want to take that on, Ms. Cooksey?

Ms. COOKSEY. The statute has an existing section in it, Section 312, the evaluation process, where NOAA comes every 2 to 3 years and reviews your program. I believe they have the authority to make sanctions and withhold grants if you are not performing up to your—

Senator KERRY. That is correct. But the effect of withholding the grant is to guarantee that what you want to get done does not get done.

Ms. COOKSEY. Yes, it is difficult.

Senator KERRY. I am trying to find a mechanism for guaranteeing that what you want to get done gets done.

Ms. COOKSEY. It is very difficult. We, too, think of our State as leaders. I think of us as doing a good job. I can understand your comments about some other States that perhaps are not as progressive and do not have the resources or the political will to do what some of us would feel are the right thing to do. It is tough.

I do not necessarily think sanctions work in all cases. I think that people, in general, will do the best that they can. We have talked a lot about nonpoint today. There are some problems with the program. But we have made progress. But we have a lot of work to do. Frankly, these funding levels are minuscule.

Senator KERRY. Yes, they really are. I do not disagree with you at all. They are absolutely minuscule.

Mr. Eichenberg and Dr. Earle, we have got to go vote momentarily. I assume, Madam Chairman, you will leave the record open so we could submit some questions.

Senator SNOWE. Yes, I will.

Senator KERRY. Thank you. Do you want to quickly add anything to the comments just made?

Dr. EARLE. Well, that the funding is minimal. The good news is that a request is being made for something on the order of \$100 million, or this is what is being put forward. That is the good news. The bad news is that it is on the order of \$100 million. We really do have some urgent, critical, here-and-now problems to address. If we miss this window of opportunity, the cost of not taking action now is enormous. It can be preventative at this stage.

Senator KERRY. It would be terrific if each of you could submit to us your order of priority for where additional funds might be spent. That would be very helpful.

Mr. EICHENBERG. Senator Kerry, my order of priority would be the coastal runoff program. That is the No. 1 priority for the Coastal Zone Management Act. The CZMA is not a prescriptive statute. It was not adopted that way, except in 1990, when you offered your amendment to the CZMA. It prescribed a solution to the No. 1 water pollution problem that we had at that time. It has only gotten worse.

I think that your analogy of the Magnuson Act is a good one. I think sometimes you do need to have some minimum standards. The CZARA amendments of 1990 did prescribe the only national program that requires States to do something to deal with polluted runoff.

Now, what they do and how they do it is, by and large, up to them, pursuant to some broad Federal guidelines. That is the way it should be, because each State is different. But there is not really any sanction under that program, except for the withholding of money. As you say, that is just shooting yourself in the foot. I think we need to look at some other paradigm, perhaps, than that.

Senator KERRY. Well, maybe we can model it off some of the lessons we learned from the Magnuson-Stevens Act, which appear to be having a better impact.

Madam Chairwoman, thank you for your graciousness. I appreciate it.

I thank all of you for coming.

Senator SNOWE. Thank you very much, Senator Kerry.

One of the questions that is really critical to this whole issue is about the nonpoint source pollution. I know, Mr. Eichenberg, you were mentioning that the Clean Water Act has been deficient in addressing that question. As Senator Kerry mentioned, it does take the cooperation of a number of States. We looked at the dead zone in Louisiana; we had hearings on that issue last year. There is runoff from about 30 different States. So, where do you begin?

The legislation proposed by the Administration takes a fundamentally different course with respect to this particular issue. I think—in terms of enforcement—that the Administration is going to withhold funds, and that they are going to require the States to use X percentage of funds for this particular purpose. I think that is fundamentally different from the direction this legislation has taken in the past. That is my concern. I think that the States obviously are on the front lines of nonpoint source pollution with re-

spect to their coastal areas and all parties want to correct this problem.

So how can we work in a cooperative fashion to make sure that we achieve the goal of addressing nonpoint source pollution, but doing so in a way that is constructive? I hesitate to think about the impact of legislation that says: well, sorry, the States are not including an effective program within their plan, therefore we are going to withhold the money.

I am not so sure that is the most constructive approach to take with respect to this issue, which, as you suggested and others have suggested, is becoming one of the primary challenges to our environmental concerns. It will continue to be. It is going to take the cooperation of everybody, including industry, I should say, who also should be included in this dynamic if we are really going to resolve this question and get everybody to participate in the solution to this significant environmental challenge.

Mr. EICHENBERG. Senator Snowe, you are right that the Administration bill does take a different approach. It is similar to the approach taken by Congressman Saxton in the House with respect to the set-aside, the 10 to 20 percent. I would only disagree with that in the sense that it limits the States with respect to how much they can spend. I disagree with the 20-percent cap on that.

I think there should be a minimum amount that is spent on this coastal runoff program, if indeed it is the priority that Congress has declared it was back in 1990, and in 1987, when the Clean Water Act was amended to include Section 319. However, I do not think that it limits how States address this issue by simply saying: We in Congress believe this is such an important program that you have to spend a minimum amount of money, which we are putting into the program. It is not limiting the amount of money. It is actually boosting the amount that is in the base program funding by at least 10 percent. At least that is the Administration's request.

So I do not see it as a limitation, but I do see it as an expression of priority on the Congress' part, to say that a certain minimum amount of money should be spent to deal with this extremely important problem that we are not making progress on.

Senator SNOWE. Mr. Keeley, Ms. Cooksey, did you want to comment?

Ms. COOKSEY. I would just comment that I do not think it makes any sense to take away from our base program that has been successful. Everybody knows there are serious coastal nonpoint source pollution problems. We should fund it. We should not take it from all the other things that we do well. We should not take it from communities. We should not take it from waterfront revitalization. We should not take it from public access. We should not take it from making better dredging projects. We should fund it. It should be funded separately.

Senator SNOWE. Mr. Keeley.

Mr. KEELEY. Sure. I would just add that Congress established national priorities in the Coastal Zone Management Act in 1972. It has reaffirmed them in each of the appropriations. Possibly what we are talking about now is we have a set of priorities, and within those, we have additional priorities. I would go back to my earlier comment that I think it is up to the States to determine what their

priorities are. The CZMA is all about dealing with a diverse array of issues, nonpoint being one of those.

Senator SNOWE. Dr. Earle.

Dr. EARLE. Well, I am a strong believer, whether it is individual people or individual States, having a lot of control over what they do. But it is within a framework of recognizing that we have to work to the general good, as well. We live in a community. We live in a country. We have to just make decisions that have that as an uppermost characteristic. It is part of just being good citizens, doing the right thing.

While I am not suggesting that the wrong thing would be done by individual States intentionally, there is an overall framework, because of the interconnectedness of particularly the nonpoint source pollution issue, but it affects other things, as well. Any part of the environment that is kept in a good and healthy state affects in a positive way everybody, just as a destruction or an eroding away of the good health of any part of any State affects the Nation as a whole.

Senator SNOWE. Well, I certainly appreciate your observations and positions on this issue. I intend to pursue the reauthorization. I know we have got some issues to work out. They are very important, without a doubt. My primary goal is to reconcile these issues, while, at the same time, maintaining the goals that you have all set forth. Hopefully we can do it in a way that achieves the overall objectives of the program.

There is no question that the current authorization levels are not sufficient to meet the challenges that we are facing with respect to this issue, particularly the nonpoint source pollution. There is no question.

So we will be working with each of you as we pursue this reauthorization. I thank you very much for coming here today. I will submit additional questions to you, and we hope that you will have a chance to respond to them for the record. Any additional testimony, any additional observations—we certainly would welcome you to put those in the record, as well.

Again, I thank you. I have to conclude, at this point. So, I thank you. This hearing is adjourned.

[Whereupon, at 4:10 p.m., the hearing was adjourned.]



## APPENDIX

### RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN F. KERRY TO TERRY D. GARCIA

*Question 1.A. At the hearing, Assistant Administrator Garcia stated that states receive their grant allotments from NOAA approximately 60 days from the time an application is filed. Please describe this grant process review timeline, from date of application to receipt of funds. Include in this timeline the number of days from receipt of application to: (1) completion of application review; (2) submission of comments on application to state; (3) review and approval of any necessary re-submission by the state; (4) payment of grant funds to state.*

Answer. The NOAA Grants Management Division (GMD) must receive the final grant application 60 days prior to the start date of an award in order to complete its review and processing and to get the approved award package out to the state recipient. For example, the final application for awards with a July 1 start date are due in GMD by April 30th. Final applications for awards with an October 1 start date are due in GMD by June 30th.

NOAA's Office of Ocean and Coastal Resource Management's (OCRM's) processing schedule is derived by working backward from the date final award applications are due in GMD. Following is a sample schedule for a FY 1999 section 306 award with a July 1 start date:

	Processing Time	Date
Draft Application Receipt Date (OCRM)		March 12
Draft Application to GMD:	2 days	March 16
GMD Comments on Draft to OCRM:	2 weeks	April 2
OCRM/GMD comments Back to State:	Same Day	April 2
Final Application Receipt Date (OCRM)	2 weeks	April 16
Award Package Circulated in OCRM:	1 week	April 23
Final Grant Application to GMD:		April 30
Award Start Date:	60 days	July 1

Sample schedule for a section 306 award with an October 1 start date:

Draft Application Receipt Date (OCRM)		April 19
Draft Application to GMD:	1 day	April 20
GMD Comments on Draft to OCRM:	20 days	May 17
OCRM/GMD Comments Back to State:	Same day	May 17
Final Application Receipt Date (OCRM)	14days	June 4
Award Package Circulated in DORM:	8 days	June 16
Final Grant Application to GMD:		June 30
Award Start Date:	60 days	October 1

*Question 1.B. For the last 3 fiscal years, for each eligible state, please list the number of days between submission of state grant applications to NOAA and NOAA's final approval and payment of grant funds to states under their application.*

Answer: For the information provided below, the date is when the final application was sent to GMD by OCRM. The number of days in parentheses is GMD's actual processing time for the award (see response to question 1.A.) and award of

funds to state. Please note that even if GMD's processing time went beyond 60 days, and approval of the grant occurred after July 1 or October 1, the effective award date was specified as the July 1 or October 1 start date so that the state will not have an unfunded gap in time.

CZMA Section 306 Grants			
STATE	FY 1997	FY 1998	FY 1999 <sup>1</sup>
AL	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
AK	5/12 (30 days)	5/1 (42 days)	5/4 (37 days)
AS	6/30 (66 days)	7/1 (65 days)	7/1 (65 days)
CA	5/2 (41 days)	5/1 (42 days)	5/4 (37 days)
CNMI	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
CT	5/15 (33 days)	5/1 (42 days)	5/4 (37 days)
DE	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
FL	5/16 (32 days)	5/1 (42 days)	5/6 (39 days)
GA	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
GU	7/3 (63 days)	7/1 (65 days)	7/1 (65 days)
HI	5/12 (30 days)	5/1 (42 days)	5/4 (37 days)
LA	5/16 (32 days)	5/1 (42 days)	5/4 (37 days)
ME	5/6 (35 days)	5/1 (42 days)	5/4 (37 days)
MD	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
MA	5/15 (33 days)	5/1 (42 days)	5/4 (37 days)
MI	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
MN	N/A	N/A	4/30 (43 days)
MS	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
NH	5/14 (33 days)	5/15 (33 days)	5/18 (31 days)
NJ	5/15 (32 days)	7/1 (65 days)	7/1 (65 days)
NY	5/14 (33 days)	5/1 (42 days)	5/4 (37 days)
NC	5/12 (35 days)	5/1 (42 days)	4/30 (43 days)
OH	N/A	5/1 (42 days)	5/4 (37 days)
OR	5/12 (30 days)	5/1 (42 days)	5/4 (37 days)
PA	5/1 (42 days)	7/1 (65 days)	7/1 (65 days)
PR	6/30 (66 days)	7/1 (65 days)	6/16 (77 days)
RI	5/15 (32 days)	5/1 (42 days)	5/6 (35 days)
SC	5/12 (35 days)	5/1 (42 days)	4/30 (43 days)
SC <sup>2</sup>	N/A	N/A	4/9 (41 days)
TX	6/30 (66 days)	5/1 (42 days)	4/30 (43 days)
VI	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
VA	7/1 (65 days)	7/1 (65 days)	7/1 (65 days)
WA	5/14 (33 days)	5/1 (42 days)	5/6 (35 days)
WI	7/1 (65 days)	7/1 (65 days)	7/1 (65days)

<sup>1</sup> The FY 1999 dates and times are estimated.

<sup>2</sup> South Carolina Beaufort SAMP grant.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO  
DAVID KEELEY

*Question 1. The House bill, H.R. 1110, proposes that states provide a 1-to-1 match of federal dollars under Section 309. Please explain what effect such a change in current law would have on the Maine Coastal Program.*

Answer. Maine could, with little to no difficulty, provide some level of match (state in-kind staff resources) for 309 enhancement projects carried out by the state. For example, a Section coastal hazards project in our 99/00 work program is funded by NOAA at \$38,000 and (although not required), an estimated match of \$16,000 is provided in state resources (state-funded geologist and GIS support)

For projects involving local and regional partners however, a required match (particularly a 1:1 match) might be difficult and might impede progress on enhancement projects. A current project in Southern Maine provides an example. Although not required by our NOAA grant, MCP requested that towns participating in the regional beach management planning process contribute one-half of the costs for the project, as a signal of their commitment to manage sand beaches as regional resources. Five out of nine towns in Southern Maine are now participating but others cite the match requirement as an impediment to their participation. Projects that are regional (watershed or ecosystem) in approach often compete with municipal funding interests, yet we know that the approach is beneficial to protection of coastal resources.

The Maine program could most likely meet additional match requirements (we suggest a 25-50% match) with no anticipated negative impact, provided that the state was awarded flexibility in meeting overall match requirements, could compensate for lack of local match, and could continue to use in-kind resources as match.

*Question 2.A. Is the State able to delineate between the CZM portion and the Clean Water Act portion of the state's nonpoint source pollution control program? If so, please explain in detail.*

Yes, but the delineation is only clear with respect to administrative details, such as financial management, oversight of (some, but not all) 6217 funded projects, and separate lines of communication with federal agencies. The Maine Coastal Program manages 6217 funds, coordinates a limited number of projects, provides contractual funds for DEP to manage a limited number of projects and is the point of contact with NOAA for 6217. The Maine DEP manages the 319 grant program, has oversight over environmental regulations and is the point of contact for EPA for Clean Water Act programs. The Maine Coastal Program and DEP staff have each provided staff support for the many multi-stakeholder processes that have shaped the 6217 program.

The substance of our coastal non point efforts (use of BMPs, new stormwater law, grants for remediation of non point, public education campaigns), is firmly (and intentionally) embedded in the state's overall non point source program. Also since NOAA's rejection of our proposed (scientifically based) management boundary, the entire state is proposed to be our 6217 management area.

*B. Through Section 312 of the CZMA, NOAA conducts a review of the extent to which the state has implemented and enforced the program. If the State and NOAA were able to agree on a way to delineate between the two, would the State support the inclusion of the CZM nonpoint source pollution control program within the review of overall program performance? Please explain in detail.*

Answer. We think accountability is important and because Maine has a networked coastal program, the performance of our partner agencies (re: activities and projects in the coastal zone) is routinely examined during our 312 program review. We would consider it well within the purview of the 312 review process to: (1) look at the effectiveness of our interagency partnership, (i.e. how the Maine Coastal Program, the Maine DEP and other agencies cooperate on coastal non point), (2) determine how 6217 funded efforts have enhanced coastal NPS research, monitoring, prevention, remediation and education and (3) provide an opportunity for DEP to present information regarding how 319 funds and other funds have been used in the coastal zone.

It is necessary though, to somehow confine the scope of NOAA's review in light of the following: EPA already has mechanisms in place to review the Maine DEP's performance under the Clean Water Act and the overwhelming majority of funding for non point source programs comes from EPA to the Maine DEP. If proposed increases in the 319 program come to be under the Clean Water Action Plan, Maine's 319 program will be funded at a level that exceeds the *entire CZM appropriation* to the State of Maine.

*Question 3. Has Maine ever requested technical assistance from NOAA and been told that such assistance for Maine was not available? If so, please explain in detail.*

Answer. We applaud NOAA's attempts in recent years to develop targeted expertise among their staff to assist with states' TA needs in the areas of dredging, federal consistency, etc. Maine has also benefited from products and services available through the Coastal Services Center and through recent improved coordination between NESDIS and NOS. NOAA's new electronic reporting system will make searches for information from other states easier and more productive. While we cannot cite examples where we haven't been helped when asked, we would like the cumulative expertise at NOAA to exhibit itself in the form of *proactive* technical assistance.

In particular, we see two areas where service to the states could be improved. (1) NOAA should be the gateway for states to access coastal and marine expertise that exists at the federal level (FEMA, the military, NRCS, etc.) (2) NOAA should be a conductor and supporter of research that addresses state coastal management needs (cumulative and secondary impacts of development, fate and transport of NPS in different types of embayments are but two examples of Maine's research needs.)

*Question 4. A. In each of fiscal years 1997, 1998 and 1999, how much base program money was withheld from the Maine program by NOAA to pay for NOAA administrative costs?*

Answer. Although discussed each year for the past several years, FY 99 (beginning 7/1/99) is the only year that base program funds will be withheld. \$16,000 will be withheld from Maine's Section 306 funding for NOAA administrative costs during the coming year.

*B. If such money had been available, what would you have used the money for?*  
See C. below.

*C. Do you currently have an alternative arrangement to cover such costs? If so, please explain in detail.*

NOAA increased allotments in Sections 309 and 310 funding and allowed increased flexibility in moving program expenses and staff costs between 306 and other funding lines. If this flexibility had not been provided for, we would have had to cut staff. We also were able to transfer a Planning and Research Associate from 306 funds through increased permit fees approved by the Maine legislature.

*D. In fiscal year 2000, how much does the Administration propose to withhold from the Maine program to pay for NOAA's administrative costs?*

Not known at this time. Maine holds the position that NOAA administrative expenses should be adequately funded through direct appropriations from NOAA operations accounts and not charged to state grants or Section 308 funds for regional and emergency projects.

*Question 5. A. For several years, Maine has not allocated a portion of its Section 306 funding to targeted projects under Section 306A. Please explain in detail why this has occurred.*

Answer. During the period of economic decline in Maine in the late 1980's, state budget cutbacks threatened to undermine the administration and enforcement of the core environmental laws that constitute Maine's approved coastal management program. Funding for 306A construction and acquisition ceased as CZM 306 base program funds were reallocated to support permitting and enforcement in the coastal zone. NOAA's 312 reviews of the Maine program during that time also directed increased investment of CZM dollars in core law administration. A recent 309 funded project to reform the Site Location of Development Law may, over time, result in decreased state oversight, delegated authority for permit reviews to the municipalities and a coincident freeing up of 306/306A dollars.

Although funds have not been made available for 306A projects, the Coastal Program conducted a needs assessment that helped design, and bolstered support for a state bond issue for small harbor improvements (SHIP) and we assisted DOT with administration of that program. We also devote staff time to Land for Maine's future efforts in the coastal zone and administer a mini-grants program to help municipalities identify and traditional coastal rights of ways.

*B. Do you support the Administration's proposal to include a separate authorization for Section 306A projects? Please explain in detail.*

Section 306A of the CZMA provides states with adequate authority to preserve and restore areas of special value and to acquire public access. However, at current appropriation levels, funding for restoration, acquisition and waterfront revitalization in identified priority areas competes with base program funding and is limited to 10% of overall appropriations. Maine would like to see overall limits on Section 306A spending removed along with sufficient funding to allow for effective administration of core programs and program enhancement as well as "shovel in the dirt" projects in priority areas of the state. State's should retain the authority to determine priorities for 306 and 306A funding.

*Question 6. Does Maine support a competitive grant program under Section 310 as proposed by the Administration? Please explain in detail.*

Answer. While we have no doubt that Maine communities would be competitive for community revitalization and conservation assistance grants through a national competition, we think the Administration's proposal sets up new federal bureaucratic responsibilities for competitive grants, that are best designed, evaluated and awarded directly by the State's CZM program. All states should be allocated grants under this section by formula and states should have the authority to shape local

grant offerings to meet community needs—not one size fits all federal guidelines. Maine's Coastal Plan (our strategic plan) was developed with input of coastal communities, coastal professionals and the public and would serve as our statement of priorities upon which to design a local grants program.

*7. Please explain in detail Maine's position on incorporating Section 6217 nonpoint source pollution control into the CZMA. Include comment on minimum and maximum spending limits.*

Answer. Maine opposes further incorporation of Section 6217 of Coastal Zone Act Reauthorization Amendments of 1990 ("CZARA") into the Coastal Zone Management Act. The legislative history of CZARA reflects Congress' intent to provide for joint administration of coastal non-point source programs by CZM programs and state water quality agencies. Maine supports continued efforts to integrate planning and implementation of coastal non-point source programs with other state water quality programs. In our view, joint program administration is, at least for the foreseeable future, the better means to efficient and effective integration of coastal and other non-point source programs as features of the Maine's overall approach to maintaining and improving water quality. Further amending the CZMA to incorporate Section 6217 of CZARA risks inappropriately shifting the burden of program administration to CZM programs and duplicating aspects of the mission and functions of state water quality agencies. In addition, despite the concerted efforts of NOAA and EPA, the breadth and complexity of the 6217 program has at times in many states generated uncertainty regarding program requirements, concerns regarding deadlines, and on-going questions regarding the sufficiency of federal funding to support this national program's extensive and ambitious approach to coastal non-point source issues. Maine's 6217 program, for example, remains conditionally approved pending further discussions on the applicability of certain provisions and development of further planning documents. We are hopeful that, with the guidance furnished by NOAA and EPA's joint Final Administrative Changes to the 6217 program, Maine can secure timely approval of an efficient and effective coastal non-point source program that is suitably tailored to Maine issues and conditions and integral to a statewide approach to non-point source pollution issues. Future federal funding appropriations will be needed to help implement such a program.

Minimum and maximum funding—Maine opposes the Administration's proposal for a 10-20% set-aside in 306/306A grants for reducing the impacts of polluted runoff. When the CZMA was amended in 1990, funding for development and implementation of 6217 management plans was proposed to supplement, and not compete with, CZM base program funding. Maine needs the flexibility to decide how base funds will be allocated to priority issues. While polluted runoff is an important issue in Maine, it should not compete with other identified priorities for limited funding. Additional funding (beyond base program funding) for planning and implementing coastal non point programs is needed. In Maine, a minimum of \$500,000 per year is needed to implement an effective coastal NPS prevention and control program.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO  
SYLVIA A. EARLE

*Question 1. What have you found to be the most effective outreach tool when working with coastal communities?*

Answer. The witness did not provide a response.

*Question 2. Do you have any new ideas which would provide opportunities to increase the number of people in coastal communities who are involved in coastal issues?*

Answer. The witness did not provide a response.

*Question 3. In your testimony, you said that any new projects or grant programs supported through appropriations must be environmentally protective, maintaining the natural biological, chemical and physical integrity of coastal ecosystems, and avoid controversial coastal programs such as "beach hardening projects, shoreline erosion structures or dredging projects that harm coastal ecosystems."*

Answer. The objectives of the current CZMA law allows states to develop comprehensive programs to balance the competing uses of coastal resources and meet the needs for the future growth of coastal communities, including investments in urban waterfronts and other industries dependent on a waterfront location as well as the protection from loss of life and property.

*Question A. Is it your position such projects should not be funded under CZMA? Please explain in detail.*

*B. Do you propose changing the purpose of the CZMA by eliminating wording that relates to the promotion of economic development and safeguard of loss of life and property in the coastal zone? Please explain in detail.*

Answer. The witness did not provide a response.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO  
SARAH W. COOKSEY

*Question 1. Has CSO identified potential areas where the state might disagree with NOAA about suggested outcome indicators to be used to assess the success of the state programs?*

Answer. At the House legislative hearing on the CZMA reauthorization, Professor Marc Hirschman, who led a team conducting a NOAA-sponsored effectiveness study of the CZM program, testified about the difficulty in making such assessments. This is due, in large part, to three reasons. First, many of the most significant accomplishments of the state programs are evidenced by what one does not see. Although state CZM programs continue to face many challenges, those problems would undoubtedly remain to a worse degree and be compounded without the programs. Second, as planning programs, the focus and objectives of state programs are frequently changing and evolving. Coastal communities and their environment are not static. It is important that any national indicators reflect the dynamic nature of state coastal programs. The changes within them require changes in emphasis and approaches. Finally, state CZM programs vary greatly in their priorities reflecting the vast diversity of the nation's coasts and among states.

Nonetheless, measurable objectives can be established for CZM programs. CSO supports the establishment of performance-based outcome indicators. It is essential that states be active participants in the development of indicators which should be based on state-based objectives and priorities and be flexible enough to reflect the diversity among state programs.

*Question 2. Does CSO support a competitive grant program under Section 310 as proposed by the Administration?*

Answer. No. CSO recommends that such grants be provided to all states according to the CZMA grant formula. States, not the federal government, are in the best position to work with local governments to identify projects and activities which meet the objectives of the proposed 310 community assistance grants. The presumed rationale for a competitive grant program is that it would provide an award and incentive for states which are best meeting the objectives of Section 310. A competitive grant program appears to assume that all states are equal and begin on a level playing field. Again, the difference among the states needs to be kept in mind. Several states have coastal management programs which predate the CZMA, while several others have only recently been approved. Within some states, such as those where the entire state has been delegated as with the coastal zone, the CZM programs enjoy the status and resources of a statewide program. As an exercise in grantsmanship, the effect of a competitive grant program may be to simply reward states that already are at a great advantage over states which are still trying to develop beyond the basic infrastructure for federal approval.

*Question 3. Please explain CSO's position on incorporating Section 6217 nonpoint source control into the CZMA. Include comment on minimum and maximum spending limits.*

Answer. States do not support amending the current CZMA provisions as they relate to 6217. The current provisions of the CZMA, Section 306(d)16, already provide that the applicable enforceable policies of the coastal nonpoint pollution control program be included as part of the CZM program, while both the authorizing statute and legislative history for Section 6217 make it clear that the coastal nonpoint program was to be jointly implemented by the state CZM and water quality agencies.

In 1990, States were strong supporters of strengthening the role of CZM programs to address management and control of nonpoint source pollution. States continue to view coastal nonpoint source pollution as a priority issue, but the role of the CZM agencies should be focused on coordination, administration and implementation of key coastal polluted runoff activities that are consistent with the state specific CZM program responsibilities. There would be no added value in requiring the incorporation of programmatic elements which the state CZM program has no control over, and may result in confusion regarding roles and responsibilities among the agencies.

State CZM programs already incorporate many of the elements of the Section 6217 program. Regardless of what may be intended by a new requirement for State CZM programs to fully incorporate Section 6217, the effect may be to shift the full

burden of responsibility for the implementation of the coastal nonpoint program on the state CZM programs.

Recent Administrative changes have addressed some of the state concerns that CSO and the states individually have voiced from the outset of development of the program guidance for Section 6217, yet there are still fundamental disagreements. It is nearly nine years since the statute was enacted and NOAA and EPA have yet to find a single state program fully meets the requirements for approval. Although the program was intended to be limited in scope and to be applied as necessary to protect coastal water quality, the agencies have insisted that the requirements for implementation of the program be universally applied regardless of whether it will result in demonstrable improvement to water quality.

As to minimum funding requirements, CSO has repeatedly requested EPA and NOAA to provide estimates of the cost of implementation of the Section 6217 program. Apart from a summary of different sources of funds available for controlling nonpoint source pollution, we have never received a response other than staff comments that they were unable to make such calculations. In the 6217 program development and implementation guidance, there appears to be an assumption that the costs of controlling nonpoint source pollution are assumed by those who are responsible for implementing management measures. Completely apart from the costs of actually implementing management measures, the costs of administering the Section 6217 are substantial. Administering a nonpoint source program is field intensive due to the vast number of nonpoint sources. Such programs will only be effective with aggressive monitoring and enforcement. Simply having a program on paper will not ensure that Section 6217 has the effect of substantially improving coastal water quality. Currently, most nonpoint funding available through either the Clean Water Act Section 319 or agricultural programs is dedicated to project, rather than program, implementation. In addition to supporting program administration, providing additional implementation funds through CZM program would enable coastal to target programs priorities across state agencies.

A CSO needs survey conducted in 1997 identified an annual minimum need of \$400,000 per state, or \$12,800,000 nationally, in order for states to have the basic staff and resources to begin to effectively administer the Section 6217 program in a targeted manner. Widespread implementation of coastal nonpoint program elements called for in the NOAA/EPA guidance would require substantially more resources, and enable coastal states to support key coastal nonpoint priorities either within their specific CZM authority or through networked programs.

CSO recommends that funding for Section 6217 be authorized in a separate line item under Section 318 of the CZMA or by amendment to CZARA Section 6217 with a funding authorization for program implementation.

*Question 4. CSO proposes \$12 million in FY2000 funding for the National Estuarine Research Reserve System, while the Administration proposes 57 million. Please explain why CSO believes the Administration's proposal is inadequate.*

Answer. The \$12 million in proposed authorized funding for the National Estuarine Research Reserve System is based a survey and recommendations by site managers of the NERRS. In 1993, an independent review of the NERRS, which has become known as the Knecht Report, recommended a minimum funding level of \$10 million annually for the 22 Reserve sites then in the System. At present, there are 23 Reserves sites, with four additional Reserves being developed to complete the System. In the 27 years since the CZMA was enacted, the NERRS program has developed slowly. While the Reserves have a valuable role in furthering coastal management in the states in which they are located and to the nation, the potential envisioned for the Reserve System remains unfulfilled. For the most part, funding for the Reserves has been static and left site managers with much of their time being consumed with ensuring that the most basic operations and facilities needs are being met while diverting their attention from meeting the research, monitoring and education mission of the Reserve System. CSO strongly believes in the vision of the Stratton Commission which led to the establishment of the Reserves. It is time to fulfill that vision with a funding level that reflects the needs of the NERR System, rather than the immediate needs of the Reserve sites.

*Question 5. The House bill, H.R. 1110, proposes that states provide a 1-to-1 match of federal dollars under Section 309. Please explain what effect such a change in current law would have on the state's coastal programs.*

Answer. CSO does not support adding a new match requirement of Section 309 enhancement grants. The Section 309 enhancement grant program was intended to provide states with an incentive to upgrade their programs to address specific national priority issues listed under Section 309, and to adopt program changes that in some cases can be controversial. As a general matter, the no-match incentive also

is intended to assure that all states continue to make progress in upgrading programs to meet these national objectives. To require a match for Section 309 grants would make it equivalent to Section 306 grants, perhaps, remove a significant incentive a state might have to seek Section 309 funds, and undercut continued progress.

The no-match requirement for Section 309 grants has been especially useful in assisting state CZM programs in getting new initiatives started and gaining the implementation experience necessary to build a broader base of support for the difficult or untried initiatives, in addition, many states work through and with local governments to upgrade management of coastal issues and the no-match incentive is important to bring everyone to the table. While it is true that some states could make the a new match requirement for 309 grants since their state priorities may already align with the national interest objectives, that is not true in all cases. It is in the national interest to encourage all state to continue to upgrade their CZM programs.

*Question 6. Does GSO support the Administration's proposal to include a separate authorization for Section 306A projects?*

It is not clear that the Administration has proposed this but it is in the House bill. CSO can support a separate authorization for Section 306A grants provided that base funding for Section 306 and 309 grants is also increased to ensure that adequate programmatic and planning, as well as project, funding is available to states. If separate funding is provided, states should be able to continue to use Section 306 funds to implement eligible 306A projects or activities. Providing a separate funding authorization for section 306A projects will better delineate between the programmatic functions of the CZM programs, *e.g.* program administration, permit and consistency reviews, and project implementation. A separate line item for Section 306A will place greater emphasis on the local benefits from CZM programs.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO  
TERRY D. GARCIA

*Question 1.A. Through Section 312 of the CZMA, NOAA conducts a review of the extent to which each state has implemented and enforced its CZM program. Is NOAA able to clearly delineate between the CZM portion and the Clean Water Act portion of the states' Nonpoint Source Pollution Control Program? If so, please explain in detail.*

Answer. The Administration's CZMA proposal addresses this issue by adding language (proposed CZMA section 306(d)(16)(B)) that defines the roles and responsibilities of the state Coastal Management Program agency in implementing its Coastal Nonpoint Program. While some state authorities may be implemented by certain state agencies, there is not a delineation between a "CZM portion and the Clean Water Act portion" under a state's Coastal Nonpoint Program. However, the Administration's proposed language will enable NOAA to identify, in its CZMA section 312 evaluations, those Coastal Nonpoint Program activities for which the state Coastal Management Program agency is responsible. *See also* the response to question 7.

As further background, the implementation of state Coastal Nonpoint Programs is a shared responsibility of several state agencies and programs, with leadership generally assigned to both state coastal management and state water quality agencies. As part of the CZMA section 312 evaluation process, NOAA will review how the states are implementing the Coastal Nonpoint Program, just as NOAA currently reviews the many authorities of state Coastal Management Programs. These authorities may be the responsibility of several state agencies. This is referred to as a "network" of state authorities and agencies. NOAA recognizes that the lead state Coastal Management Program agency's responsibilities under these networked authorities, including the state's Coastal Nonpoint Program, may be limited and will take that into account during NOAA's evaluations. *See also* the response to question 1.B.

*Question 1.B. How will the inclusion of the CZM Nonpoint Source Pollution Control Program within the review of overall program performance affect the states' funding? Please explain in detail.*

Answer. The review of a state's Coastal Nonpoint Program as part of the review of the overall program will not affect a state's funding. NOAA currently reviews programs to identify program strengths and weaknesses through the CZMA section 312 evaluation process, and makes recommendations for actions that the state Coastal Management Program should take to address program weaknesses. Then NOAA, if necessary, but rarely, directs grant funding to address these identified needs. NOAA does not expect that it will have to direct state coastal management agencies' fund-

ing to address Coastal Nonpoint Program deficiencies for which they have little or no control, e.g., failure to implement agricultural programs. In such a case, NOAA will work cooperatively with the state Coastal Management Program, the U.S. Environmental Protection Agency, state water quality agencies, and other resource management agencies to improve program performance, seeking solutions in which state coastal management agencies may play a role, but for which they cannot be held directly accountable. As described in the answer to question 1.A. above, this type of process is what is currently used for “networked” state coastal management program reviews.

*Question 2. Has NOAA identified potential areas where it might disagree with the states about suggested outcome indicators to be used to assess the success of the state programs? If so, please explain in detail.*

Answer. NOAA has not proposed a set of outcome indicators, although we have discussed the concept with states, as part of the Effectiveness Study, and in other venues. Many states have voiced concerns that a set of national indicators might not be appropriate, given regional and state-by-state variation in coastal characteristics, issues and cultures. States are also concerned with the cost of tracking individual permit, planning, and funding outcomes that would be necessary to develop trend analysis inherent in this type of evaluation. Finally, several state managers have stated that the benefits do not outweigh the costs and complexity of developing such a system. These managers believe that the more traditional case example or anecdotal reports provide adequate documentation of their program’s effectiveness.

However, NOAA has completed some of the preliminary steps toward developing a set of outcome indicators to assess the success of approved state Coastal Management Programs. In December of 1998, a consortium of Sea Grant institutions completed the NOAA-funded National Coastal Zone Management Effectiveness study which used various process and outcome indicators, as well as case examples, to gauge the effectiveness of state Programs. The Study found that state Coastal Management Programs were effective, but also recommended that a national set of outcome indicators be developed. The Effectiveness Study group published their findings in the most recent volume of *Coastal Management*. This journal will be provided to the Subcommittee.

NOAA has not pursued the development of a national set of indicators during FY 1999 due to budget limitations which preclude the hiring of staff or contractors to undertake the project. While the Administration’s FY2000 request for \$28 million in section 310 funds is not intended for the development of program indicators, it is conceivable that some of these funds could be used to support such an effort under section 310A of the Administration’s proposed bill. However, this would leave less funds to support the coastal community initiative proposed under section 310. Any future effort is estimated to take approximately two to three years and would include close consultation with state Coastal Management Programs and other affected interests, as well several pilot efforts to test the system.

*Question 3. Contrary to the Administration’s proposed bill, the House bill, H.R. 1110, proposes that states provide a 1-to-1 match of federal dollars under Section 309. What is the Administration’s position on the House provision requiring 1-to-1 matching for Section 309 funds?*

Answer. Currently, CZMA section 309 enhancement grants are 100% federal funds to encourage states to make improvements to their programs. H.R. 1110 would require a 50% match for these grants. This could result in less of an incentive for states to improve their programs. The Department recommends that these grants remain 100% federal funds. The 100% federal funds has been a real incentive for states to make improvements. For example, using section 309 grant funds, the Maine Coastal Management Program developed a “Strategic Plan for Aquaculture.” The Plan outlines the actions necessary to capitalize on the potential of aquaculture to become a major water dependent coastal industry and the Maine Coastal Management Program is working on legislation and regulations that would streamline the existing aquaculture licensing process.

As another example, using section 309 grant funds, the Massachusetts Coastal Management Program developed “Guidelines for Barrier Beach Management.” The Guidelines are a comprehensive compendium of state-of-the-art protection practices for beaches and dunes. The Guidelines are used by local governments, state agencies and the public to enhance the state’s efforts to protect these important resources.

*Question 4.A. Under Section 310, the Administration proposes to address the impacts and pressures on coastal resources, public infrastructure and open space which are attributed to development and sprawl. Please explain in detail how NOAA could successfully solve problems relating to sprawl and development.*

Answer. NOAA is uniquely positioned to work in partnership with state Coastal Management Programs to support local efforts to address sprawl in coastal communities. For over 25 years, the voluntary partnership established through the CZMA has been an effective mechanism for assisting states and communities in addressing the impacts and pressures on coastal and marine resources resulting from development and sprawl. For example, NOAA and state Coastal Management Programs have assisted coastal communities with planning and implementing tools and techniques to promote “smart growth,” watershed management, waterfront revitalization, brownfields redevelopment, hazard mitigation, and port and harbor management. The Administration’s CZMA proposal would build on this CZMA foundation by providing states, local governments and NOAA with improved capacity to focus efforts on addressing the dramatic and increasing pressures of sprawl on coastal communities and to revitalize these communities in an environmentally sound manner. Coastal areas face a distinctive challenge particularly due to increasing population pressures as tourists, second homeowners, retirees, and residents continue to impact the very place that provides them their reasons for being there—extraordinary opportunities for recreation, reflection and beauty.

As part of the technical assistance that NOAA would provide under the Administration’s proposed CZMA section 310A, NOAA has expertise and services available in many areas to assist the states and local governments. These areas include: policy development, land use planning, photogrammetry, geographical information systems, physical and biological science, and innovative environmental technologies.

*Question 4.B. Please explain why NOAA is qualified and capable to determine the merit of development and sprawl related grants?*

Answer. NOAA has over 25 years of experience working with states and communities to address coastal community growth issues, including sprawl and development. NOAA’s Coastal Zone Management program hires professionals with backgrounds in fields such as urban and regional planning, sociology, natural resources sciences, public administration and civil engineering. This combination of expertise gives NOAA the necessary background and understanding of sprawl issues to evaluate the merit of these grant proposals. The coast has been, and continues to be, the location of most of the nation’s highest growth rates. NOAA, in partnership with state coastal programs, is positioned to assist coastal communities in planning, developing and implementing community based solutions to local problems. A major objective of the CZMA is proper land use planning and management in coastal areas to reduce the impacts of development on coastal resources, including efforts to reuse previously developed areas such as underused waterfronts or brownfields, and discourage development in environmentally sensitive areas.

*Question 4.C. If so, what criteria would NOAA use?*

Answer: NOAA will work closely with states, local government associations, and other potentially affected interests, to develop appropriate criteria for CZMA section 310 awards. Priority will be given to projects which have completed an initial planning process and are ready to be implemented. *See also* the response to question 4.D.

*Question 4.D. The Administration’s bill proposes a competitive grant program rather than distributing funds to the states through the allocation formula. The states have indicated that the allocation formula would provide them with stability in planning and implementation of the community initiative program. What is the Administration’s rationale for the competitive grant program when it does not afford future funding certainty to the states or the communities which this program purports to assist?*

Answer. The Administration’s CZMA proposal does not specify how the section 310 funds would be allocated. NOAA intends to work with the states to develop project eligibility and selection criteria, pursuant to the Administration’s proposed CZMA section 310(b). At this point NOAA anticipates that some form of competitive grants program is needed to ensure that projects are well designed, innovative, and that funds will be used in communities and for issues where the funds are most needed. Certainly, any guidelines developed would have to account for selected projects that will take longer than one grant cycle to complete.

*Question 5.A. The House bill, H.R. 1110, proposes an authorization of \$12 million in FY 2000 for the National Estuarine Research Reserve System, while the Administration proposes \$7 million. Does the Administration support this higher funding level?*

Answer. H.R. 1110 proposes \$7 million for grants under section 315 for FY 2000. This is the same authorization level included in the Administration’s CZMA proposal. H.R. 1110 also proposes \$12 million for grants to fund construction projects

at National Estuarine Research Reserves (NERR). This is the same level for construction included in the President's FY 2000 budget request. Thus, the Administration supports the same funding levels for the NERR System that are included in H.R. 1110.

*Question 5.B. Please explain what projects the Administration would fund with an additional \$5 million?*

Answer. As discussed above in question 5.A., there is not currently an "additional \$5 million" over the Administration proposal included in H.R. 1110. If an additional \$5 million were available for section 315 program activities, \$3 million of the \$5 million would be used to bring the 27 sites anticipated to be in the System in FY 2000 up to fully operational levels. The additional funds would help cover the costs of: (1) adequate staff and operations at 27 sites, (2) two Graduate Research Fellows at each site (fellows are at 23 sites currently), (3) implementation of the biological and land use components of the System-wide Monitoring Program (only water quality measurements are made currently), (4) ecological profiles for each state, and (5) technical training for coastal decision-makers at all sites. An operational level of \$10 million is consistent with the recommendations of a 1993 Review Panel on the NERR System in its report entitled, *The National Estuarine Research Reserve System: Building a Valuable National Asset*.

The remaining \$2 million would allow two new initiatives to be implemented. First, technical training through the NERR System would be expanded to reach coastal decision-makers regionally or state-wide rather than just locally. The training would build on coastal decision-maker workshops that have been conducted at Reserves over the last few years. The range of topics also would be increased through these "NERR System Coastal Institutes," bringing solid scientific information about estuaries to people who make decisions about coastal resources on a daily basis. Second, habitat restoration projects in Reserves would be undertaken. Careful research and monitoring would be associated with all restoration projects. The techniques developed and lessons learned would be shared broadly with resource managers.

*Question 6.A. In each of fiscal years 1997, 1998, and 1999, what amount of base Section 306 program funding was withheld from the state programs by NOAA to pay for NOAA's administrative costs?*

Answer. No funds were withheld in fiscal years 1997 and 1998 from the base CZMA section 306 grant program. However, in fiscal year 1999, NOAA's corporate costs such as security, rent, grants administration, financial management systems, etc., increased by \$12 million. NOAA's National Ocean Service (NOS) share of this increase is approximately \$2 million. All other NOS programs already contribute the corporate cost, prior to the increase, and therefore NOS could no longer afford to exempt the section 306 grant program from those shared costs without serious impacts on other programs. In fiscal year 1999, \$1.3 million will be contributed by the section 306 program, representing only a 2% assessment versus 7-20% assessments on other NOS programs.

*Question 6.B. Please explain in detail NOAA's plan for handling this funding shortfall when evaluating the effectiveness of state programs during their Section 312 review of performance.*

Answer. NOAA does not anticipate any significant adverse impact on the states program performance in FY 1999 due to the small size (2%) of the assessment. In FY 1999, state section 306/309 grant awards will range from approximately \$650 thousand to over \$2.6 million (with carryover). The \$1.3 million contribution translates to approximately \$15 thousand to \$65 thousand less per state, dependent upon the size of the grant award. However, there will be no adverse impacts on states in FY 1999 resulting from this decrease. This modest reduction is more than offset by the overall appropriation for all sections of funding for state Coastal Management Programs, which increased by \$7.0 million. All 33 participating states and territories will receive an increase in funding over FY 1998 levels. While NOAA does not believe the effect of the contribution will be measurable in a state's performance, should a state demonstrate that the contribution has somehow degraded their performance, NOAA will take that into account.

*Question 6.C. Does the Administration's proposed \$5.5 million authorization for NOAA's CZM program cover all of NOAA's CZM related expenses or does NOAA continue to view withdrawing specifically appropriated base program funds from the states as an acceptable alternative for fiscal shortfalls of the agency? Please explain in detail.*

Answer. The \$5.5 million authorization covers all direct personnel and associated operational costs such as travel, supplies, equipment, etc., directly related to admin-

istration of the state coastal management program as well as the National Estuarine Research Reserve System. It does not cover the other shared NOAA corporate costs, such as grants administration, legal counsel, security, etc., that are just as necessary to support an effective program, but are more efficiently provided through a centralized source. When these corporate costs rise faster than can be supported through NOAA's administrative line item, they must be paid for somehow, and the most equitable way is by the programs that they support.

*Question 7. The Administration proposes formally incorporating the provisions of Section 6217 into the CZMA. What authorities does this afford the CZM program that do not presently exist under the current statute?*

Answer. The Administration's CZMA proposal does not "formally incorporate" the provisions of section 6217 into the CZMA and does not "afford the CZM program" new authorities that do not presently exist under the current statute. Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) remains as a stand-alone statute and would not be changed by the Administration's CZMA proposal. The existing CZMA and CZARA requirements require that coastal states incorporate into their Coastal Management Programs the enforceable policies and mechanisms to implement their Coastal Nonpoint Pollution Control Programs. See CZMA §306(d)(16)(16 U.S.C. §1455(d)(16)); 16 U.S.C. §1455b(c)(2)(B). As such, CZARA focuses primarily on the *development* of state Coastal Nonpoint Pollution Control Programs in accordance with certain requirements. The Administration's CZMA proposal is focused on implementation of state Coastal Nonpoint Programs, clarifying the role of the state Coastal Management Program agency and providing funding to support that role. It should be noted that such a role is a limited one since state Coastal Nonpoint Programs represent a comprehensive approach to controlling polluted runoff that impacts coastal waters and habitat and include the programs and activities of multiple state agencies.

Thus, the Administration's CZMA proposal provides changes to: (1) section 306(a) to clarify that section 306 funds may be used to help develop and implement state Coastal Nonpoint Pollution Control Program activities; (2) section 306(c) to ensure that funds are available to implement state polluted runoff control efforts; (3) section 306(d)(16) to clarify the Coastal Nonpoint Pollution Control Program responsibilities for state Coastal Management Program agencies; and (4) section 312(a) to clarify the evaluation of the implementation of state Coastal Nonpoint Pollution Control Programs.163

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE  
TO TIM EICHENBERG

*Question 1. CMC testified that new projects or grant programs supported through appropriations must "be environmentally protective, maintaining the natural biological, chemical and physical integrity of coastal ecosystems," and avoid controversial coastal programs such as "beach nourishment, dredging or shoreline stabilization." However, the objectives of the current statute allows states to develop comprehensive programs to balance the competing uses of coastal resources and meet the needs for the future growth of coastal communities, including investments in urban waterfronts and other industries dependent on a waterfront location as well as the protection from loss of life and property.*

A. Is it CMC's position such projects should not be funded under the CZMA? Please explain in detail.

Answer. We testified that only environmentally protective projects should be funded through the *new* grant program proposed in section 306A of the Saxton Bill in the House (HR 1110) and in section 310 of the draft Administration bill. The new grant program in both bills seeks to protect coastal habitats, and address the adverse impacts on coastal uses and resources from growth and sprawl. Therefore it is entirely appropriate that projects carried out under this new program be environmentally protective.

We support language in the Administration's draft bill that authorizes the Secretary to make grants for "environmentally protective local, community based initiatives" in section 310(a), and the provision in section 310(b)(3) which states that "eligible activities shall be environmentally protective initiatives that will revitalize previously developed areas, discourage development in undeveloped and environmentally sensitive areas, emphasize water dependent uses, and protect coastal waters and habitats. The phrase 'environmentally protective' means that activities funded under this section shall maintain or improve the chemical, physical or biological integrity of coastal resources, waters and habitats."

This language is similar to section 101(a) of the Clean Water Act, compliance with which is required of any project conducted under the CZMA. The language is also

consistent with the purposes of section 303 of the CZMA to protect the natural resources of the coastal zone such as wetlands, floodplains, estuaries and beaches, and improve the quality of coastal waters. 16 USC 1452 (1), (2)(A) and (2)(B). Requiring projects funded under the new grant program in the CZMA to be environmentally protective is not inconsistent with balancing competing uses, meeting the needs of future growth, and accommodating investment in urban waterfronts, boatyards, and water dependent uses. Such programs can also be funded under other grant programs in the CZMA.

However, we do not support funding projects like beach nourishment, dredging and shoreline stabilization under these provisions. Many of these projects cause serious harm to wildlife, coastal resources, and public access contrary to the purposes of the CZMA. Funding under the CZMA has historically not been sufficient to adequately fund such projects, any one of which could wipe out entire grant programs under 306, 306A, 309 or 310. Finally, we believe that these kinds of projects are beyond the scope of the CZMA. There are more appropriate funding mechanisms available, such as WRDA, for these costly projects if they are necessary to protect life and property.

*B. Does CMC propose changing the purpose of the CZMA by eliminating wording that relates to the promotion of economic development and safeguard of loss of life and property in the coastal zone? Please explain in detail.*

Answer. No. We support the purposes of the CZMA and believe that promoting economic development, and safeguarding loss of life and property, can be done in an environmentally protective way as proposed in section 310 of the Administration's draft bill (cited above). These goals are not mutually exclusive.

*Question 2. CMC and the other environmental organizations which you represented propose formally incorporating the provisions of Section 6217 into the CZMA.*

*A. What authorities does this afford the CZM program that do not presently exist under current law?*

We are not proposing any substantive changes to the CZMA or the 6217 program. However, we believe that any reauthorization of the CZMA would not be successful unless it also addressed the nation's number one water pollution problem by also reauthorizing the Coastal Nonpoint Program. Although the 1990 Coastal Zone Act Reauthorization Amendment incorporated the program into the CZMA through section 306(d)(16), we believe that formally incorporating targeted references to the program in to the CZMA would have substantial benefits and would give it a secure and stable home for the future. For example, references to the program under section 306, 306A and 309 will give state coastal managers the authorization they need to request funding for their state runoff control plans. It is unclear under the existing law whether funds are authorized for this purpose under sections 306A and 309. We also believe that the CZMA's 312 evaluation process provides one good mechanism for ensuring that state nonpoint programs are implemented effectively on a long-term basis as integral parts of state CZM programs.

As part of the CZMA, funds for implementing the 6217 program should be set aside to ensure that once state coastal nonpoint programs are approved, a minimum amount of funds are made available for implementation. States should be free to spend as much as they want on the Program. However, Congress should ensure that minimum funding levels are made available for implementation. This in no way unduly restricts state discretion on how they manage their programs, but does encourage states to spend a minimum amount of their federal grants to implement state runoff control plans.

The issue of setting aside funds for coastal nonpoint programs in the CZMA was raised at the hearing. A set aside is consistent with the CZMA. In fact, the idea for the set aside was taken from Section 309(f) of the CZMA which sets aside 10-20% of the funds for State Coastal Management Programs under Section 306 and 306A for grants to enhance coastal objectives such as public access, marine debris, special area management plans, ocean planning, aquaculture, and others. Setting aside funds for nonpoint pollution is at least as important as these issues, and should boost state coastal management program funding, not deprive funding for other projects. For this reason we support increasing core program funding to accommodate the set aside for the Coastal Nonpoint Program. The Saxton CZMA bill (I-IR 1110) contains a set aside for the program that would boost funding for Maine and Massachusetts core CZM program by 42-55%. So states should benefit from this approach.

Some coastal managers fear that a set aside in 306 will cut into their core budget. Funding for the Coastal Nonpoint Program could be secured without raising unnecessary fears by shifting the set aside language to section 306A which could provide: "the Secretary shall allocate at least 1/3 of the amounts appropriated for each year

beginning after fiscal year 1999 to carry out this section to coastal states for implementing approved coastal nonpoint pollution control program components.”

*B. What recommendations can CMC make which would promote the necessary type of industry cooperation needed to reduce polluted runoff.*

I believe that industry cooperation would be more forthcoming if the Coastal Nonpoint Program was funded adequately. Industry strongly supports the Clean Water Act state revolving loan fund funded at about \$1-2 billion annually for sewer infrastructure and point source pollution projects. Now that nonpoint source pollution accounts for more than 60% of water quality impairment in the U.S., a similar financial commitment is called for. Nonpoint pollution funding under the CWA has been less than 3% of the SRF, and funding for the Coastal Nonpoint Program under the CZMA has been much less. Between 1995 and 1998 only \$1 million was appropriated for the program. Until substantially more funding is provided for addressing nonpoint source pollution it will be difficult to garner widespread industry support under either the CWA or CZMA. However, it should be also noted that the Association of Metropolitan Sewage Agencies has written letters to your committee strongly supporting reauthorization of the CZMA and the 6217 program. So there is some recognition from municipalities that the program is an important tool in addressing our nation's water quality problems. We believe that industry could exhibit similar support if given the proper incentives. We would be glad to meet with industry representatives to discuss the Coastal Nonpoint Program and try to generate more support for the program.

Thank you again for your thoughtful questions and the kind invitation to testify before your Subcommittee. Please do not hesitate to contact me if you have further questions, and I look forward to working with you further on this extremely important legislation.

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#### COMMENTS OF NERRA'S REAUTHORIZATION OF THE ACT

The following points are NERRA's key issues for Reauthorization of the Act. We would appreciate the inclusion of these comments in your testimony on Thursday. Thanks for your assistance.

1. Authorization Levels. The Administration's bill requests \$7 million in Section 315 operations for the NERRS, and \$12 million in NERRS construction and acquisition for FY 2000. While NERRA supports increases in NERRS funding as outlined in the Land Legacy Initiative, the Association believes that \$12 million for operations is needed in FY 2000, with increases of \$2 million in following years, to help the System meet the increasing demands of coastal communities. Why?

The NERRS is adding three additional sites, and seeks to continue important national initiatives such as: conducting regional technical training on non-point source pollution, restoration, and other locally relevant issues; and completing the System-Wide Monitoring Program. Graduate Fellowship Research projects address region priorities, contributing to improved coastal decisions at the local level. Funds are needed to develop Coastal Institutes in partnership with State Coastal Programs, to address the increasing technical training needs of coastal managers, planners, regulatory personnel, agriculture and fisheries interests. Reserves are well positioned to advance Restoration Science efforts through on-site long-term monitoring of wetlands and watershed restoration projects.

NERRA strongly supports the addition of NERRS construction funds to the Section 313 line item, with an authorization level, as requested by the Administration, of \$12 million for FY 2000 to enable completion of on-site education, training, and research facilities that service local and regional coastal communities.

2. Research. NERRA advocates strengthening the research capacity of the NERRS through enabling research outside of Reserve boundaries, to improve understanding of linkages between estuaries and watersheds. The Secretary should also have the ability to provide 100% awards for research benefitting the National System, and addressing issues of national significance.

3. Stewardship and Education. NERRA supports language in the Administration's bill that recognizes the increasingly important roles of resource stewardship, education, and training within the NERRS. The mission of improving local coastal decisions is greatly enhanced through the NERRS ability to: provide for active site resource management and restoration that serve as local and regional demonstration projects; and provide community-based education and training designed to promote informed coastal decisions.

4. Measurable Objectives. NERRA supports the concept of providing for measurable indicators of the success of the CZMA. We look forward to the opportunity to

work with our partners in State Coastal Programs, and with NOAA personnel, to develop reasonable measures that reflect the mission and goals of the Act.

5. NERRS Linkage to Local Coastal Communities. NERRA strongly supports the CZMA partnership that provides for a federal, state, and local role in managing the nation's diverse coast. The role of the NERRS is an essential part of the partnership. Each Reserve is managed by a coastal state, and represents a larger biogeographic region that shares similar geophysical and ecological characteristics. Reserves operate within coastal communities, and have developed highly effective partnerships that link CZMA key partners to local decision makers. NERRA supports strengthening partnership linkages between NERRS, State Coastal Programs, and NOAA that will enhance our collective ability to deliver relevant science-based information to local communities.

I appreciate the opportunity to share our comments and recommendations on the CZMA.

