

This Comment on the West Coast Governors' Agreement web site is from:

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State(s): California

Regarding Topic Areas:

* Offshore development

Comment/Suggestion:

Comments on the Coastal and Ocean Assistance Fund Proposal by Senator Ted Stevens and its Implications for Longstanding OCS Coastal Protections Off of California, Oregon, and Washington State

As the West Coast Governors Ocean Action Plan is implemented, a range of prospective funding sources will need to be carefully evaluated as a source of potential revenues to support many of the projects and efforts of the Plan. Some of these funding sources must be approached with due caution, lest they undermine the very priorities that the Ocean Action Plan proposes to try to further. One of the most dangerous of these prospective funding sources is the diversion of federal offshore oil and gas revenues in a manner that will produce the unintended consequence of promoting more industrial hydrocarbon activity in long-protected nearshore coastal waters on the U.S. West Coast, including off of the states of California, Oregon, and Washington. This outcome would clearly be contrary to the core goals of the Governors Action Plan.

Alaskas Senator Ted Stevens is currently in the process of developing draft legislation with the stated aim of eventually distributing five-percent of federal Outer Continental Shelf (OCS) offshore oil and gas revenues to each coastal state, to coastal local governments, to certain marine fisheries management efforts, to qualified conservation NGO organizations, with an additional increment provided to states with NOAA National Marine Sanctuary sites in their coastal waters.

A number of similar legislative proposals for the distribution of OCS revenues to coastal states and communities have been introduced in recent years, by former Representative Richard Pombo and others, primarily with the underlying intent of coercing states and localities to abandon their political support for the 26-year bipartisan OCS moratorium protecting federal waters off of their shores, and to instead become advocates of expanded federal offshore oil and gas leasing as a way to ensure their receipt of any resulting increased revenues.

Most coastal states and virtually all of the conservation community have consistently applied three primary criteria in evaluating each of these past OCS revenue-sharing schemes. These criteria include

(1) Fiscal Dependency

Will the formula for distribution of federal OCS revenues create a dependency on the part of recipient agencies on continuous, ongoing, and expanded offshore drilling activities

(2) Incentives

Does the formula for distribution of federal OCS revenues include incentives to states and localities that would pressure them to accept more offshore drilling, or to embrace more drilling closer to shore, as a way of increasing their share of the available revenues Is the anticipated revenue stream restricted only to what are called producing states, i.e. those states with federal offshore drilling already proceeding within their seaward boundary jurisdiction

(3) Standards

Does the proposed legislation contain effective and binding standards that will ensure that funds provided to states and localities will be spent only on projects that restore or improve environmental conditions and/or remediate damage caused by OCS oil and gas extraction, processing, and transportation activities, rather than being spent instead on harmful industrial projects which cause further adverse impacts to the coastal environment or which simply expand damaging OCS-related infrastructure within the coastal zone in order to facilitate new or expanded OCS activities offshore.

In applying this same accepted set of standards to Senator Stevens Coastal and Ocean Assistance Fund proposal, the following concerns are apparent

Fiscal Dependency in Stevens Proposal

The Coastal and Ocean Assistance Fund would inevitably engender a fiscal dependence on the part of states, local governments, NOAAs Sanctuaries Program, and recipient NGO organizations, as each becomes reliant on a steady, continuing, and ultimately unsustainable funding stream from OCS drilling and production in federal waters. Because it is implicit in the nature of oil and gas field development to encounter a boom and bust cycle in each producing hydrocarbon field, new petroleum prospects and new offshore leasing would continuously need to be brought online to maintain the revenue stream for any such Coastal and Ocean Assistance Fund to continue. As already-developed Lower-48 OCS Planning Areas become exhausted, most of the anticipated new offshore oil and gas production would, of necessity, have to originate from new leasing within sensitive Lower-48 OCS areas heretofore protected by

congressional or executive moratoria, and from remote Alaskan waters such as Bristol Bay, C

Incentives Remain in Draft Stevens Proposal

While Senator Stevens proposed Coastal and Ocean Assistance Fund, as initially drafted, appears to make some effort to try to avoid the typical kinds of conditional incentive found in virtually all other recent legislative proposals relative to sharing of federal OCS revenues, Senator Stevens proposed amendment language is not completely devoid of such drilling incentives. Recent similar OCS revenue proposals have restricted revenues only to producing states and have also made the distribution formula for revenues provided to a state or locality strictly conditional on the recipient state or local government abandoning its support for continued OCS moratorium provisions, on allowing more offshore drilling off of its shores, and on willingly embracing more drilling closer to shore. While Senator Stevens Coastal and Ocean Assistance Fund does not, at this time, contain this kind of obvious conditional incentive, there will clearly continue to be a very strong motivation by oil in

Standards, or Lack Thereof, in Stevens Proposal

Senator Stevens Coastal and Ocean Assistance Fund bases its primary mechanism of control on how the money can be used by a recipient state or locality on compliance with a states Coastal Zone Management Plan (CZMP). This CZMP compliance approach may be partially adequate in certain states with strong and defensible coastal plans, but in Alaska, for example, there is broad recognition that the states coastal CZMP program is largely ineffective. Since Alaska would receive, under the Coastal and Ocean Assistance Fund, a disproportionately higher share of these monies based on the states extensive shoreline mileage, it is highly probable that the State of Alaska would use a portion of any revenues it might receive to build or expand harbors to support new offshore oil and gas exploration and development, or for other OCS infrastructure construction in remote frontier OCS regions. Some Gulf Coast states have also exhibited a lack of adequate audit controls on how past similar fundi

Improvements Needed

Fiscal Dependency Improvements Needed

To avoid the inevitability of increased pressure to allow new offshore drilling in sensitive areas as the only way to keep the potential funding stream under the Coastal and Ocean Assistance Fund from leveling off or diminishing over time, a snapshot approach should be incorporated in the bill, so that the share provided to states, localities, and other recipients is based on the current funding stream now available, as of date of enactment of this Act, instead of being based on a formula predicated on a continuous sliding scale that presumes in advance the constant continued expansion of new OCS leasing.

Incentives Improvements Needed

To help preclude the eventual addition of more coercive conditional incentives into the Coastal and Ocean Assistance Fund in the final version of this bill, appropriately restrictive Instructions to Conferees must be adopted simultaneously with the adoption of the bill itself. Because Instructions to Conferees are non-binding, any organizational or political support afforded to the Coastal and Ocean Assistance Fund must be clearly articulated as being immediately revocable in the event that conditional incentives were to be appended to the bill at any time during its legislative proceedings.

Standards Improvements Needed

Specific language must be added in the provisions describing the allowable uses of any funds distributed by the Coastal and Ocean Assistance Fund that will make it clear that funds provided under this Title must be used only and exclusively for the creation of projects that benefit, restore, and protect the environment, estuaries, living marine resources, or marine protected areas, and that such funds cannot be used for inappropriate hardening of natural coastlines eroded by oil and gas activities, for shoreline or wetland disposal of spent drilling muds and cuttings (as is already being proposed), for port and infrastructure enhancements whose underlying purpose is to allow or attract additional OCS activity offshore, or for any other activity which potentially damages rather than improves the environment of the coastal zone.

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