



HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To: Committee on Natural Resources Republican Members
From: Committee on Natural Resources staff: Annick Miller, x58331
(annick.miller@mail.house.gov), Kirby Struhar (kirby.struhar@mail.house.gov), and
Will King (will.king@mail.house.gov)
Date: Friday, August 2, 2024
Subject: Oversight Hearing on “*Rigs to Restoration: Examining Gulf Coast Restoration through Energy Production and Permitting*”

The House Committee on Natural Resources will hold an oversight hearing on “*Rigs to Restoration: Examining Gulf Coast Restoration through Energy Production and Permitting*” on **Friday, August 2, 2024, at 1:00PM (CDT) at Nicholls State University in Thibodaux, LA.**

Member offices are requested to notify Madeline Kelley (Madeline.Kelley@mail.house.gov) by 4:30 p.m. on Monday, July 29, 2024, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- Louisiana’s geographic position, natural resources, and leadership in dealing with coastal land loss and restoration efforts is a case study on how to manage our natural resources.
- State entities like the Coastal Protection and Restoration Authority (CPRA) have developed successful strategies and solutions to restore the State’s coast and protect its communities. The lessons learned from these efforts can be applied to coastal communities around the world.
- Louisiana’s beneficial relationship between energy production and environmental protection, combined with the challenges it faces dealing with an often lengthy and cumbersome federal permitting process, provides important perspective that should inform policy at the federal level.

II. WITNESSES

- **Ms. Meg Bankston**, Executive Director, Parishes Advocating for Coastal Endurance (PACE), Baton Rouge, LA
- **Mr. Kyle Graham**, Former Executive Director, Coastal Protection and Restoration Authority, Erie, CO
- **Mr. Michael Hecht**, President & CEO, Greater New Orleans, Inc., New Orleans, LA

III. BACKGROUND

South Louisiana's communities extend from the capital region in Baton Rouge to the Gulf Coast. They contain natural resources that power the domestic and global economy. Louisiana's coast and wetlands serve as one of the most productive ecosystems for fish and wildlife species and produces nearly one-third of all seafood the United States consumes.¹ The State is also home to the Atchafalaya Basin, a swamp of nearly one million acres that contains more than 100 different fish species and is "five times more productive than any other river basin in North America."²

This same region contains five of the top 15 ports in the United States by tonnage,³ and its geographic position allows its maritime sector to access 38 states domestically in addition to international markets.⁴ Louisiana is also blessed with energy resources and an energy workforce that fuels domestic and international markets. The United States Energy Information Administration ranks Louisiana as the third largest producer of natural gas in the United States, and fifth in proved natural gas reserves.⁵ The Gulf of Mexico is also one of the largest producers of crude oil in the United States.⁶ Notably, this is also some of the most carbon-efficient energy that's produced anywhere in the world.⁷ Louisiana's oil and natural gas sector supports more than 340,000 jobs, \$25 billion in wages, and adds more than \$50 billion to the state's economy.⁸

Despite this region's impact and resources, it has experienced immense challenges and adversity. In 2017, a report from the United States Geological Survey (USGS) found that from 1932 to 2016, Louisiana has lost more than 2,000 square miles of coastal wetlands⁹ to various factors, including river levees, navigation channels, hurricanes, and subsidence.¹⁰

As Louisiana has taken steps to protect its coast and its communities, it has run into numerous obstacles. One challenge is navigating the multiple statutes and agencies involved in the permitting process for restoration projects. Often, these statutes act as an impediment, halting projects in a way that leads to worse environmental outcomes. Additionally, offshore energy production, an industry also heavily impacted by permitting bureaucracy, generates a large percentage of the revenues that fund Louisiana's coastal program. Regulatory approaches that

¹ Louisiana Seafood. Louisiana Seafood Industry. <https://www.louisianaseafood.com/industry>

² The Atchafalaya Basin. <https://www.atchafalaya.org/atchafalaya-basin>

³ Louisiana Legislative Auditor. Louisiana's Public Ports System: Comparison to Other Southern Coastal States and Recommendations for Improvement. Issued January 31, 2024. [https://app.la.gov/publicreports.nsf/0/493fe89c1d5f184086258ab5006778b2/\\$file/00003bbbba.pdf](https://app.la.gov/publicreports.nsf/0/493fe89c1d5f184086258ab5006778b2/$file/00003bbbba.pdf)

⁴ Louisiana Economic Development. About Louisiana's Office of International Commerce. <https://www.opportunitylouisiana.gov/international-commerce>

⁵ U.S. Energy Information Administration. Louisiana State Profile and Energy Estimates. <https://www.eia.gov/state/?sid=LA#tabs-1>

⁶ U.S. Energy Information Administration. Louisiana Profile Analysis. Last Updated: June 15, 2023. <https://www.eia.gov/state/analysis.php?sid=LA>

⁷ National Ocean Industries Association. New Report: U.S. Gulf of Mexico Oil Production Leads With Lower Greenhouse Gas Emissions Intensity. May 16, 2023. <https://www.noia.org/new-report-u-s-gulf-of-mexico-oil-gas-production-leads-with-lower-emissions-including-methane/>

⁸ American Petroleum Institute. Louisiana's Workforce and Economy: Powered by Natural Gas and Oil. 2023. <https://www.api.org/-/media/files/policy/american-energy/pwc/2023/api-pwc-la-2023>

⁹ United States Geological Survey. Louisiana's changing coastal wetlands: Lack of Major Hurricanes Since 2008 is Likely the Main Reason. July 12, 2017. <https://www.usgs.gov/news/national-news-release/usgs-louisianas-rate-coastal-wetland-loss-continues-slow>

¹⁰ TEDxLSU. America's coast in danger | Garret Graves. <https://www.youtube.com/watch?v=2nxvIvbdgSA>

disincentivize American energy production don't just result in higher prices or greater energy insecurity, they result in less funding for critical restoration programs.

The examination of how these issues interact, and the steps that Louisiana has taken to respond to these challenges, can help to inform federal policy. Importantly, Louisiana's story contains lessons that can be applied to coastal regions across the United States and around the world.

Louisiana's Restoration Efforts, The Coastal Protection Restoration Authority, and the Coastal Master Plan

In August and September of 2005, major hurricanes Katrina and Rita devastated communities across Louisiana.¹¹ In response, the Louisiana legislature enacted Act 8 in December 2005.¹² This legislation formed the Coastal Protection and Restoration Authority (CPRA) within the Office of the Governor through the reorganization of state agencies with jurisdiction over coastal resilience, flood control, and environmental restoration.¹³ Act 8 empowered the Chairman of the CPRA to "coordinate the powers, duties, functions, and responsibilities of any state agency relative to coastal protection and restoration and shall administer the programs of the authority."¹⁴

CPRA is tasked with the development of a coastal master plan, which the statute defined as "the long-term comprehensive coastal protection plan combining hurricane protection and the protection, conservation, restoration, and enhancement of coastal wetlands and barrier shorelines or reefs, including amendments to the plan."¹⁵ The coastal master plan is intended to be "a living document that changes as our understanding of the landscape improves and technical advances are made."¹⁶

In 2007, CPRA developed its first master plan, creating a wholistic and focused approach to coastal restoration.¹⁷ Five years later, CPRA issued its second iteration of the coastal master plan that took further steps in laying out a specific, detailed path forward to accomplish its mission. Specifically, the 2012 master plan laid out an aggressive plan of 109 projects at a total cost of \$50 billion.¹⁸ CPRA examined existing plans and scientific research, as well as plans that Louisiana's parishes had developed, with a total of 1,500 project ideas initially considered.¹⁹ Restoration projects included in the 2012 plan included the creation and restoration of barrier islands and dunes, and the development of oyster reefs.²⁰ Additionally, structural projects to reduce risks posed by flooding included floodgates, concrete walls, and different forms of levees.

¹¹ Coastal Protection and Restoration Authority. Our Plan. <https://coastal.la.gov/our-plan>

¹² Coastal Protection and Restoration Authority. Structure. <https://coastal.la.gov/about/structure/>

¹³ *Id.*

¹⁴ Louisiana Legislature. Act No. 8. <https://www.legis.la.gov/Legis/ViewDocument.aspx?d=329530>

¹⁵ *Id.*

¹⁶ Coastal Protection and Restoration Authority. Progress. <https://coastal.la.gov/progress/>

¹⁷ Integrated Ecosystem Restoration and Hurricane Protection: Louisiana's Comprehensive Master Plan for a Sustainable Coast. April 30, 2007. <https://research.fit.edu/media/site-specific/researchfitedu/coast-climate-adaptation-library/united-states/gulf-coast/louisiana/CPRA.-2007.-Louisiana-Sustainable-Coast-Plan..pdf>

¹⁸ Coastal Protection and Restoration Authority. Louisiana's Comprehensive Master Plan for a Sustainable Coast. 2012. <https://coastal.la.gov/wp-content/uploads/2023/11/4365757-1.pdf>

¹⁹ *Id.*

²⁰ *Id.*

Last year, CPRA released the 2023 coastal master plan, where CPRA Chairman Chip Kline noted that it has made great strides over the last 15 years in restoring Louisiana’s coast.²¹ Chairman Cline noted that CPRA’s accomplishments, “include 358 miles of levee improvement, 60 miles of barrier island and headland restoration, the benefits of projects covering 82 square miles of our coastal habitats—a level of progress that would have been almost unthinkable when the coastal program first began.”²²

It’s important to note that Louisiana is not alone in its experience. The lessons learned in Louisiana—from the effective prioritization of coastal protection efforts to a process that ensures a clear focus on a project’s objective—could serve as a model for ensuring the resilience of coastal communities across the United States.

Energy Production and Environmental Protection Work Hand-in-Hand

The Gulf of Mexico Energy Security Act of 2005

Energy production along the Gulf of Mexico is critical to coastal restoration efforts, as it is a major source of funding for projects. This is primarily accomplished through the Gulf of Mexico Energy Security Act, or “GOMESA” (P.L. 109-432). GOMESA created a revenue-sharing model for oil-and-gas-producing gulf states (Louisiana, Alabama, Mississippi, and Texas).²³ Because of the work of previous administrations to ensure a robust offshore program, in Fiscal Year (FY) 2024, a total of \$353,625,000 has been disbursed from GOMESA to the Gulf Coast states. The FY 2024 disbursements by state were as follows: Alabama, \$49,830,178; Louisiana, \$156,329,443; Mississippi, \$51,915,113; and Texas, \$95,550,266.²⁴

GOMESA funds critical projects across Gulf Coast states, including environmental initiatives like oyster restoration in Mississippi, hurricane protection and living shoreline projects for coastal marsh preservation in Texas, and watershed enhancement projects that bolster regional environmental sustainability in Alabama. In Louisiana, GOMESA funds have been used for coastal restoration, hurricane protection, and flood control projects.

The Biden administration’s reduction in in the 2024-2029 Program to just 3 lease sales, from an average of 21 lease sales, will result in a significant decrease in future revenue.²⁵ Depending on market factors like oil prices, a reduction in lease sales may result in states receiving only a fraction of the average annual GOMESA revenue, posing a substantial challenge to funding critical coastal restoration efforts.

²¹ Coastal Protection and Restoration Authority. Louisiana’s Comprehensive Master Plan for a Sustainable Coast. Effective May 25, 2023. https://coastal.la.gov/wp-content/uploads/2023/06/230531_CPRA_MP_Final-for-web_spreads.pdf

²² *Id.*

²³ Gulf of Mexico Energy Security Act of 2006. <https://www.boem.gov/sites/default/files/oil-and-gas-energy-program/Energy-Economics/Econ/GOMESA.pdf>

²⁴ U.S Department of the Interior Natural Resources Revenue Data. GOMESA disbursements. <https://revenuedata.doi.gov/how-revenue-works/gomesa/>

²⁵ Bureau of Ocean Energy Management. National OCS Oil and Gas Leasing Program. Past Programs. <https://www.boem.gov/oil-gas-energy/national-program/national-ocs-oil-and-gas-leasing-program>.

GOMESA currently places a cap of 37.5 percent on state shared revenues that is set to be lifted in 2056.²⁶ This cap on revenue results in a significant imbalance compared to onshore oil and gas revenue sharing programs, where most states receive a roughly 50 percent share under the Mineral Leasing Act.²⁷ Because previous administrations have understood the critical need for energy production in the Gulf of Mexico, the GOMESA state cap was hit for the first time in 2019, and states have begun to lose out on funds vital to local communities and ecosystems. As a result, Gulf Coast state officials and House Republicans have contended that the cap should be removed or at the very least be given full parity with the U.S. Treasury, which receives 50 percent of revenues from offshore oil and gas production.²⁸

As CPRA notes in its guidance on the implementation of GOMESA, provisions of Louisiana’s constitution require that “the federal revenues that are received by the state generated from OCS [outer continental shelf] oil and gas activity and eligible, as provided by federal law, shall be deposited and credited by the treasurer to the Coastal Protection and Restoration Fund.”²⁹ The guidance states that “the monies in this fund are dedicated to funding the development and implementation of a program to protect Louisiana’s coastal area,”³⁰ including the development of CPRA’s coastal master plan and its annual plans. Said another way, the revenues that offshore energy production generates directly fund the CPRA’s vital efforts to protect Louisiana’s coast.

5 Year Leasing Program

Under the Outer Continental Shelf Lands Act (OCSLA),³¹ the Department of the Interior (DOI) is responsible for issuing regular five-year plans for offshore oil and gas leasing. The Gulf of Mexico has been a focal point for offshore oil and gas exploration in the U.S., with lease sales occurring regularly, usually at least twice annually and often three times a year. However, DOI’s final 2024-2029 offshore oil and gas leasing plan – released by the Biden administration nearly two years late – proposes only three sales in the Gulf of Mexico planning area and zero sales in Alaska over the next five years. As a result of this delayed and misguided strategy, 2024 marks the first year since 1958 that no offshore oil and gas lease sale will occur.³²

The continuation of offshore oil and gas leasing is of strategic importance for U.S. national security, national deficit reduction, and the economies of Gulf Coast states. Without increased lease sale opportunities, investment and development will stagnate, putting future offshore oil and gas production at risk. In the first nineteen months that President Biden was in office, the administration leased the fewest federal acres for oil and gas production since President Jimmy Carter. The Biden administration’s stance, intended to reduce emissions by limiting domestic

²⁶ Congressional Research Service. Gulf of Mexico Energy Security Act (GOMESA): Background and Current Issues. Updated December 21, 2022. <https://crsreports.congress.gov/product/pdf/R/R46195>

²⁷ *Id.*

²⁸ U.S. Department of the Interior Bureau of Ocean Energy Management. <https://www.boem.gov/oil-gas-energy/energy-economics/revenue-sharing>

²⁹ Coastal Protection and Restoration Authority. Coastal Protection and Restoration Authority Gulf of Mexico Energy Security Act Infrastructure Funding Program. <https://coastal.la.gov/wp-content/uploads/2016/08/Final-GOMESA-Infrastructure-Process.pdf>

³⁰ *Id.*

³¹ Outer Continental Shelf Lands Act. 43 U.S.C. 1331 et seq. <https://uscode.house.gov/view.xhtml?path=/prelim@title43/chapter29/subchapter3&edition=prelim>

³² Bureau of Ocean Energy Management. "All Lease Offerings (February 2024)." Accessed July 16, 2024. <https://www.boem.gov/sites/default/files/documents/about-boem/All%20Lease%20Offerings%20%28February%202024%29.pdf>

production, deserves severe criticism due to the U.S.'s ability to produce oil and gas more cleanly than anywhere else in the world. Energy production occurring in Outer Continental Shelf regions is 46 percent less carbon intensive per barrel of oil equivalent than the global average, outperforming competitors like Russia, China, and Iran.³³ By restricting leasing opportunities, DOI sacrifices good paying American jobs and crucial revenue, all while pushing development to nations with lower environmental standards.

Historic Preservation Fund

In 1977, the National Park Service established the Historic Preservation Fund to support the objectives of the National Historic Preservation Act (54 USC 300101 et seq.). The Historic Preservation Fund is authorized to receive \$150 million annually subject to Congressional appropriation on a yearly basis.³⁴ Like GOMESA, these revenues are generated by offshore oil and gas leasing and production. Originally the funding was intended just for states but over time became available to local governments, tribal nations, and competitive grant programs.³⁵ These competitive grants allow states, local governments, and tribal nations to apply for grant funding to assist with activities related to preserving their irreplaceable resources.³⁶

Legislative Initiatives

House Republicans continue to fight for consumers by introducing solutions to rebuff the Biden administration's shameful and misguided energy policies and ensure long-term certainty in the offshore leasing program. H.R. 5616, the BRIDGE Production Act, introduced by Rep. Garret Graves (R-LA), contrasts sharply with the Biden administration's three-sale five-year plan. H.R. 5616 mandates thirteen offshore lease sales over five years, including vital energy producing regions in the Gulf of Mexico and Alaska's Cook Inlet.³⁷ The Congressional Budget Office (CBO) estimates that enacting H.R. 5616 would "increase offsetting receipts by about \$4.2 billion over the 2024-2034 period, stemming from additional collections of bonus bids, rents, and royalties."³⁸ This legislation will provide opportunities for greater energy security and increased domestic production by ensuring lease sales occur and leases are awarded on time. It also provides clear judicial remedies for sales that are litigated. Similarly, H.R. 1, the Lower Energy Costs Act, passed in the House of Representatives in March of 2023, mandates two offshore lease sales annually in both Alaska and the Gulf of Mexico.³⁹

³³ National Ocean Industries Association. "GHG Emission Intensity of Crude Oil and Condensate Production." May 2023. <https://www.noia.org/wp-content/uploads/2023/05/NOIA-Study-GHG-Emission-Intensity-of-Crude-Oil-and-Condensate-Production.pdf>

³⁴ NPS, State, Tribal, and Local plans and grants division, <https://www.nps.gov/orgs/1623/index.htm>

³⁵ NPS, Historic Preservation, <https://www.nps.gov/subjects/historicpreservation/historic-preservation-fund.htm>

³⁶ *Id.*

³⁷ H.R. 5616. BRIDGE Production Act of 2023. <https://www.congress.gov/bill/118th-congress/house-bill/5616>

³⁸ Congressional Budget Office. Cost Estimate, H.R. 5616, the BRIDGE Production Act of 2023. February 28, 2024. <https://www.cbo.gov/system/files/2024-02/hr5616.pdf>

³⁹ H.R. 1. Lower Energy Costs Act. Agreed to in the House on March 30, 2023. <https://www.congress.gov/bill/118th-congress/house-bill/1/actions>

Federal Efforts for Coastal Restoration

In addition to GOMESA, there are numerous federal programs that help Louisiana protect its coast. Within the U.S. Fish and Wildlife Service (FWS), the North American Wetlands Conservation Act (NAWCA) provides grants for “long-term protection, restoration, and/or enhancement of wetlands and associated uplands habitats for the benefit of all wetlands-associated migratory birds.”⁴⁰ This program ensures that grant recipients contribute matching funds “at no less than a 1-to-1 ratio,”⁴¹ ensuring that projects are funded effectively. This program plays a major role in advancing restoration efforts in Louisiana. Every two years, FWS is required to submit a report to Congress outlining, in part, “the estimated number of acres of wetlands and habitat for waterfowl and other migratory birds that were restored, protected, or enhanced during such two-year period.”⁴² In its most recent report, FWS lists 11 projects in Louisiana that totaled more than \$12.5 million in grant funding, with more than \$30 million in matching funds.⁴³ These projects will result in the protection, restoration, and enhancement of more than 45,000 acres of wetlands.⁴⁴

Since 1987, FWS has also administered the Partners for Fish and Wildlife Program to help private landowners protect habitat. This program employs more than 200 biologists across all 50 states to provide technical assistance designed to improve habitat conditions at voluntary projects; many of these projects are on working landscapes.⁴⁵ This program also places considerable focus on protecting Louisiana’s wetlands and habitat. In FWS’ 2022-2026 National Strategy for the program, the agency set targets to conserve more than 1,400 acres of wetlands, and the construction of one aquatic passage project.⁴⁶

The Committee on Natural Resources (Committee) has taken recent steps to reauthorize these important programs. H.R. 8811, America’s Conservation Enhancement Reauthorization Act of 2024, introduced by Rep. Rob Wittman (R-VA), would reauthorize NAWCA through FY 2030.⁴⁷ The Committee held a legislative hearing on this legislation in July 2024.⁴⁸ Additionally, Rep. Dave Joyce’s (R-OH) Wildlife Innovation and Longevity Driver Reauthorization Act (WILD Act) would reauthorize the Partners for Fish and Wildlife Program through FY 2028.⁴⁹ This legislation passed the House of Representatives by voice vote in February 2024.⁵⁰

⁴⁰ U.S. Fish & Wildlife Service. North American Wetlands Conservation Act (NAWCA) Grants: US Standard Program. <https://www.fws.gov/service/north-american-wetlands-conservation-act-nawca-grants-us-standard-program>

⁴¹ *Id.*

⁴² U.S. Fish and Wildlife Service. North American Wetlands Conservation Act Progress Report 2020-2021. https://www.fws.gov/sites/default/files/documents/north-american-wetlands-conservation-act-progress-report-2020-2021_0.pdf

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ U.S. Fish and Wildlife Service. Partners for Fish and Wildlife. <https://www.fws.gov/program/partners-fish-and-wildlife>

⁴⁶ U.S. Fish and Wildlife Service. Partners for Fish and Wildlife Program National Strategy 2022-2026. <https://www.fws.gov/sites/default/files/documents/2024-06/final-usfws-pfw-nationalstrategy-2022-2026-508c.pdf>

⁴⁷ H.R. 8811. America’s Conservation Enhancement Reauthorization Act of 2024. https://naturalresources.house.gov/uploadedfiles/hr_8811.pdf

⁴⁸ House Natural Resources Committee Subcommittee on Water, Wildlife and Fisheries. Legislative Hearing on H.R. 7544, H.R. 8308, & H.R. 8811. July 9, 2024. <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=416245>

⁴⁹ H.R. 5009. Wildlife Innovation and Longevity Driver reauthorization Act (WILD Act). <https://www.congress.gov/118/bills/hr5009/BILLS-118hr5009pcs.pdf>

⁵⁰ H.R. 5009. Wildlife Innovation and Longevity Driver reauthorization Act (WILD Act). Agreed to in the House on February 5, 2024. <https://www.congress.gov/bill/118th-congress/house-bill/5009/>

Permitting Challenges Prevent Effective Coastal Restoration

The Committee has been involved in numerous efforts to reform the statutes that govern the federal environmental permitting process, as well as oversight of the Biden administration's implementation of those statutes. Whether it's the Endangered Species Act (ESA),⁵¹ the Marine Mammal Protection Act (MMPA),⁵² or the historic reforms to the National Environmental Policy Act (NEPA) that were included in 2023's Fiscal Responsibility Act (FRA),⁵³ permitting reform is a top priority.

These statutes' various permits are required for many projects and activities. Building a road or bridge, coastal restoration and protection activities, or onshore and offshore energy production are just a few of the activities that require countless permits and authorizations. While these statutes serve critical roles, their implementation by federal agencies must be responsive to environmental needs while providing certainty to those carrying out important projects across the United States.

In 2017, the CPRA published a white paper titled *Environmental Review and Permitting Process Challenges for Louisiana's Coastal Program*.⁵⁴ This white paper talked about important projects in Louisiana like the Mid-Barataria Sediment Diversion, a project that went through decades of analysis and is designed to reintegrate the Mississippi River with the Barataria Basin in a way that rebuilds the coastal area.⁵⁵ CPRA noted that "our biggest challenge has been the environmental review and permitting processes, which although based on strong policy are often implemented inefficiently resulting in significant delay, unpredictable decisions, and limited accountability."⁵⁶

One specific challenge the white paper identified is that the federal government's process, which involves "numerous federal agencies with divergent missions,"⁵⁷ often fails to account for the broader benefits of restoration projects. Specifically, the way the NEPA process accounts for the environmental baseline in analyzing a project's Environmental Impact Statement operates under "the premise that current conditions are the appropriate baseline against which to evaluate a project's environmental impacts."⁵⁸ However, as the white paper notes, the baseline conditions along Louisiana's coast change regularly, which makes determining the environmental baseline for projects designed for the coast's long-term restoration a challenge.

Another set of permitting issues that have particularly impacted the coast of Louisiana in recent years relate to the interpretation of the MMPA and ESA. These statutes play important roles in

⁵¹ House Natural Resources Committee, Subcommittee on Water, Wildlife and Fisheries. Legislative Hearing on H.R. 7544, H.R. 8308 & H.R. 8811. July 9, 2024.

<https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=416245>

⁵² Committee on Natural Resources. Authorization and Oversight Plan 118th Congress.

https://naturalresources.house.gov/uploadedfiles/hnr_118th_authorization_and_oversight_plan_01.27.23.pdf

⁵³ [P.L. 118-5](#)

⁵⁴ State of Louisiana Coastal Protection and Restoration Authority White Paper: Environmental Review and Permitting Process Challenges for Louisiana's Coastal Program. June 2017. <https://coastal.la.gov/wp-content/uploads/2017/06/Regulatory-White-Paper-06-15-17-FINAL.pdf>

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

protecting habitat and species. However, they can also be carried out in a way that halt restoration activities and disincentivizes energy production. There are recent examples of this in Louisiana. For example, in July 2023, the National Oceanic and Atmospheric Administration (NOAA) issued a proposal under the ESA to designate the 100 to 400-meter isobaths of the Gulf of Mexico as critical habitat for the Rice's whale.⁵⁹ This proposal could have devastating consequences on the many industries that operate in the region. That same month, the Biden administration entered a voluntary settlement with activists, resulting in the removal of about 6 million prospective acres from the September 2023 offshore lease sale (Lease 261) in the Gulf of Mexico and the implementation of new restrictions.⁶⁰ The stipulations included speed restrictions, night travel limitations, and other measures, which were seen as unnecessary and overly burdensome. Such measures, based on limited data, threaten future offshore development, risking GOMESA revenue essential for coastal restoration and conservation projects.

NOAA's proposed critical habitat designation and the restrictions from the Lease Sale 261 litigation illustrate a broader strategy to limit offshore development. Notably, the Committee has heard from stakeholders that the agency did not rely on the most accurate science and data in developing the proposed critical habitat designation.⁶¹ This critical habitat designation has the potential to devastate oil and gas production in the Gulf of Mexico, thereby decreasing revenues Louisiana and other Gulf Coast states earn under GOMESA. This is another example of implementing an important law in a way that ultimately hinders coastal restoration efforts.

Ultimately, a federal appeals court ordered DOI to hold the sale without the additional protections for the Rice's whale. The Fifth Circuit Court of Appeals found that environmental groups lacked standing to challenge an order that blocked the exclusion of 6 million acres from the sale. The court's ruling directed the Biden administration to proceed with the sale, highlighting the contentious nature of these regulatory measures, despite the incredible benefits derived from the energy production they aimed to prohibit.

Finally, another regulatory challenge that these efforts face is incidental take authorizations issued under MMPA, which prohibits the "taking" of marine mammals. The MMPA states that "the term 'take' means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal."⁶² However, in certain cases, NOAA will authorize a small take of marine mammals—known as an incidental take authorization—for a number of different activities.⁶³ Obtaining this authorization involves an application process that varies depending on the type of activity; some of these applications require a notice-and-comment period in the Federal Register. There are numerous examples of delay in receiving these authorizations, which in many cases are restoration activities—this is another example of a regulatory process that, when not carried

⁵⁹ NOAA, NMFS, "Endangered and Threatened Species; Designation of Critical Habitat for the Rice's Whale," 88 Federal Register 47453-47472, July 24, 2023.

⁶⁰ "Sierra Club v. NMFS Stipulated Agreement with Exhibit." National Ocean Industries Association (NOIA). Accessed July 2024. https://www.noia.org/wp-content/uploads/2023/08/Sierra_Club_v_NMFS_Stipulated_Agreement_with_Exhibit.pdf

⁶¹ Alexandria Loureiro, PhD. Testimony before the U.S. House Committee on Natural Resources, Subcommittee on Water, Wildlife and Fisheries. October 25, 2023. https://naturalresources.house.gov/uploadedfiles/testimony_loureiro.pdf

⁶² Marine Mammal Protection Act. P.L. 92-522. <https://www.govinfo.gov/content/pkg/STATUTE-86/pdf/STATUTE-86-Pg1027.pdf>

⁶³ NOAA Fisheries. Incidental Take Authorizations Under the Marine Mammal Protection Act. <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>

out effectively, could result in the unnecessary delay of a project designed to enhance a community's safety and resilience.

Louisiana's experience highlights how important an effective, efficient permitting process is, and how burdensome or misguided regulations can impact surrounding communities. Louisiana's experience can provide a window into these unintended negative consequences, which should inform and properly guide agency actions.

This field hearing offers members an opportunity to see how these issues interact—the bureaucratic permitting process, partnerships across government at the local, state, and federal level, and the direct relationship between energy production and environmental restoration. It's important to note that the USGS report from 2017 that reviewed Louisiana's historic challenges in dealing with coastal wetland loss found that Louisiana made progress in restoring its coast, with the researchers saying that the "rates of land area loss have continued to decrease, as they have since the 1970s," and that "the most recent observations are promising."⁶⁴ The progress in responding to that ongoing threat—one that threatens lives and livelihoods—is due to the work of many people across Louisiana. Examining that work and the lessons learned from it can help to inform policy moving forward, and ensure that the United States continues to take the actions needed to appropriately steward its natural resources.

⁶⁴ United States Geological Survey. Louisiana's changing coastal wetlands: Lack of Major Hurricanes Since 2008 is Likely the Main Reason. July 12, 2017. <https://www.usgs.gov/news/national-news-release/usgs-louisianas-rate-coastal-wetland-loss-continues-slow>