

Statement of
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Committee on Natural Resources

Subcommittee on Energy and Mineral Resources
and
Subcommittee on Insular Affairs, Oceans and Wildlife

Joint Oversight Hearing
Energy Development in the Outer Continental Shelf
and the
Health of Our Oceans

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Chairman Costa, Chairwoman Bordallo, and Members of the Joint Subcommittees. On behalf of the Joint Ocean Commission Initiative, I would like to thank you for the opportunity to testify on OCS energy activity and the health of our oceans. In your letter of invitation, you asked that I address the work of the ocean commissions that preceded and led to the establishment of the Joint Initiative and specifically the recommendations of the Commissions and the Joint Initiative related to ocean governance and an ocean trust fund.

The Joint Initiative is a collaborative effort of members of the U.S. Commission on Ocean Policy and the Pew Oceans Commission. The purpose of the Joint Initiative is to advance the pace of change for meaningful ocean policy reform. The Joint Initiative is co-chaired by Admiral James D. Watkins (U.S. Navy, Ret.) who was Chairman of the U.S. Commission on Ocean Policy. Up until quite recently, Admiral Watkins' co-chair on the Joint Initiative was the Honorable Leon Panetta who had headed up the Pew Oceans Commission and who, as you know, was confirmed last month as the Director of the Central Intelligence Agency. In his new capacity at the CIA, Mr. Panetta will no longer be able to serve as Joint Initiative Co-Chair.

As a little background, the Joint Initiative communicated with the offices of each major party candidate during the presidential campaign about an ocean policy agenda and, in September, 2008, issued a report entitled *Changing Oceans, Changing World: Ocean Policy Priorities for a New Administration and Congress: Recommendations from the Joint Ocean Commission Initiative*. The essence of the report, a copy of which is appended to this statement, was to inform each

candidate that, for a broad range of reasons, our oceans are in crisis and that to begin to meet the challenge of that crisis, it is essential that the new administration:

1. Establish a coherent national ocean policy and improve federal coordination of ocean science and resource management to protect, maintain, and restore ocean health and enhance economic opportunities.
2. Invest in ocean science to rebuild capacity for research so that we can better understand and predict climate change and its impacts on oceans and coastal economies.
3. Bolster U.S. international leadership by acceding to the Law of the Sea Convention in order to secure the country's economic and national security and reestablish the United States as the preeminent steward of ocean health.

The first recommendation, the statement on ocean policy, encompassed both of the issues in which your subcommittees have expressed an interest: ocean governance and an ocean trust fund. Specifically, the Joint Initiative recommended that the United States should establish a national policy to protect, maintain, and restore the health of ocean ecosystems and enhance the sustainability of ocean and coastal economies. Further, it should require that federal agencies administer U.S. policies and laws to the fullest extent possible consistent with this national policy. Based on this policy, the four components of a new ocean governance regime include:

Strengthening federal leadership and coordination. Appoint a National Ocean Advisor to the President, who is an integral member of the White House senior advisory team responsible for setting and overseeing the implementation of domestic policy. Designate the Advisor as the chair of the current Committee on Ocean Policy. Strengthen the Committee by making it the principle entity within the Executive Office of the President responsible for improving coordination among ocean agencies, developing an integrated offshore planning and management regime, and enhancing leadership in support of a national ocean policy and implementation of a broader climate change strategy.

Codifying and reorganizing the National Oceanic and Atmospheric Administration (NOAA). Codify NOAA as the lead federal civilian agency with responsibility for coasts, oceans and Great Lakes. Consideration should be given to reorganizing the agency along its primary functions—assessment, prediction and operations; resource and area management; and scientific research and education—to enhance the agency's capacity for providing climate-related services, coordinate federal ocean science, management, and education programs, provide support for regional and state ocean management efforts and improve efforts to respond to climate change.

Supporting regional approaches. Support regional solutions and improved coordination across all levels of government to promote more integrated approaches and coordination among federal, state and local governments around the goal of ocean ecosystem health.

Establishing a national ocean trust fund. Create an ocean trust fund, incorporating revenues generated by economic activities occurring in federal waters on the OCS, to support federal, state and local activities related to understanding and managing our oceans,

These, then, formed the foundation of the Joint Initiative's pre-election ocean governance recommendations based on its assessment of the work of the two commissions and the record of the subsequent years since their reports were issued. It is a record of a national failure to act on most of the core recommendations of the Commissions including the establishment of a new ocean policy framework and a coordinated ocean governance regime; securing Senate support for U.S. accession to the Convention on Law of the Sea; codifying and reorganizing NOAA, significantly increasing federal support for regional coordination efforts, and addressing chronic underfunding of ocean and coastal science, management, and conservation.

After the 2008 election, the Joint Initiative organized a series of meetings with Obama transition teams focusing on the natural resource policy and planning efforts of the President-elect's incoming administration. Along with the Monterey Bay (California) Aquarium, the Joint Initiative then convened a workshop with ocean leaders in January of this year in Annapolis. Attendees included individuals from research institutions and academia, environmental organizations, foundations, and ocean industry groups. Through discussions at the workshop, the Joint Initiative is currently developing a more detailed set of recommendations focused on the priority areas of ocean and coastal governance reform, science and research, international leadership, and funding. The result of the workshop will be a report to national leaders that builds upon and retains the title of *Changing Oceans, Changing World*. Recognizing the pressing national needs associated with climate change, energy policy, and rebuilding the economy, the report will demonstrate the strong linkages between ocean health and these priorities areas. The Joint Initiative will formally deliver *Changing Oceans, Changing World* to the Administration and Congress next month.

Although the Commissioners and staff of the Joint Initiative are still working on the final language of the report, some observations based on its past work and the discussions at Annapolis can be advanced now. Our ocean governance system is essentially broken, largely attributable to fragmented management, uncoordinated decision making, and isolated policies. A voice for oceans needs to be institutionalized in the executive office of the President. Interagency coordination of ocean and coastal jurisdictions and activities, moving toward integrated, spatially based planning and management approaches, is essential,

as we have seen in a number of examples in the last few years. As the U.S. Commission on Ocean Policy noted in its final report, "...the nation needs a coordinated offshore management regime that encompasses traditional and emerging uses and is adaptable enough to incorporate uses not yet clearly foreseen" (*An Ocean Blueprint for the 21st Century*, p. 98).

One recent example of this that was played out to some extent last week – and of direct interest to these subcommittees -- was the signing of a memorandum of understanding by the Interior Department and Federal Energy Regulatory Commission regarding federal oversight of offshore renewable energy projects on the OCS. Interior will handle wind projects and FERC will oversee hydropower projects, such as wave, tidal and ocean currents. Apparently another MOU dealing with the permitting and licensing of offshore projects is still in the works and Interior Secretary Salazar indicated that rules to set up alternative energy development may be finalized in a couple of months. This may address some concerns between certain ocean-based alternative energy industries – offshore wind and wave power-- about claiming sweeping stretches of the sea, sometimes overlapping each other and igniting what has been described as modern-day allegations of "claim jumping", or a wild west atmosphere based on regulatory uncertainty.

We will have to see if all of the outstanding issues between these two agencies have been resolved and some additional time will be necessary to make that determination. However, it does appear that there is no dispute about the Mineral Management Services' jurisdiction over offshore wind projects and that clarification is very helpful in moving forward with at least one form of renewable power generated from the ocean.

This illustrates the relationship between the work of the commissions and energy development in the OCS. What the commissions emphasized and what the Joint Initiative has reiterated is that we need a far more coordinated ocean governance regime and a far stronger emphasis on the role of ocean science in a variety of policy areas, from climate change to energy. One promising process that can support more integrated management is a comprehensive, spatially based approach based on a stronger marine science foundation delineating general levels of acceptable activities and impacts for particular geographic areas in the ocean. This integrated, spatially based planning and management approach can provide greater clarity and predictability to ocean users, reduce conflicts, account for cumulative impacts on ecosystem health, and help achieve specific ecological, economic, and societal goals.

This is precisely the type of mandate that should be given to the enhanced Committee on Ocean Policy and would provide a common vision and enable an integrated and comprehensive approach to planning and managing ocean and coastal activities. For our oceans, the resources they hold, and the scientific information we need to manage them, are essential parts of the fundamental

structure that supports our economy. Agriculture, transportation, fishing, recreation and tourism, and coastal development are all dependent upon information derived from ocean and coastal science.

And, importantly, oceans and marine science also relate closely to one of our highest national priorities: a clean and secure energy future. With abundant opportunities for wind, wave, tidal and thermal energy production and reserves of oil and gas, our oceans and coasts are a significant source of both traditional and clean, renewable, domestic energy. Advances in ocean science are critical to understanding the benefits and costs associated with these opportunities as the nation struggles to strike a new balance and realign its priorities in the face of a major economic and environmental transition.

This, then, is the broad, general background of the context of the work of the two ocean commissions and the Joint Initiative with respect to ocean policy, governance and science. There are two final issues that require mentioning given the primary subject of this hearing: OCS leasing moratoria/presidential withdrawals and the use of revenues from offshore development.

The two commissions took some slightly different positions on each. The US Commission described the history of the development of moratoria and withdrawals but did not take a position on that issue. The Pew Commission did not carry an extensive discussion of the OCS moratorium but recommended that it be retained pending the completion of regional governance plans developed by ocean ecosystem councils. Since the filing of the reports and the follow-up work of the Joint Initiative, the Commissioners have not taken a position on the moratoria/presidential withdrawal, either while such moratoria or withdrawals were in place nor since they have been lifted. There is a clear understanding and acknowledgement that offshore oil and gas production is one of the important ocean activities in a mix of growing uses of the sea and is a large and important contributor to our economic and energy life whether, as now, confined largely to the central and western Gulf of Mexico or allowed to move to newer so-called frontier areas in the future -- decisions for the Administration and Congress to address.

Beyond the question of whether the OCS leasing program should be expanded into areas that had been under moratoria, the issue of the use of the revenue coming from the program was one on which there was considerable although not total commonality between the Commissions but one from which a clear action has been recommended by the Joint Initiative in a number of fora, including various public statements, letters and reports to Congress, implementation report cards, and other documents.

The critical need for additional money dedicated to the management and conservation of ocean and coastal resources has been a consistent and key principle of the Joint Ocean Commission Initiative from its inception. In effect,

both Commissions addressed the issue of dedicated funding for implementing their recommendations, making the case that our oceans, coasts, and Great Lakes are major contributors to the U.S. economy, with half the nation's Gross Domestic Product generated in coastal watersheds.

The Joint Initiative strongly supports the establishment of an Ocean Trust Fund or Investment Fund in the U.S. Treasury, using a significant portion of the resource rents generated by the use of publicly-owned resources by private commercial activities carried out in federal waters on the OCS. This Fund should be dedicated to providing financial support for national, regional, and coastal state and local programs related to understanding and managing our oceans, coasts, and Great Lakes.

The monies for the Fund are readily available from existing offshore activity. Currently, virtually all federal revenues being generated from activities on the OCS are from oil and gas activities – averaging some \$5-7 billion annually in recent years but as much as \$18 billion in Fiscal Year 2008. Additionally, it is clear that converging economic, technological, demographic, and environmental factors make our oceans an attractive and challenging place for new and emerging enterprises. Marine aquaculture, bioprospecting, and a broad range of non-conventional offshore energy activities (e.g., wind, tidal, and wave power generation projects) are on the horizon and can and should generate federal revenues from the use of space on and resources of the OCS. The Joint Initiative believes that a significant portion of all such revenues coming from our oceans should be *reinvested* in our oceans and their management. Just as one must make an ongoing investment in the operation and maintenance of physical capital for it to remain productive, one must do the same with respect to natural capital. The Ocean Trust or Investment Fund and the conservation, management, and research activities it would support should be viewed as the operation and maintenance fund that supports the natural capital of the oceans, which generates these revenues in the first place.

The establishment of such a Fund would clearly demonstrate the Administration and Congress' commitment to our ocean and coastal resources. It would support both federal and state ocean related programs and greatly enhance our capacity for managing competing economic and environmental priorities along our oceans and coasts, strengthen our understanding of the oceans role in climate change, and clearly demonstrate a national commitment to restoring the health of one of our nation's greatest natural resources, our oceans and coasts.

This Fund would be a complementary scientific, natural resource management, and environmental (green) technological supplement to our ongoing economic recovery efforts. The critical contribution of our oceans, coasts, and Great Lakes to the nation's economy, current financial recovery efforts, and the generation of jobs; the various crises threatening those water bodies and their continued capacity to contribute to our fiscal recovery; and the intractable management

challenges required to address such crises by the public and private sectors of our economy all support the need for a dedicated source of revenue from the national government to sustain our ocean resources.

At the national level, our failure to adequately invest in ocean and coastal science and management has severely limited the capacity of federal agencies to understand our oceans and coasts. In particular, better assessing the role of oceans in climate change continues to be a challenge, constraining our capacity to make informed decisions to address the impacts of such change on our coastal communities, economies, and ecosystems—impacts that include the effects of ocean acidification on the marine food web and coral reefs, sea level rise and the threats to public and private infrastructure, and the impact of rising ocean temperatures on fisheries and ocean health threats. Increasing our scientific understanding of the links between ocean climate change and improving our management strategies to mitigate and adapt to the resulting effects require substantial fiscal resources for both federal and state agencies.

The Joint Initiative recommends that the key institutions in the Executive Office of the President with oversight responsibility for oceans, science, climate, and energy policy—the strengthened Committee on Ocean Policy, the Office of Science and Technology Policy, the Council on Environmental Quality, and the Assistant to the President for Energy and Climate, be given authority to make recommendations for allocating Trust Fund revenues among federal agencies on an annual basis. This would help facilitate interagency collaboration and coordination by supporting interdisciplinary and integrated programs and activities that have difficulty securing funding through the individual departmental budgeting process.

With respect to our coastal states and local communities, it is at these levels where much of the day-to-day work of integrated, multiple use management in the coastal zones is carried out and it is where, among other phenomena, sea level rise will have a significant impact on coastal infrastructure and habitats and adaptation strategies will be required. Efforts at establishing and enhancing regional ocean partnerships is another policy area emphasized by the Joint Initiative and one which requires fiscal as well as other support and partners at the national level.

In this time of economic crisis many demands will be made on the revenues coming from the OCS, particularly if additional offshore areas are open to leasing and development. Nevertheless, we believe that the investment of a significant portion of these revenues in our oceans, coasts, and Great Lakes is consistent with the President's and Congress' priorities to support economic and energy security initiatives and enhance natural resource management. This includes supporting green technologies such as alternative offshore energy production and a commitment to balancing economic and environmental impacts of such projects in federal waters.

In summary, an Ocean Trust or Investment Fund should be established in the U.S. Treasury capitalized by a significant portion of the resource rents from activities that include offshore oil and gas development as well as new and emerging uses such as marine aquaculture, bioprospecting, wind farms and other alternative, non-conventional offshore energy generation technologies.

The Fund should be allocated (1) to all coastal states, as determined by Congress, and used for the conservation and sustainable development of renewable coastal resources and the management of their coastal zones including the development of new methods of addressing adaptation to climate change and (2) to the federal government, allocated among agencies as determined by the primary ocean policy entities in the Executive Office of the President, to begin to reverse the serious gap in scientific research and integrated planning and management, and other national responsibilities to address pressures on our oceans, coasts, and Great Lakes.

The activities and programs supported by the Fund, among the coastal states and federal ocean agencies, must be consistent with any national ocean policy established by executive order or legislation. Finally, none of the proceeds provided through the Fund should replace regular appropriations nor should any of the programs currently receiving OCS oil and gas revenues be adversely affected by this additional allocation.

Mr. Chairman, Madam Chairwoman: The Joint Ocean Commission Initiative stands ready to work with your subcommittees on a broad range of ocean legislation including a new policy to protect the health of our oceans, ocean governance efforts, and a balanced and comprehensive approach to the development of an offshore regime for the management of conventional and renewable sources of energy including the critically important establishment of an Ocean Trust or Investment Fund.

Thank you very much for the opportunity to appear before you this morning and I would be happy to try to answer any questions you may have.