

**Testimony of Randall Luthi
President
National Ocean Industries Association**

**House Natural Resources Committee Oversight Hearing
"The President's New National Ocean Policy - A Plan for Further Restrictions on Ocean,
Coastal and Inland Activities"**

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Good morning. Thank you Chairman Hastings, Ranking Member Markey, and Members of the Committee for the opportunity to be here today to testify on the implications of the National Ocean Policy issued under Executive Order (EO) 13547.

My name is Randall Luthi and I serve as President of the National Ocean Industries Association. NOIA represents more than 270 member companies engaged in all segments of the offshore energy industry – from operators and producers, to service companies, G&G companies, vessel builders, divers, helicopter companies, and financiers. Our members share an interest in producing energy and jobs on the outer continental shelf (OCS). They are involved in the exploration and development of oil and natural gas, as well as renewable energy sources offshore.

Introduction

NOIA's members live, work and recreate in the oceans and coastal areas and clearly understand their tremendous value, as well as that of marine ecosystems to our quality of life. They are important to our nation's health and well-being while also serving as a tremendous economic and energy security benefit to our country. With the right policies in place, the offshore energy industry can be a major contributor to new job growth and new federal revenues that will help alleviate the substantial debt the nation faces. NOIA supports the concept of a national ocean policy, but believes that the present policy embodied in EO 13547 has been lacking in meaningful stakeholder involvement both in its development and implementation. In addition, NOIA believes a national ocean policy is incomplete without greater recognition for how increased access to the OCS might help realize national policy objectives of job creation, greater energy security and reliability, and greater federal revenues derived from increased oil and gas activities.

Coastal and Marine Spatial Planning and Regulatory Uncertainty

Our central concern about the National Ocean Policy stems from the objective that would implement the use of Coastal and Marine Spatial Planning. It is unclear to us what the policy deliverable might be or how a new layer of federal bureaucratic planning will yield any new economic activity, regulatory certainty or jobs beyond those federal jobs that might be created to do the planning itself. This directive comes at a time of great uncertainty for those who make their livelihood in the offshore energy industry. The industry is now just over one year removed from the moratorium imposed in the wake of the Gulf spill. Since that time there have been significant regulatory changes intended to elevate the requirements for safely developing oil and gas in the outer continental shelf. More changes are presently in the rule making process and the Department of the Interior has indicated that additional rules are forthcoming. The oil and gas industry, as well as the newly formed Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement, are still adjusting to organizational, regulatory and personnel changes that were implemented in the wake of the spill. Indeed, these are certainly both material factors in the slower pace of approvals for exploration plans and permits.

A study conducted by Quest Resources earlier this year concluded that if permitting were to be restored to historic levels that 190,000 new jobs for American workers would be created by 2013. Quest also recently highlighted in testimony to this committee the numerous drilling rigs that have left US waters for international locations that offer more certainty. While we recognize that there are a number of challenges for the agency and the industry in regaining that historic pace of activity, NOIA believes that it is in the best interests of the economy for policymakers and limited federal resources to be dedicated to efforts that would yield new jobs and economic activity through a more stable and certain regulatory environment and greater access to the outer continental shelf.

Coastal and Marine Spatial Planning and New Limits to Accessing the Outer Continental Shelf

We would also highlight our concern that it already appears the Department of the Interior is unable to offer assurances that it will complete the new OCS 5 Year Plan for 2012-2017 before the present plan expires at the end of June 2012. This plan is a critical tool for industry to be able to know when lease sales will be held and what areas will be made available for the “expeditious development” required by Congress under the Outer Continental Shelf Lands Act. Since it appears likely that the agency will have a very difficult time putting a plan in place on time to meet its obligations under the OCSLA, now is the wrong time to experiment with a new and unjustified layer of bureaucracy that even the administration itself concedes is likely to lead to new uncertainties.

In fact, there is a potentially serious conflict between the National Ocean Policy and the statutory directive outlined in the Outer Continental Shelf Lands Act (OCSLA). The OCSLA states:

"It is hereby declared to be the policy of the United States that ... the Outer Continental Shelf is a vital national resource held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs"

It is unclear to NOIA how the EO helps achieve any of this statutory direction. The question we would raise for this committee to consider would be – in a world of record imports and high unemployment, why would we create another barrier for American jobs and energy?

OCSLA and other laws such as the Coastal Zone Management Act currently require coordination and cooperation among Federal and State officials in the development of a 5 year plan, and while the Administration suggests that EO 13547 is not intended to usurp existing statutory authority, there is little guidance on how implementation of the EO will affect the development or implementation of upcoming or future 5 year plans.

NOIA has long been an advocate for expanding access to the OCS. At present, less than 3% of the outer continental shelf is under lease for oil and gas exploration and development. On December 1, 2010, the Department of the Interior announced a revised OCS Oil and Gas Leasing Strategy. This revised leasing program actually reduced the pool of geographic areas available for leasing through 2017, citing in part the National Ocean Policy as justification. Consequently, at a time when the nation needs more access to the OCS, we are concerned that this policy presents an even more challenging and uncertain outlook for new access.

As justification for its coastal and marine spatial planning policy, the Administration has cited *onshore federal land use planning* as a model in an effort to reassure those who may be concerned. Section 364 of the Energy Policy Act of 2005 directed a study to be conducted of federal onshore oil and natural gas and “the extent and nature of any restrictions or impediments to the development of the resources.” This study, often referred to as EPCA III, concluded that more than 62% of the oil and 41% of the gas were entirely inaccessible. An additional 30% of the oil and 49% of the gas were accessible only with restrictions. Only 8% of the oil and 10% of the gas were accessible under standard lease terms. While some of these restrictions were indeed imposed through Congressional withdrawals or executive orders, an examination of the study’s findings demonstrates that the vast majority of the limitations upon access to these resources were implemented through the land use planning process. Once these areas are placed off limits, these decisions are rarely altered or revisited, leaving the resources inaccessible, or with limitations that may render the resource uneconomic. If this is the model, from a federal energy access perspective, this is highly disconcerting.

New OCS Data is Needed Before Coastal and Marine Spatial Planning Moves Forward

Finally, we anticipate that coastal and marine spatial planning may result in decisions being made about setting significant areas of the OCS off limits to future access without the benefit of knowing what oil and natural gas resources lie underneath those areas. Language included in

Section 2 of the EO indicates that the best available science and knowledge is to be used to inform decisions affecting the oceans. Due to federal limitations on the activities necessary to collect new data, the only available seismic based data, other than in areas of the Western and Central Gulf of Mexico and some areas of Alaska, is approximately 30 years old. New technological methods are now available that might give us a much better view of the potential for oil and gas development, yet the EO directs implementation of coastal and marine spatial planning without the benefit of this knowledge. While, of course, the only fully precise measure of oil and gas potential is actual exploration, it should be noted that in the mid-eighties, many felt that that Gulf of Mexico had reached its oil and gas potential. However, due to new technology and the entrepreneurial spirit of many NOIA members, actual production and verified resources are now at least more than five times as much as those decades' old resource estimates. While no one can predict similar results in the rest of the OCS, the premature zoning out of oil and gas development will place that potential off the table. It would be very shortsighted to make planning decisions without the benefit of new data. At a minimum, new geological and geophysical data should to be obtained before conducting any planning decisions that may place these areas off limits to future access.

In addition, due to the lifting of both Congressional and Executive oil and gas exploration moratoriums, nearly all of the OCS may be made available for oil and gas exploration if first approved either through the OCSLA five year planning process or through further Congressional action. It is hard to envision a zoning process implemented through EO 13547 that would maintain that current status. The end result may very well be de-facto exploration moratoria established by regional committees and not through direct Presidential or Congressional action.

Conclusion

NOIA believes there are ample policy and statutory tools to ensure that ocean resources are conserved and protected and that potential conflicts are managed without imposing a cumbersome new layer of federal bureaucracy upon an already time intensive and uncertain regulatory process. We believe it is difficult to move ahead with a process such as this while also expecting that companies are going to be in the position to restore lost jobs and add new ones.

Over the years, this committee, and Congress as a whole have worked to promote healthy oceans and safe energy development through the passage of several statutes, including OCSLA and CZMA. I encourage members of Congress to carefully review the language, intent and implementation of EO 13547. We believe that this goes too far, too soon, and adds too much uncertainty. Further review and revision are desperately needed before implementation proceeds any further.

We believe that a suspension in implementation of this policy until such time as the public, the industry, relevant agencies, and the Congress have had the time to openly and fully study and discuss the initiative and its potential impacts would be the prudent course of action. In the event that the administration insists on moving forward with implementation of this particular

policy--either now or after a recommended suspension, we support the idea that a pilot project in just one of the regions would be preferable and ensure a greater likelihood of meaningful stakeholder involvement and fewer unintended consequences.

Thank you for the opportunity to be here today and I would be happy to answer any questions you may have for me.