Testimony of
Athan Manuel
Director, Lands Protection Program
Sierra Club

Before the Senate Committee on Energy and Natural Resources
United States Senate

July 23, 2013

Prepared by: Athan Manuel, Director, Lands Protection Program, Sierra Club
Anne Haas, Pace University School of Law

I. Introduction

Mr. Chairman and members of the Committee, good morning. My name is Athan Manuel, and I am the Director of Lands Protection for the Sierra Club. I am here representing more than 2.1 million Sierra Club members and supporters who belong to more than 65 chapters and 450 groups nationwide. We are the largest environmental grassroots organization in the country. I am very appreciative of the opportunity to testify this morning regarding S. 1273, the Fixing America's Inequities with Revenues (FAIR) Act.

The FAIR Act will increase and accelerate the sharing of federal offshore oil and gas revenues with coastal states. It will send as much as 37.5 percent of offshore energy production revenues to coastal states, while gradually eliminating the current $500 million annual cap on payments to those states. In addition, it expedites the second phase of revenue sharing under the Gulf of Mexico Energy Security Act (GOMESA), expanding qualifying revenues to include those from additional leased areas of the Outer Continental Shelf (OCS).

II. The FAIR Act directs Federal revenue to a handful of states

In 1947, the Supreme Court granted the federal government "paramount rights" to the Outer Continental Shelf.[1] Citing the federal government's essential role in commerce and national security, the Court gave it "full dominion of the resources of the soil under that

[1] United States v. California, 332 U.S. 19, 38 (1947).

water area, including oil."[2] This ruling was twice affirmed as states continued to bring claims to the OCS.[3]

Although our coastal waters belong to all Americans, the FAIR Act will divert billions of dollars in federal revenue to a handful of coastal states. Annual revenues from mineral leases on federal lands are one of the government's largest sources of non-tax income. Last year, revenues from offshore oil and gas leasing and production totaled nearly $7 billion.[4]

Recent estimates place the deficit for this fiscal year at $642 billion.[5] Several members of Congress have referred to this as the biggest, most fundamental challenge we face. [6] Yet in a time of sequestration and budget challenges, the FAIR Act will deplete federal revenues and increase the deficit.

Moreover, a recent report exposed gross mismanagement in Mississippi of millions of federal dollars derived from federal offshore leasing.[7] An audit of the Coastal Impact Assistance Program (CIAP), which awards grants to oil-producing states for projects related to coastal conservation and restoration, found that lax federal oversight has led to almost $30 million dollars in questionable spending. In one case, an official from the Mississippi Department of Marine Resources used CIAP funds to buy a yacht club from a friend – the state paid $3.7 million for the property, but allowed the seller to continue operating the business and collecting revenues.

III. The FAIR Act provides incentives for states to put critical coastal economies at risk

In addition to being ill-considered from a national economic perspective, the FAIR Act will provide an incentive for coastal states to agree to new or additional offshore oil and gas development, development that could put booming local economies at risk. While only a few big oil companies will profit from drilling off of our coasts, all Americans stand to profit from keeping our oceans, beaches and coastal economies clean and healthy.

---

[2] *Id.* at 39.

[3] United States v. Louisiana, 339 U.S. 699 (1950) (rejecting Louisiana's claim to ownership of the seabed extending twenty-seven miles into the Gulf of Mexico); United States v. Texas, 339 U.S. 707 (1950) (rejecting Texas' claim to ownership of the seabed extending twenty-four miles into the Gulf of Mexico).

[4] Office of Natural Resources Revenue, "Reported Revenues: Federal Offshore in All Offshore Regions" (2013). Available at http://statistics.onrr.gov/ReportTool.aspx.

[5] Congressional Budget Office, "Updated Budget Projections: Fiscal Years 2013 to 2023" (2013). Available at http://www.cbo.gov/publication/44172.

[6] See e.g., Bonner County Daily Bee, "Crapo: Debt is biggest challenge" (2011). Available at http://www.bonnercountydailybee.com/news/local/article_ab88c336-d5f6-11e0-b530-001cc4c03286.html; News Room, "Corker Says President's Budget 'Makes a Mockery of the American People', Fails to Address the Biggest Challenge Facing the Country" (2012). Available at http://www.corker.senate.gov/public/index.cfm/news?ID=90a01dbc-cde4-4a9c-ab07-0dbc78d414b9.

[7] Office of Inspector General, "Management of the Coastal Impact Assistance Program, State of Mississippi" (2013). Available at http://www.doi.gov/oig/reports/upload/ER-IN-MOA-0013-2011Public.pdf

The importance of coastal communities to our nation cannot be underestimated. Americans take almost two billion trips to the beach each year and spend billions of dollars in coastal communities.[8] Our coastal recreation and tourism industry is the country's second largest employer; for every one job in the oil and gas sector, there are 84 jobs in the region's leisure and hospitality industries.[9] According to the World Tourism & Travel Council, tourism in America employs over 14.7 million people, 10 percent of the American workforce, and accounts for 8.8 percent of the national GDP, bringing in $1.3 trillion. This makes America's coastal recreation and tourism industry the second largest employer in the nation.

In addition to tourism, coastal economies are heavily reliant on commercial and recreational fishing. The two generate close to $200 billion annually in sales and support over 1.4 million jobs.[10]

Every aspect of offshore oil and gas development threatens our coastal waters and communities. Exploration, drilling, and transportation raise the risks of catastrophic oil spills, and expose our air, water, and wildlife to significant amounts of pollution.

Oil Spills

Where drilling takes place, oil spills are inevitable. There have been at least 347 large spills (more than 2000 gallons) in the OCS since 1964[11], smaller spills are a regular occurrence, and chronic – and chronically unaddressed -- spills continue to this day from abandoned wells.[12] The results of an oil spill can be catastrophic for marine life and coastal economies. When oil reaches our beaches, it clings to every rock and grain of sand. As the *Deepwater Horizon* experience so amply demonstrated, even in calm waters thick with infrastructure current cleanup methods are incapable of removing more than a small fraction of the oil spilled in marine waters. Offshore drilling operations are especially vulnerable during hurricanes, a very real threat in the Gulf of Mexico where the majority of oil drilling occurs. In 2005, hurricanes Katrina and Rita caused 124 oil spills. Between the two storms, 741,000 gallons were spilled in the Gulf of Mexico.[13]

---

[8] United States Environmental Protection Agency, "Water: Beaches" (2013). Available at http://water.epa.gov/type/oceb/beaches/basicinfo.cfm.

[9] Bureau of Labor Statistics (2010). Available at http://www.bls.gov/cew/gulf_coast_leisure_hospitality.htm.

[10] National Oceanic and Atmospheric Administration , "Fisheries Economics of the United States 2009" (2011). Available at http://www.st.nmfs.noaa.gov/st5/publication/econ/2009/FEUS%202009%20ALL.pdf.

[11] Bureau of Safety and Environmental Enforcement, "Spill Summaries OCS Spills ≥ 50 Barrels CY 1964 – 2012" (2013). Available at http://www.bsee.gov/uploadedFiles/BSEE/Enforcement/Accidents_and_Incidents/Spills%20greater%20than%2050%20barrels1964-2012%20(As%20of%20August%203,%202012).pdf

[12] See e.g., NBC News, "Gulf Awash in 27,000 abandoned wells" (2010). Available at http://www.nbcnews.com/id/38113914/ns/disaster_in_the_gulf/t/gulf-awash-abandoned-wells/; FOX News, "27,000 Wells Abandoned, Unchecked in Gulf" (2010). Available at http://www.foxnews.com/us/2010/07/07/gulf-awash-abandoned-oil-gas-wells/

[13] Minerals Management Service, "Estimated Petroleum Spillage from Facilities Associated with Federal Outer Continental Shelf (OCS) Oil and Gas Activities Resulting from Damages Caused by Hurricanes Rita and Katrina in 2005" (2006).

The 2010 *Deepwater Horizon* oil spill dramatically demonstrated how drilling can destroy fishing and tourism industries, and cost rather than create jobs. Two hundred million gallons of oil were spilled in the Gulf of Mexico, affecting 16,000 miles of coastline.[14] Many businesses are still struggling to recover three years later.[15]

Climate Change

Pollution produced by oil and gas drilling accelerates the global climate change, causing our planet's temperatures to rise more quickly. Average global temperature has increased by more than 1.3°F over the last century.[16] In addition to forever altering our coastal landscape, the resulting rise in sea levels will necessarily damage our coastal tourism economies by pushing visitors away from our beaches. Following a year of climate disasters – from droughts and wildfires to record heat and superstorm Sandy – it is clear that we cannot mitigate climate disruption with more of the same.

Drilling in America's Arctic

The expansion of drilling in the Arctic is particularly troubling. This area is too sensitive, too ecologically important, and – as the grounding of the drill rig Kulluk and indeed Shell's entire failed program demonstrated last year– too volatile for oil drilling. Three oil and gas lease sales are already conditionally scheduled for the Alaska OCS – the Chukchi Sea and Cook Inlet in 2016, and the Beaufort Sea in 2017. These waters are home to the entire U.S. population of polar bears, millions of migratory birds, and endangered Bowhead whales. Oil leasing threatens the sustainability of this natural area and the livelihood and integrity of Native Alaskan communities, and we simply should not be holding more leases in our Arctic waters.

While as explained above additional revenue sharing is not justified anywhere in our opinion, even the consideration of it in America's Arctic is particularly ironic given the demise of the federal-funded and incentivized Alaska Coastal Management Program. Such programs – established under the umbrella of the Coastal Zone Management Act – empower local communities to control development in their coastal areas, and provide them with resources and expertise to better understand and influence state and federal development proposals. Alaska had a robust plan covering its 33,000 miles of coasts, and its choice to reject local control and standards should not be rewarded with more federal money coming from development that threatens those very coasts.

---

[14] United States Coastguard, "On Scene Coordinator Report Deepwater Horizon Oil Spill" (2011). Available at http://www.uscg.mil/foia/docs/dwh/fosc_dwh_report.pdf

[15] See, e.g., CNN, "Empty Nets in Louisiana Three Years after the Spill" (2013). Available at http://www.cnn.com/2013/04/27/us/gulf-disaster-fishing-industry; Gulflive, "Three Years after BP Oil Spill, Jackson Economy Still Hurt But Fewer Tar Balls Seen" (2013). Available at http://blog.gulflive.com/mississippi-press-news/2013/04/three_years_after_bp_oil_spill.html.

[16] United States Environmental Protection Agency, "Climate Change Indicators in the United States" (2013). Available at http://www.epa.gov/climatechange/science/indicators/weather-climate/temperature.html

Even if we could extract oil safely, burning and releasing that much carbon into our atmosphere would mean global climate disaster. The Arctic is especially vulnerable to climate disruption. It is warming twice as fast as the rest of the country and specialized wildlife are struggling to keep up. Permafrost is melting, shifting building foundations and roads. Wildlife migration patterns are changing, which means hunters must travel further and take longer to feed their families. Our last wild frontiers should be permanently protected, not opened to drilling that will destroy landscapes, hurt local communities, and fuel climate disruption.

IV. We should create incentives for states to abandon dirty fuels in favor of safe and affordable clean energy

The Sierra Club strongly feels that the best place to create domestic energy jobs is by focusing on renewable energy and energy efficiency. The renewable energy industry is providing clean, affordable, and reliable electricity across the United States. To support this industry, good green jobs are being created and they're overwhelmingly based here in the U.S. The sectors that have demonstrated the most dramatic job growth are the wind, solar, and energy efficiency. In fact, studies show that every dollar invested in clean energy creates three times as many jobs as every dollar invested in oil and gas.[17]

Instead of encouraging states to accept dirty offshore oil and gas development, we should provide states with greater incentives to embrace clean, safe renewable energy options. The renewable energy industry is providing affordable and reliable electricity across the United States. To support this industry, good green jobs are being created and they are overwhelmingly based here in the United States.

Countries across the world are already taking advantage of offshore wind turbines to harness the energy of strong, consistent ocean winds. Offshore wind energy offers something valuable to our economy and national security – an inexhaustible source of domestic energy. With 53 percent of our population living on the coast, offshore wind resources could supply enormous amounts of renewable energy to major coastal cities where energy demands are high. [18]

Our wind resource potential is estimated at 4,223 gigawatts, roughly four times the generating capacity of the current United States electric grid. If only a fraction of that potential is developed, it would fulfill a substantial portion of our nation's energy needs.[19] This month, in its first lease sale for commercial energy projects, the federal government will auction off approximately 164,000 acres of federal waters. If fully developed, this area could produce enough electricity to power over one million homes.[20]

---

[17] http://www.peri.umass.edu/fileadmin/pdf/other_publication_types/green_economics/economic_benefits/economic_benefits.PDF

[18] Bureau of Ocean Energy Management, "Offshore Wind Energy" (2013). Available at http://www.boem.gov/Renewable-Energy-Program/Renewable-Energy-Guide/Offshore-Wind-Energy.aspx.

[19] *Id*.

[20] The New York Times, "U.S. to Lease Federal Waters for Commercial Offshore Wind Energy" (2013). Available at http://www.nytimes.com/2013/06/05/business/energy-environment/us-to-hold-sale-for-offshore-wind-energy-leases.html?_r=0.

Renewable energy sources will help us achieve true energy independence. The National Renewable Energy Laboratory (NREL) recently completed a several-year study to evaluate the future of renewable energy technologies in the United States.[21] The study found that renewable energy sources, like wind and solar, could provide 80 percent of our electricity by 2050. Combined with a more flexible electric system, renewables could meet the contiguous United States' electricity demands every day and every hour of the day. As a result, we would reap substantial environmental benefits; renewable use will reduce greenhouse gas emissions, helping to combat climate disruption, while solar photovoltaic and wind plants use little or no water. In addition, the NREL found that the cost associated with this level of renewable generation is comparable to other "clean-energy" scenarios, such as nuclear or natural gas.

In June, as part of his plan to combat climate change, President Obama made a commitment to double renewable electricity generation by 2020.[22] To reach this goal, we must invest in a range of energy technologies, while improving grid flexibility. Congress should continue to raise the fuel economy of our cars, encourage the use of renewable energy like wind and solar power, and adopt other, existing energy-saving technologies that cut pollution, curb climate disruption, and create good jobs.

V. Opening new areas to offshore oil and gas development is not necessary, nor will it lower gas prices

The FAIR Act provides an incentive for states to adopt offshore oil and gas drilling, despite the fact that doing so makes little sense. Many areas already made available for drilling are not in use; as of this time last year, nearly 72 percent of the area leased for oil and gas development on the Outer Continental Shelf, totaling 26 million acres, was idle, neither producing nor undergoing exploration.[23]

Moreover, further offshore oil and gas development will do little to lower gas prices. Despite record oil and gas production, the national average price of gasoline on January first was $3.29 – the highest starting point for a year ever.[24] Due to a combination of improved fuel efficiency standards and rising oil and gas production, the International Energy Agency (IEA) estimates that the United States could become energy independent

---

[21] National Renewable Energy Laboratory, "Exploration of High Penetration Renewable Electricity Futures" (2012). Available at http://www.nrel.gov/docs/fy12osti/52409-1.pdf

[22] Executive Office of the President, "The President's Climate Action Plan" (2013). Available at http://www.whitehouse.gov/sites/default/files/image/president27sclimateactionplan.pdf

[23] U.S. Department of the Interior, "Oil and Gas Lease Utilization – Onshore and Offshore: Updated Report to the President" (2012). Available at http://www.doi.gov/news/pressreleases/loader.cfm?csModule=security/getfile&pageid=239255.

[24] Testimony of Chris Plaushin, before the U.S. Senate Committee on Energy and Natural Resources: "To explore the effects of ongoing changes in domestic oil production, refining and distribution on U.S. gasoline and fuel prices". Available at http://www.energy.senate.gov/public/index.cfm/files/serve?File_id=e55fe608-639f-42e6-825c-b43811699fee

by 2035.[25] The report stresses, however, that growing independence will not insulate the U.S. from the global market - because gas prices are set worldwide, reducing imports is unlikely to reduce gas prices. Instead, we will remain intimately tied to, and ultimately dependent on, the rest of the world. The only way to become truly energy independent is to eliminate our oil dependence altogether by developing alternative, renewable energy sources.

VI. The FAIR Act directs only minimal funds to the Land and Water Conservation Fund – a fund established to protect our most treasured places

The Land and Water Conservation Fund (LWCF) protects our open spaces using offshore oil and gas revenues. Since its creation, it has protected nearly five million acres of public lands – including Grand Canyon National Park, the Appalachian National Scenic Trail, and Pelican Island National Wildlife Refuge, our nation's first federal refuge.[26] Through its state assistance program, which provides matching grants to help states and local communities protect parks, playgrounds, and wilderness trails, the LWCF has benefited nearly every county in America.

The FAIR Act directs only $62.5 million to the LWCF, less than seven percent of the $900 million it is congressionally authorized to receive annually. It provides a completely insufficient level of LWCF funding, putting our most treasured natural, cultural, and recreational areas at risk. These special places could be lost forever if not purchased and conserved by the public.

The Sierra Club supports fully funding the LWCF at $900 million a year. However, it should be funded independently of a revenue sharing program.

VI. Conclusion

In a time of sequestration, the FAIR Act directs billions of dollars of much needed federal revenue to a few coastal states. In addition, it provides incentives for states to continue to rely on dirty fuels, placing our crucial coastal economies at risk. Instead, we should encourage states to embrace cleaner, safer forms of renewable energy, such as offshore wind energy.

Increased offshore drilling does not make sense for our country. It will neither eliminate our dependence on a global market, nor lower gas prices - but it will keep us dependent on fossil fuels, threaten coastal economies and ecosystems and contribute to climate change and disruption. The only way to become truly energy independent is through the development of domestic renewable energy sources.

Thank you again for the opportunity to submit testimony regarding the FAIR Act.

---

[25] International Energy Agency, "World Energy Outlook 2012" (2012). Available at http://www.iea.org/publications/freepublications/publication/English.pdf

[26] Land and Water Conservation Fund Coalition (2013). Available at http://www.lwcfcoalition.org/about-lwcf.html