

**CALIFORNIA COASTAL COMMISSION**

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November 06, 2017

The Honorable Chairman Paul Gosar  
Subcommittee on Energy and Mineral Resources  
U.S. House of Representatives, Committee on Natural Resources  
1324 Longworth House Office Building  
Washington, DC 20515

The Honorable Ranking Member, Alan Lowenthal  
Subcommittee on Energy and Mineral Resources  
U.S. House of Representatives, Committee on Natural Resources  
1324 Longworth House Office Building  
Washington, DC 20515

RE: California Coastal Commission Staff Concerns on the Discussion Draft “ASTRO” Act  
(dated 10.31.2017)

Dear Chairman Gosar and Ranking Member Lowenthal,

Staff of the California Coastal Commission wish to express our strong and significant concerns regarding provisions of the discussion draft bill to amend the Outer Continental Shelf Lands Act to distribute revenues from oil and gas leasing on the outer Continental Shelf to certain coastal states and for other purposes, also known as the “Accessing Strategic Resources Offshore Act (ASTRO)” Act. We understand that this Subcommittee will be discussing this discussion draft legislation at a hearing on November 7<sup>th</sup> and we offer these comments for the record for your consideration in these and future deliberations.

The California Coastal Commission implements California’s federally approved coastal management program under the authority of the Coastal Zone Management Act and exercises this authority over review of proposed federal Outer Continental Shelf (OCS) Land Act activities including new lease sales – whether they be oil and gas, wind or other energy sources.

Our key areas of concern on the latest (10.31.2017) discussion draft version of the ASTRO Act include that the draft bill:

- 1) Requires wind lease sales be issued off the coast of California within one year of the date of enactment;
- 2) Significantly undermines the Marine Mammal Protection Act for the purpose of incentivizing offshore oil and gas drilling and creates a dangerous loophole in Endangered Species Act protections; and
- 3) Terminates Presidential authority to withdraw unleased lands from disposition under the OCS Land Act and prevents the President from declaring or reserving any ocean waters or lands for future national marine monuments.

The Commission staff have significant concern over the mandate to require a wind lease sale off the coast of California within a year of the enactment date. This provision shortcuts a critical federal-state process that is moving towards lease sales in the near future. There is an active federal/state partnership (specifically, the Bureau of Ocean Energy Management, or BOEM-CA Intergovernmental Renewable Energy Taskforce, which includes multiple federal, state and local stakeholders) that is working towards identifying the areas offshore of CA that are most suitable for wind energy development from an economic, social, environmental and regulatory standpoint. The California Energy Commission, working with BOEM and many other state and federal agencies, has devoted significant resources in developing a mapping and data portal to assist in this effort. This information will be used in the environmental review BOEM will conduct before offering a lease sale. Shortcutting this effort by requiring a lease sale within one year, based on an incomplete or insufficient environmental review, will potentially result in conflict between state, federal and tribal entities and will limit opportunities for input from the public. This is likely to delay action on wind energy project components and create opportunities for legal challenges.

The State of California has identified the need to develop offshore wind resources to meet its ambitious renewable energy goals, and devoted significant resources to identifying offshore areas that have the greatest likelihood of success. Forcing a lease sale before this process is completed will not necessarily result in faster installation of offshore wind turbines, but it could damage a federal-state partnership that has thus far been successful in bringing multiple stakeholders together.

More broadly, the proposed amended Section 33(a) appears to say that the Secretary shall conduct at least two wind sales on the OCS per year. However, it could also be read to say that the Secretary shall conduct at least two wind sales on the OCS of *EACH* state per year. This language needs clarification to capture the intent. If the language is intended to apply to each state, this kind of arbitrary requirement could result in premature lease sales without sufficient information to determine impacts (environmental, recreational and others) and adequately analyze alternatives. The offshore wind industry is a new industry in the United States. Forcing lease sales before a full review and adequate planning and analysis could lead to regulatory missteps, legal challenges, and a mistrust of the industry as a whole.

Regarding provision pertaining to the Marine Mammal Protection Act (MMPA), we strongly oppose the proposed changes to the MMPA. The changes would eviscerate any meaningful attempt to protect marine mammals; they are ill-conceived and misguided, and clearly contrary to the intent of the MMPA. The proposed bill language severely undermines the protection of marine mammals from injury associated with seismic air gun discharges for the purpose of exploration for offshore oil and gas, while preventing regulatory agencies from requiring almost any kind of mitigation. In addition, permits for seismic activity would be fast-tracked and automatically approved if not quickly expedited by the agencies and approvals could be automatically extended. These changes create unwarranted loopholes in the Endangered Species Act by allowing damage to marine mammals by seismic air gun surveys.

Finally, the proposed bill language proposes to preclude any future president from permanently protecting any coastal waters from offshore drilling (excepting within a duly-constituted National Marine Sanctuary) and also bans the creation of any new National Marine Monument by any future president, requiring instead an Act of Congress for all future such designations. Commission staff believes it is important and appropriate for the President to be able to recognize and protect key marine areas of national interest and significance. Furthermore, because of our rapidly changing climate, warming oceans and rising seas, we believe it is imperative that this country move away from relying on fossil fuel energy sources – maintaining the President’s ability to protect and dispose OCS areas from future oil and gas leasing is one tool to supporting that endeavor.

On a positive note, regarding the provision pertaining to National Marine Sanctuaries, the purpose of these sanctuaries is to maintain the natural biological communities of the ocean and to protect and, where appropriate, restore and enhance natural habitats, populations, and ecological processes, through innovative, coordinated, and community-based measures and techniques. This purpose is also consistent with California Coastal Act policies of protecting water quality, marine and coastal habitats, recreational access, sustainable fisheries, and archeological and aesthetic resources. The Commission and NOAA have a long history of successful partnership in coast and ocean stewardship in and around the four existing marine sanctuaries in California. Fundamental to maintaining ocean health in these marine sanctuaries is minimizing development that could harm the ocean and marine resources therein. As such, the Commission agrees with the provisions in Section 104(a)(2) that would allow the President to withdraw from disposition any unleased OCS lands for oil and gas leasing in national marine sanctuaries.

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Thank you for considering our comments and concerns. We would welcome the opportunity for the Coastal Commission and/or its staff members with expertise in these areas to discuss these issues with the subcommittee members/staff.

Sincerely,



JOHN AINSWORTH

Executive Director

cc: Jared Huffman, Congressional Representative for CA-2<sup>nd</sup> District  
Nanette Barragan, Congressional Representative for CA-44<sup>th</sup> District  
Jim Costa, Congressional Representative for CA-16<sup>th</sup> District  
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