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Committee on Natural Resources
Subcommittee on Energy and Mineral Resources

Legislative Hearing on H.R. 2231

Testimony of
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Chairman Lamborn, Ranking Member Holt, and members of the committee, thank you for inviting me here today to testify on H.R. 2231, the *Offshore Energy and Jobs Act*. My name is Sean Dixon, and I am the Coastal Policy Attorney at Clean Ocean Action.

Headquartered at Historic Fort Hancock, on Sandy Hook, New Jersey, Clean Ocean Action is a broad-based coalition representing over 135 boating, business, community, conservation, diving, environmental, fishing, religious, service, student, surfing, and women's organizations in the New York/New Jersey region. Clean Ocean Action's goal is to improve and protect the water quality of the coastal and marine waters of the New Jersey/New York region using science, law, research, education, and citizen action.

I. Introduction

Clean Ocean Action (COA) has spent almost thirty years working to cleaning up the costly decisions of the past where our ocean was seen as a dumping ground of immeasurable capacity and an open canvas for industrialization. Fortunately, the ocean is now seen as the ecological, economic, and social keystone that it is. On the beach, in the waves, and along the boardwalk, coastal business-owners, tourists, residents, fishermen, and ocean advocates of all stripes are cognizant of the connection between a clean ocean and a robust coastal economy. However, without safe water there are no swimmers or surfers, without healthy estuaries, there are no

fish, without clean beaches, there are no beachgoers, and without all of those qualities, there is no coastal economy.

The government's current OCS Five-Year Plan, while allowing access to more than seventy-five percent of the estimated undiscovered, technically recoverable oil and gas resources on the U.S. Outer Continental Shelf, does not allow OCS oil and gas activities in the Atlantic Ocean.¹

H.R. 2231 puts coastal jobs and economies at risk by:

- immediately opening the Atlantic Ocean to offshore oil and gas drilling,
- driving U.S. energy policy toward a less resilient, less secure future, and
- eliminating the "no action alternative" from environmental impact assessments, thereby barring from consideration the environmental and economic benefits of an oil-drilling-free ocean.

For these, and the following reasons, Clean Ocean Action opposes the *Offshore Energy and Jobs Act of 2013*.

II. Seismic Surveys Pose an Immediate Threat to Coastal Economies

On March 30, 2012, the Bureau of Ocean Energy Management (BOEM) issued a Draft Programmatic Environmental Impact Statement (Draft PEIS) for geological and geophysical exploration on the Atlantic Ocean Outer Continental Shelf.² According to BOEM, these surveys, to be conducted "in Federal waters of the Mid- and South Atlantic Outer Continental Shelf (OCS) and adjacent State waters,"³ are needed "to make informed business decisions regarding oil and gas reserves" and for other purported goals.⁴

This past January, in a letter to President Barack Obama, the late Senator Lautenberg was joined by seven of his coastal colleagues in decrying these proposed surveys, warning that the proposed seismic testing will "hurt our coastal communities and the marine resources that drive our coastal economy."⁵

The Senators, representing the citizens of California, Maryland, New Jersey, Rhode Island, Vermont, and Washington, took issue with the currently pending seismic proposals for three reasons.

First, the most obvious: seismic surveys are only necessary for oil and gas drilling.

¹ U.S. Department of the Interior. "Secretary Salazar announces 2012-2017 offshore oil and gas development program." November 8, 2011 (available at <http://www.doi.gov/news/pressreleases/Secretary-Salazar-Announces-2012-2017-Offshore-Oil-and-Gas-Development-Program.cfm>).

² 77 Fed. Reg. 19,321 (March 30, 2012)

³ <http://www.boem.gov/Oil-and-Gas-Energy-Program/GOMR/GandG.aspx>.

⁴ *Id.*

⁵ Letter to President Barack Obama by U.S. Senators Frank R. Lautenberg (D-NJ), Sheldon Whitehouse (D-RI), Patrick Leahy (D-VT), Robert Menendez (D-NJ), Benjamin Cardin (D-MD), Barbara Mikulski (D-MD), Barbara Boxer (D-CA), and Maria Cantwell (D-WA)., January 30, 2013 (available at <http://www.lautenberg.senate.gov/assets/seismic.pdf>).

*“Seismic airgun testing is used to explore for offshore oil and gas resources. Allowing this activity in the Atlantic Ocean is clearly a step towards permitting dangerous offshore drilling. ... Even those the proposed seismic testing would only span from Delaware to the middle of Florida, a significant oil spill in the Atlantic Ocean would harm...fisheries, and sea life all along the Atlantic Coast. **In particular, it would decimate the region’s robust tourism economy, which relies on clean and safe beaches.**”⁶*

Second, the Senators warned of the direct, known, and significant impact these surveys will have on marine mammals – many of which are critically endangered yet still support significant tourism economies and are keystone species in their coastal habitats.

“These loud airgun blasts can be heard for hundreds of miles in the ocean and, as a result, can drive whales to abandon their habitats, go silent, and cease foraging over vast areas. At shorter distances, it can cause permanent hearing loss, injury, and even death for whales, dolphins, and fish. According to the Department of the Interior’s (DOI) own estimates, seismic testing would injure up to 138,500 marine mammals, and disrupt marine mammal feeding, calving, breeding, and other vital activities.”⁷

Finally, fisheries will be significantly impacted by these surveys.

“[A]irgun noise has been shown to decrease fisheries catch rates by 40 to 80 percent, forcing fishermen to seek compensation for their losses. Since commercial and recreational fishing off the mid- and southeast Atlantic generates \$11.8 billion annually and supports 222,000 jobs, we are concerned that DOI did not take these economics impacts into account when assessing the proposed plan for seismic testing.”⁸

At a June, 2012, meeting of the Mid Atlantic Fishery Management Council (MAFMC), held in New York City, BOEM made a presentation on these proposed surveys that highlighted the potential for seismic surveys to impact clean coastal economies. During the presentation, BOEM scientist Dr. Jill Lewandowski noted that “that there is cross-over between the frequency of noise that is produced by seismic surveys and what at least many of the fish species we think can hear.”⁹ This can lead to a variety of effects, according to the presentation, from “no effect to habituation to a change in behavior;” the airguns might “mask some of [a fish’s] important cues,” could “go to hearing loss” or cause “other physiological effects that maybe don’t result in mortality but could be sublethal.”¹⁰

⁶ *Id.* (emphasis added).

⁷ *Id.*

⁸ *Id.* (emphasis added).

⁹ Minutes, MAFMC Meeting, New York, NY, June 11, 2012 (Available at http://static.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/51657e74e4b0f2e667ba2341/1365606004639/Council%20Minutes_June%2012_14_2012.pdf).

¹⁰ *Id.*

The BOEM conclusion on the state of science as to how seismic surveys impact fish and fisheries was concise: “there's really not much at all.”¹¹

After hearings on the issue, with input from BOEM, other scientists, fishermen, and the public, the Mid-Atlantic Fishery Management Council found that there is a 50-meter lethal zone around each airgun blast; that while highly-mobile fish may escape this zone, “the extensive (months long) survey timeframe makes it likely that prolonged avoidance of the arrays will be necessary and could lead to interruptions in fish spawning and access to forage;” and that much of the OCS is at a depth less than 50 meters, which would “place the entire water column within the ‘lethal range’ of the array.”¹²

These concerns were shared by many other government and non-government organizations, including the State of Delaware Department of Natural Resources and Environmental Control, which expressed concern that these proposed seismic surveys, and the oil operations that follow thereafter “would be catastrophic for our state economy” and that “[e]ven with the mitigation and monitoring measures outlined in the PEIS, significant adverse environmental impacts will still likely result from seismic airgun surveys.”¹³

Based on this input, the MAFMC concluded:

“It is clear that G&G activities have substantial impacts on marine environments, yet the Draft PEIS provides insufficient information about how the specific proposed G&G activities may affect fish, marine mammals, benthic communities, and ecosystem structure and function. We understand that these impacts are difficult to predict or quantify, but given the existing value of marine resources to the region and the nation, it is clear that the potential benefits do not outweigh the risks of initiating the proposed G&G activities at this point.”¹⁴

Because the MAFMC found that the seismic surveys could threaten the “more than 166,000 jobs with an associated income exceeding \$6 billion” within the Mid Atlantic Ocean, the Council resolved that it “cannot support the Draft PEIS.”¹⁵

Seismic surveys, which are just the first step in OCS oil and gas development, have significant impacts on fish, fisheries, and wildlife, and pose a direct threat to fishery jobs, coastal ecosystems, and coastal economies.

¹¹ *Id.*

¹² Mid-Atlantic Fishery Management Council Comments on Draft PEIS, June 29, 2012 (available at http://www.boem.gov/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/GOMR/AtIGGCommentsFedStaLoc.pdf).

¹³ Delaware Department of Natural Resources and Environmental Control Comments on Draft PEIS, May 30, 2013 (available at http://www.boem.gov/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/GOMR/AtIGGCommentsFedStaLoc.pdf).

¹⁴ Mid-Atlantic Fishery Management Council Comments on Draft PEIS, June 29, 2012 (available at http://www.boem.gov/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/GOMR/AtIGGCommentsFedStaLoc.pdf).

¹⁵ *Id.*

III. The Atlantic is No Place for Offshore Oil and Gas Activities

Only a few weeks ago, on May 24, 2013, six representatives of Atlantic Ocean states, representing coastal districts (and the existing businesses, people, economies and ecologies therein), as well as inland districts whose residents no doubt rely on a clean coast for state-wide economic benefit and for tourism, recreation, and employment, sent a letter to Secretary Jewell cautioning her on expansion of oil and gas operations into the Atlantic:

“OCS drilling is, in fact, quite controversial in our states because of its potential adverse impacts both on the environment and on our coastal communities and the tourism economy on which they depend.”¹⁶

The Congressmen continued, noting that “the risks of drilling in this sensitive region outweigh the benefits.” Indeed, the Congressmen urge the Secretary to turn away from offshore drilling and “towards a clean energy economy.”¹⁷

This ideal is backed up by economic fact: three times as many jobs are created by clean energy investments than with continued investments in reliance on fossil fuels.¹⁸

This sentiment has been echoed in of New Jersey and New York for decades with bi-partisan support. Indeed, since Governor Kean’s administration, every NJ Governor has opposed offshore drilling, especially where NJ would be at risk. Moreover, for decades, nearly the entire NJ Congressional delegation has opposed legislation to expand offshore drilling into the Atlantic.

“The Jersey Shore has been known for our boardwalks, rolling surf and ocean breezes. But now some are talking about adding oil rigs to that list. We say no way,” said the late Senator Lautenberg, in 2006.¹⁹

Senator Robert Menendez joined his colleague in declaring that the Jersey Shore “is far too precious and important to allow oil-crazed speculators to set-up shop along our coast.”²⁰ According to a New Jersey Department of Tourism study, about 60 percent of New Jersey’s \$35.5 billion tourism industry is generated at the shore.²¹

¹⁶ Letter to Secretary of the Interior Sally Jewell by Virginia Representatives Robert C. "Bobby" Scott, Jim Moran and Gerald E. Connolly; South Carolina Representative James E. Clyburn; and North Carolina Representatives David Price and Melvin L. Watt, May 24, 2013 (available at <http://www.newsobserver.com/2013/05/31/2928854/6-congressmen-oppose-atlantic.html>).

¹⁷ *Id.*

¹⁸ http://www.peri.umass.edu/fileadmin/pdf/other_publication_types/green_economics/economic_benefits/economic_benefits.PDF.

¹⁹ Press Release: “New Jersey Lawmakers Vow to Stop Republican Attempts to Open Up Oil Drilling off Jersey Shore.” July 14, 2006 (available at <http://www.lautenberg.senate.gov/newsroom/record.cfm?id=258641&>)

²⁰ *Id.*

²¹ <http://www.visitnj.org/sites/visitnj.org/files/2010-tourism-ecom-impact-prelim-3-23-2011-2.pdf>.

Across the greater New York/New Jersey region, the economic value of the clean ocean economy is unquestionable:

- The Port of New York and New Jersey, largest in the Atlantic, lies at the top of the Mid-Atlantic and saw over \$208 billion in cargo,²² over 5.5 million cargo containers, and over 86 million tons of goods move into and out of the Port.²³
- The Port Authority, which manages the Port, estimates that the Port's economic impact supports over 279,000 jobs in the region.²⁴
- In New York State, the "recreational fishing industry generated \$369 million in sales, contributed \$212 million to gross state product, and supported 3,000 jobs across the broader state economy" in 2011.²⁵ Commercially, New York's 2011 fisheries "generated \$5 billion in sales, contributed \$1.8 billion to gross state product, and supported 42,000 jobs across the broader economy."²⁶
- In New Jersey, in 2011, "the commercial fishing industry generated \$6.6 billion in sales, contributed \$2.4 billion to gross state product and supported 44,000 jobs across the broader state economy"²⁷ while recreational fisheries "generated \$1.7 billion in sales, contributed \$871 million to gross state product and supported 10,000 jobs."²⁸

The NY/NJ Port and fisheries impacts, therefore, contributed (during a recession) over \$220 billion in sales and cargo while supporting over 300,000 jobs.

States across the Atlantic coast have similar statistics and their economists would tell similar stories. For example, this committee heard testimony last week of a recent analysis showing Virginia's 2011 tourism industry supports more than 200,000 jobs, yielding an economic impact of more than \$20 billion,²⁹ and data from Florida showing that the tourism, wildlife, fisheries, ports, and defense-related industries generate more than \$175 billion in economic benefits and over 2.2 million jobs annually.³⁰

²² Trade Statistics of the Port of New York and New Jersey, 2011, at 1. The Port Authority of NY & NJ (available at <http://www.panynj.gov/port/pdf/port-trade-statistics-bar-C2c-2011.pdf>).

²³ *Id.*

²⁴ Regional Economic Benefits of the Port Authority of NY & NJ (available at <http://www.panynj.gov/port/regional-economic-benefits.html>).

²⁵ Regional Impact Evaluation; An Initial Assessment of the Economic Impacts of Sandy on New Jersey and New York Commercial and Recreational Fishing Sectors, at 1-2 (hereinafter "Sandy Report"). NOAA Fisheries, Office of Science & Technology and Northeast Fisheries Science Center, March 15, 2013 (available at http://www.st.nmfs.noaa.gov/Assets/economics/documents/sandy/Final_Report_Sandy_Regional_Impact_Evaluation_MSA.pdf).

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ PricewaterhouseCoopers, "Virginia State Tourism Plan" (2013) (available at http://www.vatc.org/uploadedFiles/Partnership_Alliance_Marketing/VirginiaStateTourismPlanVTC3292013.pdf).

³⁰ Mitch Stacy, "Florida tourism rebounds in 2011, overseas visits up," USA Today, December 30, 2011, (available at <http://travel.usatoday.com/destinations/story/2011-12-31/Florida-tourism-rebounds-in-2011-overseas-visits-up/52295150/1>).

These industries are not simply elements of the coastal economy – they are the drivers of the coastal economy. Yet, we are here today to speak to the expansion of oil and gas operations – operations which, in the Atlantic Ocean, would threaten these keystone elements of the coastal economy while only yielding U.S. consumers a three-cent (\$0.03) reduction in the “price at the pump” 10-15 years from now.³¹

IV. A Note on Superstorm Sandy

In addition to the human, social, and economic toll that Hurricanes Rita and Katrina took on the nation in 2005, those disasters triggered 125 known Gulf of Mexico oil spills (totaling over 16,000 barrels of oil),³² destroyed 115 Gulf petroleum production platforms, and damaged 457 sea-to-shore pipelines.³³ Hurricanes pose similar threats in the Atlantic Ocean, and oil and gas drilling along the eastern seaboard would be just as vulnerable as along the Gulf coast.

In fact, sea level rise and global climate disruption are already making our coastal communities more vulnerable; further reliance on fossil fuels, installation of offshore energy facilities, and the industrialization of the Atlantic Ocean can only exacerbate the problems facing the coasts.

Seven years after Hurricane Katrina, Superstorm Sandy struck the Atlantic coast, making landfall in New Jersey on October 29, 2012. A federal disaster area was declared by President Obama for most states in the region immediately after landfall. Two weeks later, on November 16, a federal fisheries disaster area was declared for New York and New Jersey under the citing Magnuson–Stevens Fishery Conservation and Management Act (MSA) and the Interjurisdictional Fisheries Act (IFA).³⁴ After months of recovery, and promises of up to \$60 billion in disaster relief aid, New York and New Jersey, as well as many other communities in the region, are still struggling to recover from the storm, return to their communities, and rebuild their lives.

In New York, damages to the recreational fishing sector totaled \$58 million (\$36 million at marinas; \$17 million at for hire companies; \$5 million at bait and tackle shops) while damages to the commercial fishing sector totaled \$19 million (\$9 million for seafood dealers; \$5 million for federally-permitted commercial fishermen; \$5 million for seafood processors).³⁵ In New Jersey,

³¹ EIA, Impacts of Increased Access to Oil and Natural Gas Resources in the Lower 48 Federal Outer Continental Shelf AEO 2007 (available at <http://www.eia.gov/oiaf/aeo/otheranalysis/ongr.html>).

³² U.S. 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. August 8, 2006 (available at <http://www.docstoc.com/docs/6798709/Estimated-Petroleum-Spillage-from-Facilities-Associated-with>).

³³ U.S. Minerals Management Service. News Release. MMS Updates Hurricanes Katrina and Rita Damage. May 1, 2006.

³⁴ Regional Impact Evaluation; An Initial Assessment of the Economic Impacts of Sandy on New Jersey and New York Commercial and Recreational Fishing Sectors. NOAA Fisheries, Office of Science & Technology and Northeast Fisheries Science Center, March 15, 2013 (available at http://www.st.nmfs.noaa.gov/Assets/economics/documents/sandy/Final_Report_Sandy_Regional_Impact_Evaluation_MSA.pdf).

³⁵ Regional Impact Evaluation; An Initial Assessment of the Economic Impacts of Sandy on New Jersey and New York Commercial and Recreational Fishing Sectors. NOAA Fisheries, Office of Science & Technology and Northeast Fisheries Science Center, March 15, 2013 (available at

recreational fishing losses exceeded \$62 million (\$30 million to marinas; \$16 million to bait and tackle shops; and \$16 million to for-hire operations) and commercial fishing losses exceeded \$11 million for seafood dealers; \$3 million to federally-permitted commercial fishermen, and \$100,000 to seafood processors.³⁶

In the aftermath of Superstorm Sandy, to add OCS oil and gas operations and their dangerous risks to the already-full plate of the Atlantic Ocean would devastate our natural resources and drastically increase the burden on coastal marinas, regulators, citizens, businesses, parks and wildlife refuges, and fishermen still looking to rebuild or recover. For towns where half of the businesses are open, where a only third of the tourists have returned, or where only a quarter of the homes have been rebuilt, the answer is not to risk the future with the fuels of the past; the answer is to reinvest in the clean economies that brought in billions and employed millions before Superstorm Sandy.

V. Endangering Long-Term Clean Ocean Economies is Not in the Public Interest

The push to expand offshore oil drilling all too often puts the short term ahead of the long. As with any offshore fossil fuel project, most of the job benefits claimed by oil companies are short-term – installing and constructing facilities and pipelines. One facility proposed for offshore New York, the Liberty LNG “Port Ambrose” project, would only generate up to ten staff positions for the operation of the port – four of which are contingent on LNG deliveries.³⁷ The long-term, clean ocean economy jobs of the Atlantic coast, detailed above, can suffer immediately (through increased competition and cost for dock space, increased burdens on Coast Guard operations, and ecosystem impacts from seismic surveys), as well as in the future (through oil spills and leaks, tourism and recreation reductions, and multiple-use at-sea conflicts).

The problem before us today is whether to support purported short-term benefits of oil and gas activities in light of the actual short-term losses and potential long-term vulnerabilities created in fishery, tourism, recreation, and trade because of oil and gas. This juxtaposition is rarely brought to the public’s attention – that the jobs promised by the oil companies would not be created in a vacuum.

This timeframe dichotomy is playing out in the world of energy policy as well. “While the United States may be a net importer of crude oil, we are a net exporter of petroleum products, coal, and soon, liquefied natural gas. Given that nonrenewable energy resources like oil, gas, and coal are, by definition, not infinite, the issue is not just how we produce energy domestically, but what we do with that energy once it comes to market.”³⁸ As with jobs, the national discourse over oil production rarely presents the long-term, other-industry issues pertinent to informed decisionmaking. Oil companies extract U.S. domestic public resources for shipment to the top buyer (whether that is overseas or not), solicit contractors who are the bottom bidders, and

http://www.st.nmfs.noaa.gov/Assets/economics/documents/sandy/Final_Report_Sandy_Regional_Impact_Evaluation_MSA.pdf).

³⁶ *Id.*

³⁷ Port Ambrose Socioeconomic Study (available at <http://portambrose.com/project-application-materials/volume-2-topic-6-socioeconomics/>).

³⁸ Dixon, Sean T. and Jonathan Panico, *Extraction for Exportation: Is There Such a Thing As “Net Energy Independence”?* Natural Resources & Environment Volume 27, Number 3, Winter 2013.

have a clear set of economic and energy policy priorities driven to maximize dividends, not the long term diverse economic vibrancy of coastal communities.

As has been stated time and time again by elected officials, coastal citizens, and, most recently the Mid Atlantic Fishery Management Council, the long-term vitality of the existing uses and users of the Atlantic Ocean depends on an oil-free ecosystem. In the midst of an economic crisis, and in the wake of a devastating few years of Atlantic Ocean hurricanes, employers on fishing boats, boardwalks, and beaches are just beginning to restore the industries that took generations to build.

VI. Offshore Energy and Jobs Act Conclusions

The Atlantic Coast has been home to centuries of fishing, tourism and trade; the people that live along the nation's densest coastline continue those traditions. From the recreational fisheries of Florida to the commercial fisheries of Maine, the crabbing in the Chesapeake to the sailing in Long Island Sound, these clean ocean economies drive our coastal communities, our coastal states, and our nation. Billions of dollars and millions of jobs are built within a delicately balanced ecosystem, each relying on the other, and each relying on a clean ecosystem.

The *Offshore Energy and Jobs Act of 2013* will threaten this balance, immediately and with long-lasting impact.

Over the long history of the New York/New Jersey region, we have learned that the ocean does not mix with toxins, medical waste, or acid waste – at least not if the goal for the region is one of robust fisheries and packed beaches. In the wake of Hurricanes Rita and Katrina, and the BP Deepwater Horizon oil disaster, we re-learned the lesson that oil and water do not mix.

Instead of turning our back on history, we should turn towards those ocean uses that can have clean, productive futures, help those that are still struggling after Hurricane Sandy, and move forward with a clean ocean future.

Oil and gas moves with water and wind and is not contained by political boundaries. When the oil well blows, or oil spills from a pipe or platform, or leaks from a tanker – oil spreads rapidly and contaminates everything in its way whether it's marine life, coastal wetlands, the seafloor, or beaches. We continue to learn about the long term ecological impact from the BP oil disaster. The myriad other impacts generated by expanded offshore OCS activities, from seismic surveys to non-point source pollution and air emissions, are similarly unconstrained by political boundaries.

H.R. 2231's activation of OCS operations anywhere in the Atlantic Ocean threatens the ecology, and therefore economy of the entire Atlantic coast.

Thank you for the opportunity to speak,

Sean Dixon