# Subcommittee on Energy and Mineral Resources

Paul Gosar, Chairman

Hearing Memorandum

April 23, 2018

**To:** All Subcommittee on Energy and Mineral Resources Members

**From:** Majority Committee Staff, Kate Juelis (x6-9837)
Subcommittee on Energy and Mineral Resources

**Hearing:** Oversight hearing titled *"Examining the Critical Importance of Offshore Energy Revenue Sharing for Gulf Producing States"*
**April 26, 2018, at 10:00 a.m.; 1324 Longworth House Office Building**

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The Subcommittee will hold an oversight hearing titled *"Examining the Critical Importance of Offshore Energy Revenue Sharing for Gulf Producing States"* on **April 26, 2018, at 10:00 a.m., in 1324 Longworth House Office Building**.

**Policy Overview**

- The Gulf of Mexico is a major source of energy development in the United States and one of the world's most prolific hydrocarbon basins. The Gulf of Mexico Energy Security Act of 2006 (GOMESA) enhanced offshore leasing activities and established a revenue sharing structure for Gulf producing States.

- The Gulf Coast States of Texas, Louisiana, Mississippi, and Alabama directly support the trillion-dollar energy industry and yield billions in revenues to the U.S. Treasury each year. Louisiana's coast has proven particularly energy productive.

- Gulf States bear environmental and economic risks associated with offshore production, and growing investments in infrastructure and coastal restoration are necessary to support future energy development. For example, Louisiana faces ecological challenges due to extensive land loss along its coast. River control systems, canal cutting, and hurricane damage result in the loss of a football field per hour of land along the Louisiana coast.

- Despite injecting billions in energy-related revenues to federal coffers, Gulf producing States have yet to see meaningful State disbursements due, in large part, to the terms of GOMESA.

- This hearing will examine the importance of energy development in the Gulf of Mexico, review associated infrastructure and coast restoration challenges, and evaluate policy reforms to enhance revenue sharing with Gulf producing states.

**Invited Witnesses (in alphabetical order)**

*Mr. John M. Barry*
Former Board Member
Southeast Louisiana Flood Protection Authority - East
New Orleans, Louisiana

*Mr. Chett Chiasson*
Executive Director
Greater Lafourche Port Commission
Cut Off, Louisiana

*Mr. Reggie Dupre, Jr.*
Executive Director
Terrebonne Levee and Conservation District
Houma, Louisiana

*The Honorable Mary Landrieu*
Senior Policy Advisor
Van Ness Feldman, LLP
Washington, D.C.

**Background**

For decades, Louisiana has been the undisputed epicenter of offshore oil and gas production in the Gulf of Mexico. Servicing the nation's most prolific oil and gas basin, southern Louisiana's coastline brings 1.5 million barrels of crude oil per day to market, and yields billions in revenues to the U.S. Treasury each year.[1] The Mississippi River Delta is also located here, and Louisiana ports ship over $100 billion in commodities and finished goods to the rest of the nation.[2] Louisiana also supports some of the nation's most productive hunting, fishing, and ecotourism areas. Yet, the State's coastline faces an ecological crisis, precipitated by river control systems and hydrocarbon infrastructure development.

Since the first offshore well was drilled off St. Mary's Parish in 1946, the central Gulf region has provided the majority of offshore oil production. In 2016, 500 million barrels of oil were produced from the central Gulf region, with the Western region producing 94 million barrels.[3] This directly translates into revenues to the federal government – of the $3.8 billion in OCS revenues paid in 2017, $3 billion came from the Central Gulf of Mexico planning area.[4]

[1] Resnick-Ault, Jessica, "*Little fanfare, but Gulf of Mexico oil still growing steadily*," Reuters, May 4, 2017 (https://www.reuters.com/article/us-oil-markets-gulfmexico-analysis/little-fanfare-but-gulf-of-mexico-oil-still-growing-steadily-idUSKBN1800TU)
[2] Restore the Mississippi River Delta, *Economy* (http://mississippiriverdelta.org/whats-at-stake/economy/)
[3] U.S. Department of the Interior, Office of Natural Resource Revenue, Natural Resources Revenue Data, Explore Data – Gulf of Mexico (https://revenuedata.doi.gov/explore/offshore-gulf/)
[4] *Id.*

Featuring advanced port systems and extensive hydrocarbon transmission systems, Port Fourchon, Louisiana, fields over 90% of the Gulf's oil and gas production and services over 400 large supply vessels each day.[5] Port Fourchon serves as the land base for the Louisiana Offshore Oil Port, which receives, stores, and distributes the crude oil itself. With 1.5 million barrels of crude passing through the port per day, Port Fourchon facilitates the distribution of over 18% of the nation's oil supply.

Southern Louisiana is home to five of the top twelve busiest ports in the United States, and is the epicenter of the nation's liquified natural gas (LNG) exporting capabilities. As global demand for LNG skyrockets, Port Fourchon is enhancing its capabilities to include a LNG export terminal. The facility will ship LNG to global markets, and will provide cleaner fuel for American marine tankers.[6] In Cameron Parish, Louisiana, over $30 billion worth of LNG infrastructure is under construction, with new export capacity planned.

However, much of the port infrastructure must also contend with the reality of land loss. A recent study found that $136 billion in economic activity is threatened by land loss and storm damage.[7] Highway 1, which is the only way to access the Port Fourchon system by land, is particularly vulnerable. After Hurricane Isaac hit the coast in 2012, the highway was closed for several days, choking off supplies to the port. According to a National Oceanic and Atmospheric Administration study, by 2027, this highway will be underwater for more than 30 days each year.[8]

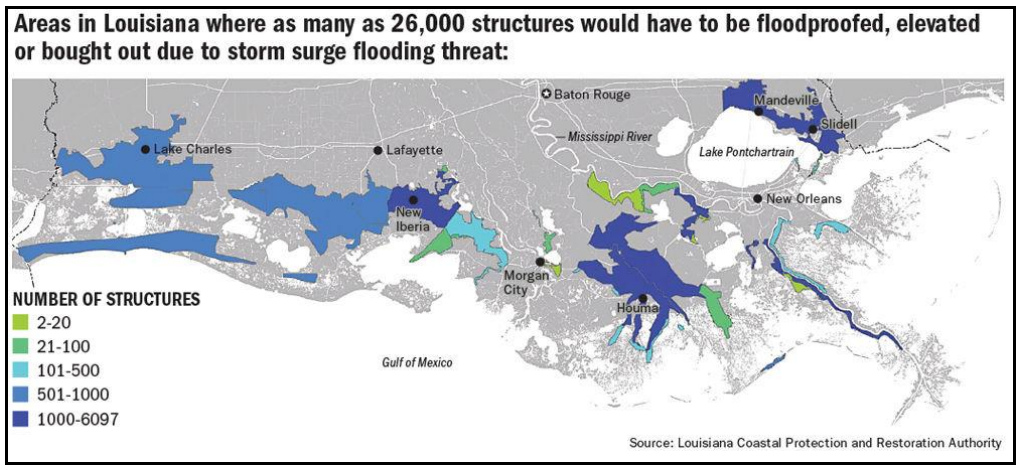


Figure 1 – Number of Structures Needing Reinforcement Against Flooding and Storm Surges[9]

[5] Greater Lafourche Port Commission, *Port Facts*, (http://portfourchon.com/seaport/port-facts/)
[6] *"Fourchon LNG kicks off federal regulatory process for $888-million LNG facility*", World Oil Aug 11, 2017 (http://www.worldoil.com/news/2017/8/11/fourchon-lng-kicks-off-federal-regulatory-process-for-888-million-lng-facility)
[7] "*Louisiana fights the sea, and loses*," The Economist, Aug 26, 2017 (https://www.economist.com/news/united-states/21727099-has-lessons-americas-climate-change-policy-louisiana-fights-sea-and-loses)
[8] Reckdahl, Katy, "A vital port for the nation's oil and gas industry is on its way to becoming an island," The Lens, Dec 22, 2017 (https://thelensnola.org/2017/12/22/a-vital-port-for-the-nations-oil-and-gas-industry-is-on-its-way-to-becoming-an-island)/
[9] Marshall, Bob, *"2017 Coastal Master Plan predicts grimmer future for Louisiana coast as worst-case scenario becomes best case,"* The New Orleans Advocate, Jan 3, 2017

*Coastal Engineering*

The Mississippi River runs 2,320 miles through the heart of the United States, and for centuries has served as a main artery of commerce for America.[10] Over millions of years, sediments flowing down the River built up the iconic, sprawling delta, with the River and its tributaries naturally changing course. The commercial age brought the need to channel and stabilize the River to improve navigation and flood control. Since the 1800s, Louisianans have constructed levees and other water control systems to protect against flooding. The complex, powerful Old River Control Structure was completed in the 1963, to restrain the shifting of the River.[11] Taken together, these man-made efforts to reign in the River have slowed sediment deposits, preventing the coastline from naturally replenishing Louisiana's coastal marshes.

Compounding land loss was the practice of dredging canals meant to allow drill rigs and pipeline structures into the marsh. The act of removing this land exacerbates erosion, and can leave submerged pipelines exposed in open water.[12] According to a 2015 Louisiana State University study, 610 miles of pipeline could be exposed by 2040 due to coastal land loss if no coastal restoration action is taken.[13] The thick swamp forests, natural marshland, and barrier island systems collectively absorb severe flooding and storm surges, but human engineering has reduced the efficacy of these systems. In 2005, Hurricanes devastated the Gulf coast. Landing in Louisiana, these storms caused severe damage to the State's economy and environment. Ongoing land subsidence appeared to exacerbate the severity of the flood damage.

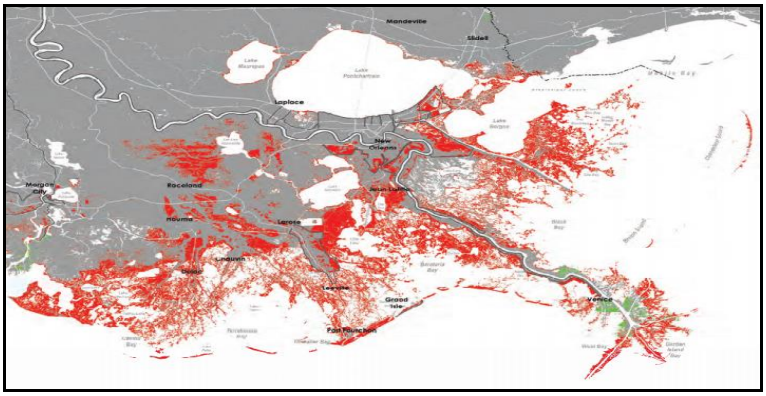


Figure 2 - Predicted land change over the next 50 years, with no additional remedial action[14]

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(http://www.theadvocate.com/new_orleans/news/environment/article_5ac81e86-d1e7-11e6-9177-1bbd55b599b7.html)

[10] National Park Service, Mississippi, (http://www.nps.gov/miss/riverfacts.htm)

[11] U.S. Army Corps of Engineers, *"Old River Control Brochure,"* (http://www.mvn.usace.army.mil/Portals/56/docs/PAO/Brochures/OldRiverControlBrochure.pdf).

[12] Traywick, Catherine, "*Louisiana's Sinking Coast is a $100 Billion Nightmare for Big Oil,*" Bloomberg, Aug 17, 2016, (https://www.bloomberg.com/news/features/2016-08-17/louisiana-s-sinking-coast-is-a-100-billion-nightmare-for-big-oil)

[13] "*Economic Evaluation of Coastal Land Loss in Louisiana*," Louisiana State University – E.J. Ourso College of Business, Dec 2015 (http://coastal.la.gov/wp-content/uploads/2015/12/LSU-Rand_Report_on_Economics_of_Land_Loss-2.pdf), p.33

[14] "*Louisiana's Comprehensive Master Plan for a Sustainable Coast*," Coastal Protection and Restoration Authority of Louisiana, Jun 2, 2017, (http://coastal.la.gov/wp-content/uploads/2017/04/2017-Coastal-Master-Plan_Web-Single-Page_CFinal-with-Effective-Date-06092017.pdf), p ES-7

Following the devastation caused by the 2005 hurricane season, the Louisiana Legislature held a special session to develop recovery initiatives, and enhanced an existing State department to form the Coastal Protection and Restoration Authority (CPRA).[15] The CPRA's mission is to develop, implement, and enforce a comprehensive coastal protection and restoration plan. The agency works with a myriad of government entities to protect communities, infrastructure, and natural resources into the future by securing funding streams, evaluating environmental metrics, and executing projects that create, maintain, and protect coastal wetlands.[16] Prior to the passage of GOMESA, the State legislature overwhelmingly passed a Constitutional amendment to dedicate all offshore revenue dollars to coastal restoration. CRPA relies on combined sources of funding, including federal, State, and parish level funding, to pursue restoration initiatives.

In addition, to address this severe environmental crisis, the Louisiana State legislature amended its constitution to dedicate all offshore oil and gas revenues for coastal restoration.[17] Recognizing that coastal restoration is necessary to support the State's economy, this measure had one of the highest passage rates of any constitutional amendment in the State's history.[18] Pursuant to this amendment, GOMESA funds may be used for five purposes:[19]

1. Projects and activities for coastal restoration, risk reduction, or conservation
2. Mitigation of damage to fish, wildlife, or natural resources
3. Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan
4. Mitigation of impact of OCS activities by funding onshore infrastructure projects
5. Planning assistance and administrative costs of compliance (capped)

Over the last decade, CPRA has restored 36,000 acres of marshland, and built up 60 miles of artificial barrier islands.[20] According to its 2017 Master Plan, the agency plans to focus on 124 planned projects over the next five years, and aims to restore 800 square miles of land over the next 50 years. Restoration projects come in many forms, but the majority involve the beneficial use of dredged material, essentially relocating sediment deposits to strategically replace lost land and to protect threatened marshland areas. According to the CPRA Master Plan, $17.7 billion is dedicated towards marsh creation, $19 billion towards structural reinforcements, and $5.1 billion towards sediment diversion. Much of the funding was to come from annual GOMESA disbursements, which have been unreliable.

[15] Coastal Protection and Restoration Authority, History, (http://coastal.la.gov/about/history/)
[16] *Supra*, Note 13, p. 31
[17] "Coastal Protection and Restoration Authority Gulf of Mexico Energy Security Act- Infrastructure Funding Program", (http://coastal.la.gov/wp-content/uploads/2016/08/Final-GOMESA-Infrastructure-Process.pdf)
[18] call with Reggie Dupre
[19] *Supra* Note 13, p. ES-13
[20] *Supra*, Note 8

Figure 3 – Bayou Dupont Sediment Delivery – Marsh Creation Project[21]

Some of the 2 million coastal Louisianans have migrated inland to avoid some of the worst flooding and storm surge threats to their homes and businesses, but the social impacts of coastal loss came into sharp focus in 2016. Residents of Isle de Jean Charles, located in Terrebonne Parish, became the first community in the country to receive federal funding for relocation due to erosion and sea level rise. The island saw a 98% reduction in land since 1955, as fewer sediments flowed downriver and hurricanes slammed the island. In 2016, $48 million was granted to about 80 residents to purchase new land and build a new community.[22]

This land loss phenomenon affects marine life in the region, potentially impacting the State's commercial and recreational fishing industries. Land loss allows saltwater to infiltrate further inland, and the changes in salinity dramatically alter conditions for estuarine life. While there have been limited effects on fisheries to date, if the freshwater systems are not protected and maintained, productive fisheries will ultimately be threatened.[23]

*Sharing the Offshore Revenue*

In December 2006, Congress enacted GOMESA (Public Law 109-432), which established a revenue sharing program for the Gulf producing States of Texas, Louisiana, Mississippi, and Alabama. Because these States bear the environmental risks that come with offshore energy development, Congress identified the necessity of compensating them. GOMESA directs 37.5% of all Gulf revenues to the four States in accordance with a formula based on OCS lease block distance from each State's coast.

GOMESA also directs 12.5% of qualified offshore revenues to the Land and Water Conservation Fund (LWCF), to be used for State programs. It should be noted that the $900 million annual authorization level of the LWCF Fund is met almost exclusively by offshore

[21] *Supra*, Note 13, p. ES-16
[22] Baurick, Tristan, "*Here's where residents of sinking Isle de Jean Charles will relocate*," The Times-Picayune, Dec 20, 2017 (http://www.nola.com/environment/index.ssf/2017/12/site_chosen_for_relocating_isl.html)
[23] Henry, Mike, "Fishery impacts and coastal restoration questions," Email Correspondence, Apr 19, 2018.

energy revenues, and the GOMESA dedication is on top of the $900 million annual authorization.[24] In fiscal year 2016, Louisiana received about $1.5 million in LWCF State grants.[25]

Based on the revenue-sharing formula established under GOMESA, Louisiana is positioned to benefit most due to its long and heavily affected coastline. The statute created two phases of disbursement. The first phase, which began in fiscal year 2007, limited disbursements to revenues generated by select leases. Phase II, which began fiscal year 2017, greatly expands the definition of revenues eligible for disbursement to include all revenues generated by leases issued after 2006.[26] Gulf States, under Phase I, never saw consequential disbursements. As such, fiscal year 2017 was meant to be the blockbuster year for Louisiana, with the State expecting $140 million in revenues.[27]

Last fall, however, federal officials indicated that the State was set to receive just half of that amount. The official disbursement, expected in April 2018, will be halved by a combination of enduring low oil prices, and the Obama Administration's drilling moratorium following the 2010 Deepwater Horizon spill. According to Chip Kline, the CPRA Chairman, the agency had to reexamine its fiscal year 2019 budget because of this shortfall. The GOMESA Infrastructure Funding Program is under particular scrutiny. The program dedicates up to 10% of GOMESA revenues to roads and bridges impacted by coastal land loss.[28]

*Inequities Among Energy Revenue-Sharing Statutes*

The 1953 Outer Continental Shelf Lands Act (OCSLA, 43 U.S.C. 1331 et seq.) governs the management of the minerals within federal offshore territory. However, unlike this statute's onshore equivalent, the Minerals Leasing Act of 1920 (MLA, 30 U.S.C. 181 et seq.), OSCLA did not establish a revenue-sharing scheme for mineral revenues to affected States. Under the MLA, revenues generated from hydrocarbon production are shared equally with the State in which the revenues are produced.[29] Due to the phase-ins and statutory caps of GOMESA (and the lack of an historic revenue sharing structure under OCSLA), a great disparity exists between the revenues received by States for onshore production and offshore production. Hence, in fiscal year 2016, Wyoming received $670 million in disbursements, while Louisiana's check was roughly $320,000.[30]

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[24] Hardy-Vincent, Carol, "*Land and Water Conservation Fund: Overview, Funding History, and Issues,"* Sep 6, 2016 (http://www.crs.gov/Reports/RL33531?source=search&guid=995b8347d35543cba6a9650d2f3da87b&index=2)

[25] "*The National Park Service- Land and Water Conservation Fund FY2016 Apportionment to the States*", Apr 16, 2016 (https://www.nps.gov/subjects/lwcf/upload/signed-FY16-lwcf-certificate.pdf"

[26] Bureau of Ocean Energy Management, Gulf of Mexico Energy Security Act (GOMESA), (https://www.boem.gov/Revenue-Sharing/)

[27] Hasselle, Della, "*Louisiana faces unexpected shortfall in major source of funding for coastal protection*", Oct 18, 2017, (http://www.theadvocate.com/new_orleans/news/article_7356cce0-b454-11e7-a679-130f78101717.html)

[28] *Id.*

[29] 30 U.S.C. 191

[30] The Department of the Interior, Office of Natural Resource Revenue, "*Analysis of NR disbursements FY2003-2017*"; Comay, Laura, "*Louisiana FY2017 OCS Revenues*" Email Correspondence, Apr 20, 2018

Furthermore, payments to Gulf producing States and LWCF are capped at $500 million per year, except for fiscal years 2020 and 2021.[31] Under the $500 million cap, Gulf producing States are only eligible to receive $375 million per year, split among the four Gulf producing States, with the remaining $125 million disbursed to LWCF. There have been numerous legislative efforts to raise or eliminate these caps to establish parity with the onshore revenue sharing structure.

*Finding Solutions*

Given the severe need for dedicated, reliable funding to resolve the land loss crisis along Louisiana's coastline, efforts must be made to protect and enhance revenue streams to coastal restoration projects. With so much offshore revenue directed away from the coast, restoration projects are severely threatened, as is consistent and reliable funding into the U.S. Treasury. Expanded offshore production, along with enhanced revenue schemes with States, should be examined to ensure adequate funding exists in the future.

[31] Public Law 109-432