The Nature Conservancy
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Testimony

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Chair Roblan and members of the committee, thank you for the opportunity to testify on SB 736. My name is Jena Carter and I am the Marine and Coast Director for the Oregon chapter of The Nature Conservancy.

The Conservancy is an international, nonprofit organization whose mission is to conserve the lands and waters on which all life depends. While many people know us for our terrestrial work and partnerships, the Conservancy has recently taken our collaborative conservation approach into the water. With marine staff and projects in more than 30 countries and all coastal U.S. states and territories, the Conservancy works with partners to create lasting conservation results that benefit marine life, local communities and economies.

Today, I am here to testify in support of SB 736. This bill provides the State of Oregon with an opportunity to capture future revenues from the marine renewable energy industry and rededicate those revenues to ocean stewardship and science.

Background

The history of Outer Continental Shelf development and how to share offshore resources between the state and federal governments dates back to the 1800s with early disputes about oil and natural gas occurring in California and Texas. By 1910, America had turned to oil as its primary natural resource, and by the 1950s, oil production became the second-largest revenue generator for the United States, after income taxes.

Debate, litigation and several attempts to legislate culminated in the enactment of laws in the 1950s that continue to guide offshore development today. Chief among these statues is the Submerged Lands Act which confirms the states' title to and ownership of the lands beneath navigable waters and defines the seaward boundary of the state as three miles from its coastline.

In addition, the Outer Continental Shelf Lands Act (OCSLA) defines the federal government's jurisdiction as the submerged lands lying seaward of state's boundary (3-200 miles offshore). Under the OCSLA, the Secretary of the Interior is responsible for the administration of mineral exploration and development of the Outer Continental Shelf. The Act empowers the Secretary to deposit all rentals, royalties, and other sums paid to the Secretary on any lease on the Outer Continental Shelf into the Treasury.

In 1985, an amendment to the OCSLA created a new revenue sharing scheme for oil and natural gas revenues generated between 3 and 6 miles offshore, with states receiving twenty-seven percent (27%) of the revenues and the federal government retaining the remainder. Two decades later, Congress passed the Energy Policy Act of 2005 which amended the OCLSA to add marine renewable energy to the revenues that the states and federal government share between 3 and 6 miles offshore.

Reinvesting Offshore Revenues into the Ocean

The submerged lands, living marine resources, and renewable resources of the ocean are held in trust by the government on behalf of the public and are required to be maintained for the public's reasonable use. For this reason, it is commonly recommended that revenues generated from the private use of publically-owned ocean resources should be reinvested to ensure the future health of those trust resources. It is further argued that although energy development occurs offshore, many of the impacts occur locally, in and near the states' coastal zones. Therefore, affected states and communities should receive assistance in coping with the costs of offshore development, including actions to minimize the risk of environmental damage.

This idea was endorsed by the bipartisan U.S. Commission on Ocean Policy and several states have taken action to reinvest these dollars. In California, for example, between 1985 and 2001, the state enacted three bills to allocate a portion of offshore oil and gas revenues to impacted coastal counties and cities. All three bills authorized recipients to use the funds for Outer Continental Shelf-related activities, such as planning, infrastructure, mitigation, and enhancement of coastal resources.

SB 736 – Ocean Resources Fund

SB 736 proposes to dedicate the revenues to a competitive grant program administered by the Oregon Department of Energy. The grant program would support ocean stewardship and scientific research. The research can be related to socio-economic and natural resource issues as well as questions on the impacts of renewable energy development.

In addition, SB 736 proposes to dedicate a portion of the revenues to coastal counties. Providing coastal counties with a revenue source will help them address staff costs and other impacts associated with offshore development. This action mirrors what has taken place in other states (e.g. oil and natural gas revenues are shared with coastal counties in the Gulf of Mexico, California and Alaska).

An often asked question is – how much money would this Oregon Ocean Resources Fund generate? This is a difficult question to answer, because it is unknown how quickly the marine renewable energy industry will grow off Oregon or the exact footprint that commercially viable technologies may require. Additionally, the revenues depend upon formulas that vary depending upon the phase of the project, operating capacity, and the relevant prices set for electricity in the state. An illustrative example by the Bureau of Ocean Energy Management is provided here:

> An offshore lease, issued noncompetitively, on 12,000 acres of the Outer Continental Shelf would be required to pay $36,000 annually based on a charge of $3 per acre in rent during the site assessment term. Once we approve the COP [Construction Operation Plan] and the generating facility begins generating electricity commercially, the operating fees will be payable. For a lease with an installed capacity of 200 MW and an operating capacity factor of 0.38, i.e., 38 percent, the operating fee would be $666,000 annually if the applicable wholesale power price was $50 per megawatt hour. Additionally if the approved project plan has easements covering 2,000 acres, an additional $10,000 in rents ($5 per acre) would be collected per year. (Federal Register. Vol. 74. No. 81, pg. 19680)

Following this example, if these revenues were generated between 3 – 6 miles offshore, Oregon would receive 27% of the fees, amounting to $182,500.

While initially the amount of money generated offshore may initially be small, this bill provides Oregon with an important mechanism to collect energy moneys and reinvest them into ocean stewardship and science. It also allows the state to take advantage of future federal legislative changes. For example, U.S. Senators Mary Landrieu (D-LA) and Lisa Murkowski (R-AK) introduced legislation this month that would amend the OCSLA. Specifically, their bill would expand the geographic area of revenue sharing to 200 miles offshore and increase the percent to states to 27.5% with a bonus ten percent for certain investments like energy conservation. Having the Ocean Resources Fund proposed in SB 736 in place will allow Oregon to quickly take advantage of opportunities such as this.

Closing

To my knowledge, if SB 736 is enacted, Oregon will be the first state in the nation to pass a bill specifically aimed at capturing and reinvesting marine renewable energy revenues. The bill and leadership of this Committee will serve as a model for other states. We look forward to working with the Committee and others to advance the provisions of this bill. Thank you for the opportunity to testify here today.