

**Testimony of
Ted Diers
State of New Hampshire's Representative ~ Coastal States Organization
and
Program Manager ~ New Hampshire Coastal Program
New Hampshire Department of Environmental Services**

**Before the
Subcommittee on Fisheries and Wildlife and Oceans**

**Committee on Natural Resources
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**Hearing on H.R. 1907
Coastal and Estuarine Land Protection Act**

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Chairwoman Bordallo, Ranking Member Brown, and distinguished members of the Subcommittee; thank you for the opportunity to appear before you today to discuss the Coastal and Estuarine Land Conservation Program and H.R. 1907, the "Coastal and Estuarine Lands Protection Act".

My name is Ted Diers. I am the Vice Chair of the Coastal States Organization (CSO), an organization which represents the interests of the Governors of the thirty-five coastal states and territories. I am also the Chair of CSO's Habitat Work Group and in this capacity work collectively with the states on legislation affecting coastal habitats. During my testimony today, I am providing comments on behalf of CSO and where appropriate will also interject my personal perspective as the primary administrator of the CELCP program for the State of New Hampshire, where I serve as the Program Manager of the New Hampshire Coastal Program in the Department of Environmental Services.

BACKGROUND

The Coastal and Estuarine Land Conservation Program (CELCP) was established by Congress in 2002 "to protect coastal and estuarine lands considered important for their ecological, conservation, recreational, historical or aesthetic values." Thus far, CELCP has invested over \$177 million towards 119 conservation projects in 25 of the nation's 35 coastal states. This federal investment has leveraged more than an equal amount of state, local and private funding, demonstrating the importance of coastal protection throughout the nation and the critical role of federal funding to its success.

For the states, CELCP is an incredibly important program. There are few other funding opportunities to address the rapid loss of open space in our coastal zone and watersheds. With the CELCP funds, the states are able to create partnerships with land trusts, municipalities and other agencies to conserve lands critical to maintaining water quality,

wildlife habitat and public recreational access. In New Hampshire alone, we have developed partnerships that have resulted in nearly 3,000 acres of conserved lands.

As evidence of the success of CELCP, over the years demand for CELCP funds has risen. In New Hampshire, land conservation is a voluntary activity; yet we have many more willing sellers than funds for conservation. Recently, the state identified an immediate opportunity for over 280 conservation projects with a requested financial need of \$65.6 million. These are not theoretical projects but real tracts of land with willing sellers and organized land trusts or municipalities willing to buy the land or easements.

While there is no doubt that more land development is coming, but growing well means giving new residents the same benefits that people have traditionally enjoyed along the coast, like clean drinking water and places to swim, fish, and go for an unobstructed view of the coast. Conserved natural areas in the coasts not only contribute to quality of life, they also bring monetary benefits to communities and the region through recreational opportunities and tourist appeal.

Through H.R. 1907, the House and congressional delegations have clearly recognized this relationship between land and our quality of life. It is a bill that New Hampshire supports as well as the thirty-five states that comprise the Coastal States Organization.

CELCP IN NEW HAMPSHIRE

To demonstrate the role CELCP can play in leveraging funds, developing partnerships and creating on-the-ground conservation, I would like to briefly discuss the role of CELCP in New Hampshire.

Southeastern New Hampshire's forests, wildlife habitat, clean water, and scenic vistas are increasingly threatened by sprawling development, new or expanded roads, and other irreversible land use changes. The statistics are stunning. Between 1990 and 2000, our coastal towns grew by about 20% in population. However, in many areas, the rate of land consumption was twice the growth rate. The growth rates in the next tier of communities beyond our coastal zone was even greater, the corresponding "sprawl" greater still. And there is no indication that the pace of development will slow in the foreseeable future.

That said, what is left to conserve is some of the most amazing natural resources in the state, and a draw that brings new residents and tourists alike. We have bobcat and bear habitat only about one hour from Boston. We have rare and endangered plants and animals. We have scenic views. Our economic growth is predicated on people being attracted to the landscape. The New Hampshire advantage is not just low taxes but also scenic roads, open spaces, and clean water.

As shown through the following three success stories, land conservation is possible through partnerships and combined sources of funding. Town voters are increasingly willing to put up money to conserve lands identified as priorities in communities' Open Space Plan and Master Plan, but often it is not enough. At a time when towns, land trusts,

and other land conservation partners face skyrocketing property values and intense development pressure, CELCP is one of the few places to go to attain match funding and to ensure the long-term ecological and public values of these properties.

Sagamore Creek, Portsmouth

This project was successful thanks to a \$1.987 million CELCP grant and the partnership between the city of Portsmouth, the Seacoast Land Trust, the Trust for Public Land and the Society for the Protection of New Hampshire Forests. The 10-acre Sagamore Creek Headlands property juts into Sagamore Creek, a biologically rich estuary in the coastal zone. The land includes 2,000 feet of frontage on Sagamore Creek, a waterfront walking trail through mature forests, significant wildlife habitat, and dramatic rock outcropping with terrific views of the estuary. The property was on the market for condominium development in 2002. The City now owns and manages the property for habitat protection and low-impact recreation.

Moose Mountains, Brookfield and Middleton

With \$1 million in funding from CELCP (FY06), a groundbreaking public-private partnership led by the Society for the Protection of New Hampshire Forests protected nearly 2,200 acres in the Moose Mountains. Located at the core of one of the last large un-fragmented forest blocks remaining in New Hampshire's coastal watershed, the project protected a key headwater of the Salmon Falls/Piscataqua river basin, and a significant portion of the rivers' remaining pristine watershed. The Moose Mountain project also protected habitat for a wide variety of native wildlife, particularly species that require a large home range such as moose, deer, black bear, coyotes, and bobcat. The project secured permanent public access to a local and regional recreational resource long been used by the public for hunting, snowmobiling, hiking, bird watching, skiing, and other outdoor recreation.

Piscassic Greenway, Newfields

The Piscassic Greenway is a 330-acre property and keystone link between two blocks of existing conservation lands that, if protected, will create an open space corridor of more than 2,000 acres stretching from Newmarket to Exeter. The property's wetland and upland habitats host a rich diversity of plants and wildlife, and with over 1,200 feet of shoreline on the Piscassic River, will safeguard two important drinking water sources for Newfields and Newmarket residents. The popular Manchester-Portsmouth Rail Trail runs through the property, and the public has long enjoyed exploring the area's existing network of trails. This project will complete protection of an area amounting to 7% of the land area in the town of Newfields. CELCP has already contributed \$2 million towards this project's success. A partnership of the town, TPL and, the Rockingham Land Trust is working to secure additional funding to complete the project.

H.R. 1907

The Coastal States Organization supports the Coastal and Estuarine Land Conservation Program and H.R. 1907 as a mechanism to formally codify the program and provide a legislative framework for this popular and successful program.

H.R. 1907 builds upon the needs of the states and provides a much-needed tool for them to build upon the goals of the Coastal Zone Management Act (CZMA) including protection of natural resources, safeguarding coastal water quality, providing public access for recreation, preservation of open spaces, and wise land management. H.R. 1907 also provides a valuable mechanism for the federal government to make a wise investment in land conservation. By utilizing CELCP, the federal government not only leverages its dollars but also disperses the cost of long-term stewardship, management, and policing of the lands to the states and localities.

Among the many provisions the states support in H.R. 1907, CSO would like to draw attention to the provision that allows acquisition of lands that have potential for restoration for ecological or recreational purposes. Given the extensive use of our nation's coastal lands, it is rare to find a pristine property. The ability for states to acquire parcels in need of restoration would be a significant. An excellent example of such a restoration project would be the reconstruction of a culvert to restore waterflow thereby improving the ecological function of a wetland.

CSO acknowledges the concern that CELCP funds could be siphoned off for large-scale restoration projects but notes that CELCP dollars can only be used to acquire the land but not to conduct the actual restoration. Further, the states feel that projects in need of large-scale restoration would not score as high as other projects during the competitive evaluation process. Therefore, CSO endorses the House language that allows the states to secure parcels that are in need of restoration.

The states also support the use of non-governmental funds as match for the program. This policy greatly enhances the states' ability to put together land conservation proposals and provides an opportunity for the states to develop more comprehensive protection strategies, such as connecting large tracts of lands and developing conservation corridors. The non-governmental match provision is also consistent with other federal land conservation programs, such as the Forest Legacy Program.

CSO greatly appreciates that the House bill acknowledges the role of well-managed forests in CELCP. The states believe that forest management can be consistent with ecological health and, in some cases, the very reason these lands have not yet been developed is due to the small amount of revenue that can be derived from managing the lands. If a piece of land has extraordinary ecological or conservation value as a working forest, there is little logic to excluding it as a potential CELCP acquisition. CSO supports the House in its recognition that managed forests are an important component of CELCP.

CSO also approves of the 15 percent set-aside of the funds appropriated for CELCP to be made available for acquisitions benefiting National Estuarine Research Reserve acquisitions, as included in H.R. 1907. The states also work collaboratively with the National Estuarine Research Reserve System, a network of protected areas established for long-term research, education, and stewardship. In a survey conducted by the National Estuarine Research Reserve Association, nearly all of the National Estuarine Research

Reserves indicated the need for additional land protection. With over one million acres already contained within the System, the sites have identified nearly 475,000 additional acres for acquisition. H.R. 1907 would provide an additional opportunity to help meet the Reserves' acquisition needs.

Finally, a program is only as good as its administration. H.R. 1907 provides necessary administrative funds for NOAA to administer the CELCP grants. Since 2002, NOAA has administered over 115 CELCP grants. They have done this without additional administrative resources, and this has put a strain on NOAA to provide other services to the coastal states. CSO endorses the provision of allowing some percentage of CELCP to be used by NOAA for administration. CSO also asks that the CELCP funds be dedicated directly to administering the program and not reallocated to other NOAA priorities or projects.

SUGGESTIONS TO STRENGTHEN H.R. 1907

As previously stated, H.R. 1907 is a solid bill that is widely supported by the states; however, as with any legislation there are always a few amendments that could be made to improve it. As such, CSO offers the following changes to H.R. 1907.

Amend the Preamble, Sec 2(10), and Sec 3(a) to read “ecological, conservation, recreation, historical, aesthetic, or watershed protection values.”

Throughout the bill, the order and number of the CELCP values fluctuate. For consistency and clarity, CSO recommends these six values and listing them in this order: ecological, conservation, recreation, historical, aesthetic, or watershed protection values.

Sec 2(3) – Delete the word “pristine.”

The states are concerned that using the word pristine will prohibit the acquisition of parcels that have existing uses, structures such as a historic farmhouse, or are in need of restoration.

Sec 2(6) – Delete the word “zone” and replace it with “watersheds.”

Under the CZMA, the states are required to designate a coastal zone. The designated coastal zone varies across the states from 100' from the sea to more extensive boundaries such as coastal counties or watersheds. Using the term coastal watersheds would allow the most expansive use of CELCP funds and allow states to target the highest priorities parcels.

Sec 3(b)(3) – Delete “approved coastal zone management plans” and replace with “approved coastal zone management programs.”

Under the CZMA, the states develop coastal zone management programs, but are not required to develop plans.

Add Sec 3(b)(4) – “A state coastal land acquisition plan consistent with approved coastal zone management programs.”

The states are currently developing coastal land acquisition plans pursuant to the Administration's CELCP guidelines and many states have already submitted their plans to NOAA for review and approval. In addition, many states have already spent significant resources creating these plans. In New Hampshire, between federal and non-federal sources of funding, we have spending \$80,000 developing our CELCP plan. The plan has public input and will be an extremely useful tool for identifying priority acquisitions and developing partnerships. Without this addition to H.R. 1907, it is unclear whether the states' CELCP plans would be eligible for funding.

Sec 3(c)(3) – Delete “evaluate” and replace with “consider.”

The states ardently support the need to retain working waterfronts; however, the states are concerned that a formal evaluation would require a significant amount of time and resources with an unknown benefit. The states recommend that emphasis be given to projects that support working waterfronts in the criteria used to judge annual state project proposals. In other words, projects that negatively impact working waterfronts would be deducted points in the scoring criteria and therefore affect the potential ranking of the project for eligible funds.

Sec 3(c)(8) – Add “coastal states” so it reads “the Secretary shall consult with coastal states, other Federal agencies, and non-governmental entities.”

As a federal-state partnership program, CSO feels strongly that NOAA should consult with the states in developing program guidelines.

Sec 3(c)(10) – Delete this bullet and replace it with “Funds from this Act shall not be used to acquire property in whole or in part through imminent domain.”

The states agree that CELCP funds should be used only with willing sellers. Therefore, CSO recommends strengthening the language so that rather than having the Secretary develop measures, the legislation simply state that funds cannot be used for imminent domain acquisitions.

Sec 3(c)(11) – Delete “triennially” and replace with “triennially.”

Sec 3 (f) – Add “State Administration Costs – No more than 5 percent of the funds made available under this Act shall be allocated to the states for planning an administration of the state program and projects. Within twelve months of enactment, the Secretary shall develop guidelines determining the allocation of the planning or administration funds to the states that submit annual project proposals.”

The state CZM programs are a critical component of the CELCP program and endure an administrative burden for the program. The states are required to develop annual project proposals, oversee the funds and acquisition process, and develop the necessary partners to ensure the match requirements are met. The states also pass through all the funds to the projects, retaining none of the funds to cover administration costs. CSO recommends that H.R. 1907 be amended to provide the states with an administration fund.

Sec 3(g)(3) – Delete “correct” and replace it with “current”

CSO believes the word “correct” may have been accidentally used instead of “current.” Another way to also address this point would be to delete the text and replace it with “If the property or interest in land is sold, exchanged, or divested, the Secretary shall be reimbursed funds in accordance with applicable Federal law, and the funds shall be redistributed via the CELCP grant process.”

Sec 3(i) – Add an annual authorization of \$90-120 annually for each fiscal years 2008 through 2012.

CONCLUSION

In conclusion, the Coastal States Organization supports CELCP and H.R. 1907. Two key aspects which make CELCP a good program are its flexibility and focus on state priorities.

The flexibility in the types of project that can be funded is important. Not only are we seeing the landscape and ecology of our coastal areas change, but we are rapidly losing our historic heritage and recreational resources. CELCP is a fantastic example of a federal program that fosters partnerships between the states, local governments, landowners, and land trusts to develop strong projects and conserve our natural resources.

Through the CELCP plans and strong role of the state coastal zone management programs, the projects funded by CELCP will reflect local and state priorities. This is a powerful tool to focus interest and resources on those land areas which will best achieve locally-defined goals, such as water quality or wildlife habitat protection. In short, CELCP exemplifies the partnerships which will ensure the sustainability of our nation’s coasts. The coastal states have invested a great deal in the CELCP program already. Our constituents are hopeful that CELCP can help to fill gaps in funding for important conservation projects.

I hope the Subcommittee will look positively upon the program and pass it quickly so it can become a permanent tool for partnership-based coastal zone management. Thank you again for this opportunity to testify and I am happy to answer any questions.