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OPPORTUNITIES FOR THE EXPANSION OF THE COASTAL BARRIER RESOURCES ACT OF 1982

By Lori Sanders

IN AN ERA of budget cuts and climate change skepticism, the future of conservation programs and other government-sponsored efforts to improve environmental outcomes is uncertain. A July 2013 effort in the Republican-controlled U.S. House of Representatives would have slashed the budget of the U.S. Environmental Protection Agency by 34 percent, and even President Barack Obama proposed cutting more than \$1 billion from the EPA's budget in Fiscal Year 2012 with a further \$1 billion dollar reduction in Fiscal Year 2014. While funding for the U.S. Department of Interior has fluctuated during the Obama presidency, pressure exists for deeper cuts.

For those who care about conservation and the long-term economic consequences of environmental degradation, overzealous development and climate change, this state of affairs could be disheartening. If the fight is between taxpayer protection and proactive government spending on conservation, today's budget realities clearly favor those fighting for taxpayer protections.

But the reality is that conservation doesn't have to come down to that simple binary choice. In many ways, current government policy incentivizes behavior that both harms the environment and wastes taxpayer dollars. Rooting out these policies and finding ways to dampen their negative effects offers an opportunity to conserve more while spending less.

Congress did just this in 1982, when it passed the Coastal Barrier Resources Act (CBRA). Numerous federal subsidies in the 1970s were contributing to unsafe development in coastal barrier regions, which put the environment, tax dollars and even human life at risk. Strong evidence suggests these developments wouldn't take place in the absence of subsidy. With the CBRA, Congress created the Coastal Barrier Resources System (CBRS), an area where the federal government no longer would subsidize development or offer other support, such as federal flood insurance.

The CBRS is comprised of over 1.3 million acres, mostly along America's Atlantic and Gulf coastlines and the Great Lakes. The CBRA also has been expanded to cover Otherwise Protected Areas (OPA), which include an additional 1.8 million acres that are cut off only from federal flood insurance. The Fish and Wildlife Service (FWS) keeps official maps of the designated areas, and has the authority to make minor changes, such as additions or subtractions due to geographic changes from natural processes. For larger changes, Congress must pass legislation.

If a home or business is located within the CBRS or an OPA, property owners are ineligible for federal support for the property. FWS will respond to inquiries from property owners who are unsure whether their property falls in the CBRS, as well as hear claims from those who wish to contest a CBRS designation.

In addition to individual claims against CBRS, legislators at times will seek to have larger zones from their districts removed to allow their constituents access to federal funds. In these cases, FWS officials prepare a case either for or against the zone changes, based on the law's original intent, and Congress votes on the proposed change. As of August 2013, eight bills have been introduced for zoning changes by the 113th Congress.

By prohibiting subsidies and cutting off access to the National Flood Insurance Program (and thus the pay-outs NFIP would make post-disaster), it has been estimated that CBRA has saved almost \$1.3 billion since its enactment.¹ It's important to note that a CBRS designation doesn't prohibit an area from being developed. Rather, the decision to develop is left to individuals and firms. State and local governments can choose to build or subsidize development within the zone. Additionally, existing development in the CBRS was grandfathered in, allowing property owners to continue receiving subsidies so long as the building has not been significantly improved or damaged since the designation. Despite these exceptions and lack of restrictions on the private market, examinations of CBRA have found it to be an effective safeguard against future development.²

It stands to reason that efforts like CBRA should be both strengthened and expanded. However, significant barriers limit the CBRA's effectiveness. To get serious about realizing savings through CBRA, Congress and the executive branch should take three simple steps: Update and modernize the CBRS maps, increase FWS' ability to alter and update CBRS maps in keeping with the law's intent, and expand the CBRS and OPA with new criteria to protect more acres from wasteful subsidy.

UPDATE AND MODERNIZE MAPS

CBRS maps are both outdated and difficult to use. Since the original designs and a 1990 update, mapping technology has improved substantially. CBRS maps should be digitized to ease the process for determining whether a property is in a CBRS zone.

Despite a congressional mandate to update the maps in 2006, funds have never been allocated to facilitate the process. The FWS is currently working with FEMA to slowly digitize CBRS zones as FEMA digitizes its own flood insurance rate maps, but the process is moving slowly. The cost of the needed remapping costs has been estimated at between \$12-15 million. Securing those funds could help FWS in at least three ways:

1. It would free up FWS resources by reducing the number of inquiries.
2. It would reduce uncertainty for property owners.
3. It would increase agency adherence to CBRA guidelines.

1. "The Coastal Barrier Resources Act: Harnessing the Power of Market Forces to Conserve America's Coasts and Save Taxpayers' Money." Division of Federal Program Activities, U.S. Fish and Wildlife Service. August 2002. <http://www.fws.gov/CBRA/Docs/TaxpayerSavingsfromCBRA.pdf>.

2. "Policy Frameworks for Adaptation to Climate Change in Coastal Zones: The Case of the Gulf of Mexico." Levina, Ellina. OECD Papers 7.1, 2007.

A small team based in Washington, D.C, handles the claims, billing and inquiries for FWS and takes up most of the organizational resources of the service's CBRA division. As a result, other organizational priorities, such as creating new criteria for expanding CBRA or completing regular map updates due to natural changes, get neglected in favor of answering inquiries. The need for many of these inquiries would be staved off if the service could offer digitized maps. Thus, modernization makes sense in that it will allow the CBRA division to operate more efficiently and more in line with the law's original intent.

In addition to working with FEMA to digitize, the CBRA division attempts to update map boundaries for entire zones as it handles claims. However, this piecemeal approach is incredibly inefficient, given that there are 857 CBRS zones and OPAs. A thorough digitization and update is necessary to speed up this process.

The lack of digitized maps and the current slow and ad hoc process for updating zones forces CBRA claims and inquiries to pile up. In some more extreme cases, the wait exceeds 10 years, according to FWS officials. This lack of certainty affects investment that would otherwise occur while the dispute is in process. Beyond the time that is wasted for home and business owners, properties in contested areas find it difficult to navigate what federal aid they are, or are not entitled to following a major disaster.

Finally, the lack of clarity caused by the outdated and poor quality CBRS maps affects the ability of federal agencies to accurately carry out the provisions of CBRA. It is unfortunately common for properties within a CBRS zone or OPA to receive federal subsidies that are technically illegal. This adds to the homeowners' confusion, as they may think they qualify for federal benefits due to their participation in the NFIP only to find out that their policy is in error.

Given these costly uncertainties, updating the maps should be the highest priority for anyone hoping to improve the effectiveness of CBRA. Keeping easy-to-use, up-to-date maps is in line with the law's original intent. It also is imperative to get the CBRA division out of the cycle of backlogged inquiries so they can more efficiently use taxpayer resources.

INCREASED ABILITY TO ALTER CBRS ZONES

Map updates will go a long way toward improving outcomes in CBRA zones, but given the current process, which requires congressional approval for most CBRA changes, updates will continue to face unnecessary delays due to competing priorities and partisan gridlock in Congress. While large changes – such as the addition of new zones or changes that stand to have large economic impacts on local communities – should require additional scrutiny, boundary changes to fix errors

or alter the map to more closely reflect original intent should be permitted.

Currently, the FWS can only amend maps in three cases: when property owners voluntarily add land to a zone, when excess federal property is added and during a five-year review process to consider natural changes (which has only occurred twice since the laws passage due to resource constraints).

Better mapping technology would allow the team to discover errors in the original maps more easily, and these changes, even if large, should be standard procedure for the department. Guidelines should be established to clarify what other types of additions FWS should be permitted to undertake based on economic considerations. If there are residual concerns from impacted states, these changes should be subject to periodic congressional review.

EXPAND CBRS WITH NEW CRITERIA

The final change necessary for CBRA to live up to its potential would be to create new subsidy-free zones that include other conservation criteria. Just as the 1990 update to CBRA added OPAs to the list of protected areas, another update could generate other classifications.

Expanding the CBRS can be a commonsense, unobjectionable way for Congress to improve outcomes for taxpayers and the environment, as it would in no way prohibit private development or even state and local subsidies from reaching the area. The designations should take into account existing development and local structures to avoid removing subsidies from areas currently receiving federal support, but should otherwise be allowed anywhere that qualified under the new criteria.

Most current CBRS zones and OPAs are located along the Atlantic Coast, the Gulf of Mexico and the Great Lakes. New zones could potentially protect areas on the West Coast without having to create completely development-free zones that skew the private market. According to FWS officials, the CBRA division has begun to imagine what new zones should look like, but due to the overwhelming number of CBRS inquiries and pending legislation, new zones have taken a backseat to these other tasks. Congress should work with FWS to authorize new criteria and ramp down federally-incentivized development on vulnerable lands.

CONCLUSION

Environmental policy and spending cuts don't have to be anathema to each other in today's policy debates. The first step toward correcting behavior that negatively impacts the environment can and should be ending any government pro-

grams that cause such behavior, and the CBRA has been an effective tool to do just that. By allocating the funds to update and modernize CBRA maps, increasing FWS' authority to alter the maps in keeping with the law, and passing legislation that crafts new subsidy-free zones, Congress can both protect the taxpayer and the nation's land resources.

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