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FEDERAL AND STATE COASTAL BOUNDARIES AND JURISDICTIONS IN THE NEW YORK MARINE DISTRICT

COMPLEMENTS MAP SERIES #1

FEDERAL AND STATE COASTAL BOUNDARIES AND JURISDICTIONS

OCS Task 7.5

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Boundaries and Jurisdictions of Underwater Lands in New York State

This report and its accompanying maps are part of a series of reports identifying boundaries and jurisdictions of underwater lands in New York State. The first report describes federal and state coastal boundaries and jurisdictions; the second describes state, county and town boundaries, underwater lands and jurisdictions; and the third describes private ownership of underwater lands in New York State.

The purpose of the reports and maps is to provide essential information needed to deal with the on-shore impacts of Outer Continental Shelf oil and gas exploration and development and to determine boundaries among and between government jurisdictions.

Each report cites relevant federal and state laws, judicial decisions and intergovernmental agreements that have established present boundaries, jurisdictions and ownership of underwater lands. The reports also identify conflicting jurisdictions and problems with boundaries. Specific documentation regarding each boundary and jurisdiction has been assembled in separate appendices.

The reports and maps were prepared as part of the first year work program of the Outer Continental Shelf Study Program in the New York State Department of Environmental Conservation. Their preparation was financially aided through a federal grant from the Office of Coastal Zone Management National Oceanic and Atmospheric Administration, under the Coastal Zone Management Act of 1972.

These materials are expected to be utilized also in State shellfish transplant programs, in conjunction with possible underwater sand and gravel mining permits, and for assessment of liability in the event of major oil spills.

MAP SERIES #1

General Background

Map Series #1 shows the New York State Marine Region and immediate environs including appropriate state boundaries, county and city jurisdictional boundaries as well as the Three and Twelve Mile Limits. The relationship of the major shipping lanes to the various boundaries as well as their general proximity to the New York region is quite evident in this series.

The 200-meter isobath indicates the internationally accepted edge of the Continental Shelf and in reality shows the beginning of the Continental Slope down to the deep ocean and its abyssal plain.

The New Jersey/New York, Connecticut/New York, and Rhode Island/New York State boundary lines have all been fixed by respective state laws and ratified by the U.S. Congress.

The Three-Mile Limit and the Twelve-Mile Limit are lines showing the limits of various State/Federal jurisdictions. These lines are projected from a national baseline, which is the Mean Low Water Line. This map shows the baselines and delimitation lines utilized by the Ad Hoc Committee on U.S. Coastline Delimitation, May 1, 1971, in provisionally delimiting the territorial sea, contiguous zone, and certain internal waters of the United States. The committee is chaired by the U.S. State Department. The lines prepared by the interdepartmental committee represent its interpretation of relevant legal principles as applied to geographic information shown on U.S. Coast and Geodetic Survey (now National Ocean Survey) charts numbers 1214,1215 and 1211, dated 6/2/69, 7/26/69 and 7/2/69, which have been used as a base.

Documentation

The State boundaries between New York and New Jersey, Connecticut and Rhode Island are all described and formalized in state law with ratifications from the United States Congress.

The boundary with New Jersey has developed through a series of laws in the 1800's culminating in the description in 1892 Laws of New York, Ch. 678. The following is the chronology of the laws: 1834 Laws of New York, ch. 8; 1880 Laws of New York, ch. 340; 1884 Laws of New York, ch. 351; 1886 Laws of New York, ch. 610; 1887 Laws of New York, ch. 69; 1888 Laws of New York, ch. 150; 1889 Laws of New York, ch. 212.

The various segments of the boundary are shown on the following maps:

- Map of the boundary line between the States of New York and New Jersey in the lands underwater in Kill Van Kull and New York Bay, dated December 23, 1889, and showing the names of the respective boundary commissioners, three from each state.
- Map of the boundary line between the States of New York and New Jersey in the lands underwater in the Hudson River, signed by the respective commissioners and dated December 23, 1889.
- Map of the boundary line between the States of New York and New Jersey in the lands underwater in Raritan Bay signed and dated October 12, 1887.
- Map of the boundary line between the States of New York and New Jersey in lands underwater in Raritan Bay, to accompany the report of Edward A. Bond, State Engineer and Surveyor of New York, dated 1900.

The New York/Connecticut boundary was established in the Long Island Sound by 1912 Laws of New York, ch. 352 and amended by 1913 Laws of New York, ch. 18. The boundary was formally ratified by the Congressional Act of January 10, 1925 (43 Stat. 731).

The New York/Rhode Island boundary in Block Island Sound was established by 1943 Laws of New York, ch. 739, and 1943 Laws of New York, ch. 355. This boundary was first mapped by the commissioners for the States of New York and Rhode Island and Providence Plantations on March 26, 1942. It was ratified by the United States Congress July 1, 1944. (58 Stat. 399). Although the

boundary as established in 1943 and ratified by Congress in 1944 extended beyond the permissible three mile limit defined in U.S. vs. Maine 420 N.S. 515 (1975), the boundary is valid from its starting point to the outer limit of the territorial sea.

The southern boundary of New York State is the Three-Mile Limit drawn from the Mean Low Water Line of the shore. This is the limit of State authority into the Atlantic Ocean. The three geographical mile limit is documented by international convention (U.N. Law of the Sea Conference, 1958), the Submerged Lands Act (43 U.S.C. §§ 1301 et seq.), and New York State Law §7-a (McKinney's 1952).

The Contiguous and Exclusive Fishing Zone extends 12 nautical miles from the national baseline and is in fact a 9-mile extension from the three mile territorial sea. The Contiguous Zone was created by the 1958 U.N. Treaty. The Exclusive Fishing Zone was established by a U.S. Congressional Act in 1966.

The Fishery Conservation and Management Act of 1976 provides for a Fishery Conservation Zone which will extend 200 nautical miles from the national baseline. This in essence will supersede the Exclusive Fishing Zone Twelve-Mile Limit; the Contiguous Zone will remain at 12 miles for the purpose of customs, immigration, fiscal, and sanitary regulations. The new 200-Mile Zone will take effect March 1, 1977.

The presentation of the 200-meter isobath as the edge of the Continental Shelf is in conformity with the International Law of the Sea Conference, 1958, as is the 12 mile Contiguous Zone. The value of 200 meters (about 600 feet or 100 fathoms) is the average depth of all the continental shelves at the point where there is a sharp break in the underwater land mass and the land plunges to the deep sea bed.

The Outer Continental Shelf in a legal sense could be considered that portion of the Continental Shelf which is between the territorial sea and the 200-meter limit, but the 1958 Treaty states that it may extend "beyond that limit, to where the depth of the superadjacent waters admits to the exploitation of the natural resources of the said areas." It should be kept in mind that almost everywhere the Continental Shelf as legally defined extends beyond the limits of the territorial sea and in fact the 200-meter line may be anywhere from 0 to 800 miles from shore. The high seas are all waters beyond the outer limit of the territorial seas. This is a definition of a long recognized concept which is supplied by treaty arising from the 1958 Geneva Conference.

When considering the ownership of lands underwater in the territorial sea, the states have the ownership of the bottom. Initially the U.S. Supreme Court held that paramount rights over the ocean waters and their seabed were vested in the federal government, an incident to which was full dominion over the resources of the soil under that water area, including oil. (U.S. vs. California, 332 U.S. 19, 38, 39). But the Congress passed the Submerged Lands Act of 1953, which transferred to the States the rights to the seabed underlying the territorial sea. (43 U.S.C. §1301 et seq., U.S. vs. Maine, 420 U.S. 515 (1975)).

The Outer Continental Shelf Lands Act of 1953 (43 U.S.C. §1331 et seq.) gave the United States Government the right to sell the rights to extract natural resources from the bed and subsoil of the Outer Continental Shelf. The surface for all intents and purposes is still international waters and under the direct control of no one.

The sea bed and subsoil, on the other hand, are under Federal jurisdiction, and include all artificial islands and fixed structures which may be erected thereon. Also contained in the Outer Continental Shelf Lands Act of 1953

is the paragraph which states "to the extent that they are applicable and not inconsistent with this act or with other Federal laws and regulations of the Secretary now in effect or hereafter adopted, the civil and criminal laws of each adjacent state as of the effective date of this Act are hereby declared to be the law of the United States for that portion of the subsoil and sea bed of the Outer Continental Shelf, and artificial islands and fixed structures erected thereon, which would be within the area of the state if its boundaries were extended seaward to the outer margin of the Outer Continental Shelf, and the President shall determine and publish in the Federal Register such projected lines extending seaward and defining each such area. All of such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. State taxation laws shall not apply to the Outer Continental Shelf."

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