

Marine Mammal Commission
4340 East-West Highway, Room 700
Bethesda, MD 20814-4447

11 April 2008

Mr. Joseph Uravitch
National Marine Protected Area Center
N/ORM, NOAA
1305 East-West Highway
Silver Spring, MD 20910

Dear Mr. Uravitch:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the Revised Draft Framework for Developing the National System of Marine Protected Areas in response to a request for comments by the National Ocean Service in the 17 March 2008 *Federal Register*. The following comments and recommendations expand upon comments we provided on 14 February 2007 on the original draft framework. As noted in our earlier letter, we believe that the development of this framework is an important step toward more effective marine conservation. The revised framework includes a number of modifications that address the major points made in our earlier letter. However, we believe additional modifications, as described below, would further improve the framework.

RECOMMENATIONS

The Marine Mammal Commission recommends that the Marine Protected Area Center—

- proceed with steps to adopt and implement a final framework;
- modify its system of classifying sites listed in the National System by using multi-tiered criteria that reflect the extent to which individual units contribute to the overall effectiveness of the National System. Such criteria should consider a unit's permanence, existing level of protection, resources and their need for protection, size (including only the area satisfying the definition of marine environment for purposes of the National System), and perhaps other factors;
- convene an interagency working group to recommend a set of criteria for classifying marine protected areas in the National System as recommended above; and
- include the text of Executive Order 13158 as an appendix to revised draft framework.

RATIONALE

To protect significant natural and cultural resources in the nation's marine environment, Executive Order 13158 directs the development of a National System of Marine Protected Areas. Nationwide, nearly 1,800 marine protected areas (MPAs), already established under various federal, state, local, and tribal authorities, may be considered for inclusion in the system. To be included, individual MPAs must be nominated by the site's responsible management agencies and meet certain criteria. Inclusion in the system conveys a number of benefits. Executive Order 13158 provides no authority to establish new MPAs or to modify the boundaries or provisions of existing areas, but it

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does require that, to the maximum extent practicable and consistent with existing law, federal agencies avoid any actions that could harm natural or cultural resources protected in MPAs included in the National System. The National System also will bestow national recognition and prestige on listed units, thereby encouraging responsible management agencies to increase support for managing listed areas and perhaps for adding new units using their existing authority.

Executive Order 13158 directs the Department of Commerce to maintain a Marine Protected Area Center to oversee the official list of National System sites and to help improve the management of those sites by facilitating cooperation among the agencies responsible for managing MPAs. In this regard, assistance could be provided for identifying gaps in the National System, evaluating management techniques and their effectiveness; conducting scientific research and resource monitoring; facilitating public education and outreach; and coordinating with MPA management authorities internationally. These are constructive contributions that should help establish a stronger, more coherent National System of MPAs. The revised framework identifies steps to carry out these actions and, as recommended in its earlier letter, the Marine Mammal Commission recommends that the MPA Center proceed to adopt and implement a final framework.

In its previous letter, the Commission also recommended that the MPA Center analyze marine protected areas to determine the level and nature of protection they provide and develop a more informative scheme for categorizing such areas so that the level of protection is evident. Such a scheme is the heart of a National System as it provides a basis for determining whether and to what extent the system is meeting its intended purpose. The revised draft framework (pages 16–17) recommends a classification system that categorizes sites according to their purpose and approach to protection. The scheme identifies two purposes: (1) protection of national heritage attributes (i.e., natural ecosystem and/or cultural features) and (2) protection of sustainable production (e.g., maintenance of harvested fish and shellfish or non-commercial species in need of special protection, such as those listed as endangered or threatened). The scheme also identifies two protection approaches using (1) multi-use conservation areas where certain uses and activities may be restricted and (2) reserve areas in which no extractive uses are permitted but where other activities may be allowed, subject to restrictions.

This classification system is helpful, but we believe it could be improved by adopting both better terminology and additional criteria for categorizing units. Under the proposed scheme, a “reserve area” that prohibits extractive uses but allows other activities could still be considered a multiple-use “conservation area” based on common terminology. That is, a conservation area might be used for multiple purposes, none of which are extractive. Also, some large sites, such as the Papahānaumokuākea National Monument, may include areas that meet the definitions of both reserve area and conservation area, resulting in its being classified in both categories.

More important, the proposed scheme fails to adequately reflect a unit’s overall significance and importance to the National System. That is, as proposed, some MPAs of major importance to the National System would be included in the same category as sites of far less importance. For example, manatee sanctuaries in Kings Bay, Florida, protect only a few acres of natural ecosystem

and prohibit all human activities, and therefore would seem to qualify as a natural heritage reserve area. This classification also would be appropriate for the Papahānaumokuākea National Monument, which covers thousands of square miles. The Papahānaumokuākea National Monument provides far more conservation benefit, and a categorizing system that simply groups this area with others of lesser size and importance might pose unintended risks to the Monument.

The Commission believes that the proposed classification system would be more useful if it added, as its first level of MPA classification, a hierarchy to classify MPAs according to a combination of criteria that would better reflect the overall importance of a unit to the National System (e.g., criteria reflecting a unit's permanence, applied management resources, and size). With respect to size, we believe the MPA Center should consider only the amount of area within a unit that meets the definition of "marine environment" as defined in the framework's glossary (e.g., areas below mean high tide). Under such a system, tier I MPAs might include units that (1) are set aside in perpetuity, (2) have funding and staff dedicated specifically and entirely for research and management at the listed unit, and (3) are larger than a specified size (e.g., 10 square miles). Thus, first-tier MPAs would include major sites such as most marine sanctuaries, the Papahānaumokuākea National Monument, perhaps many national seashores, national wildlife refuges and estuarine sanctuaries, and some state parks and other areas designated by states. Together, these likely would form the critical core of the National System.

Tier II MPAs might include units that (1) meet all of the above criteria but are smaller (e.g., 1 to 10 square miles) or (2) are larger than 1 square mile and that are set aside in perpetuity as part of a formal system to protect natural or cultural heritage resources but do not have staff and funding dedicated to managing individual units. Thus, second-tier sites might include small state parks or sanctuaries with dedicated staff as well as many larger areas designated by states but which lack staff and funding support (e.g., most state aquatic preserves, state marine conservation areas, state marine reserves, etc.). Tier III MPAs might include units that meet tier II criteria but are still smaller (e.g., 1 acre to 1 square mile). Such a third-tier MPA would be limited to small units within the various federal, state, local, and tribal systems. Tier IV MPAs might include areas too small to meet the tier III size criterion or which are established to sustain production of a particular species by regulation only, are not necessarily set aside in perpetuity, and are not part of a system to protect natural or cultural "heritage" resources. These areas could be of any size. Thus, fourth-tier MPAs might include all other areas, such as very small units within state protected area systems that are permanent, as well as more transient or narrowly prescribed regulatory areas, such as fishery closures and management zones, fishery habitat areas of particular concern, critical habitats under the Endangered Species Act, etc.

In our view, adding such a tiered system for classifying sites in the National System would better indicate the relative importance of listed MPAs, provide a better basis for identifying gaps in the National System, and help focus greater effort on the need for developing marine protected areas of appropriate scale and level of protection within the various regions of the country. Therefore, the Marine Mammal Commission recommends that the MPA Center modify its system of classifying sites listed in the National System by using multi-tiered criteria that reflect the extent to

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which individual units contribute to overall effectiveness of the National System. Such criteria should consider a unit's permanence, existing level of protection, resources and their need for protection, size (including only the area satisfying the definition of marine environment for purposes of the National System), and perhaps other factors. Although we suggest consideration of these criteria, we recognize there may be other useful criteria and differing views as to appropriate details of any criteria selected. Therefore, the Marine Mammal Commission also recommends that the MPA Center convene an interagency working group to recommend a set of criteria for classifying marine protected areas in the National System as recommended above. The Commission would be pleased to participate in such a group.

Finally, we believe the document would be more complete and useful with an appendix containing the full text of Executive Order directing that this framework be prepared. Therefore, the Marine Mammal Commission also recommends that the MPA Center include the text of Executive Order 13158 as an additional appendix to the revised draft framework.

I hope these comments and recommendations are helpful. Please contact me if you or your staff has questions about them.

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen". The signature is written in a cursive style with a prominent initial "T".

Timothy J. Ragen, Ph.D.
Executive Director