

OFFICE OF THE GOVERNOR

BOB RILEY
GOVERNORSTATE CAPITOL
MONTGOMERY, ALABAMA 36130(334) 242-7100
FAX: (334) 242-0937

STATE OF ALABAMA

May 14, 2004

U.S. Commission on Ocean Policy
Admiral James D. Watkins, US Navy (Retired), Chairman,
Suite 200 North
1120 - 20th Street, NW
Washington, DC 20036

Re: U.S. Commission on Ocean Policy (Governor's Draft) - Comments

Dear Admiral Watkins:

Thank you for allowing the State of Alabama to comment on the Preliminary Report of the US Commission on Ocean Policy.

This Report comes at a time when Alabama's commercial and recreational interests are becoming increasingly dependent upon our coastal and marine areas. With just two coastal counties totaling approximately 2,800 square miles, Alabama has a relatively small coastal area. However, its current population of 540,000 residents has grown 13% in the last decade. It is one of the fastest growing areas of our state. Coastal fisheries, offshore oil and gas production, and tourism industries are major economic engines of the state, providing over \$3.8 billion in economic impact. Our state thrives on the bounty of its coast and it is important that we continue to be good stewards of our coastal resources.

The centerpiece of the Alabama coastal area is the Mobile Bay estuary, a tremendously diverse ecosystem that drains the 6th largest watershed in the continental United States. At its north end is a National Natural Landmark, the Mobile-Tensaw River Delta, which consists of 168,250 acres of wetlands and bottomland hardwood forest with hundreds of miles of meandering streams and floodplains. By leveraging federal land acquisition programs with our own Forever Wild Land Trust Program, the State of Alabama has purchased over 50,000 acres of the Delta since 2001. To the south, where the Mobile Bay estuary drains into the Gulf of Mexico, the state has roughly 50 miles of barrier island beachfront with 10,000 acres of dune and barrier island features.

Coastal Alabama is the site of numerous federally sponsored programs discussed in the Commission's report, including the Coastal Zone Management Program, the National Estuarine Research Reserve System, the National Wildlife Refuge system, and the National Estuary Program. These federal programs are very important to Alabama, and we are pleased to see the Commission take such an active interest in their continued success.

I have shared the preliminary report with several state agencies that have an interest in coastal resource management and asked them to review the recommendations in the report as adequately as possible,

considering the very limited time frame. By and large, Alabama is generally supportive of the majority of the recommendations to increase federal support of coastal activities, while also streamlining the often overlapping bureaucratic structures.

In the pages that follow, the State is limiting its formal comment only to the relatively few recommendations that are either so strongly supported by the State as to warrant mention or those recommendations that are opposed by the State, as currently described. Where needed, we also supply a brief supporting statement for our position. Our comments have been broken down into four major categories:

- **Governance**
- **Stewardship and Conservation**
- **Coastal Pollution**
- **Shoreline Management and Coastal Hazards**

Specific recommendations to the Commission on Governance:

RECOMMENDATION 4-1 Establishment of a National Ocean Council

We support the establishment of a National Ocean Council within the Executive Office of the President, as proposed in the report, to coordinate high level attention to ocean policy. It should be clear that this new council is to make recommendations to the President concerning national ocean policy and is not a new layer of bureaucracy but will, in fact, be used to streamline existing federal programs, reduce duplication, improve efficiency and enhance cooperation among existing federal ocean programs. In addition, we would request that the new Council have a mechanism in place for State input on national ocean policy.

RECOMMENDATION 5-1 Establishment of Regional Ocean Councils

We strongly recommend that existing councils and programs such as the Gulf of Mexico Fisheries Council and the Environmental Protection Agency's Gulf of Mexico Program (GOMP) be utilized as the basis for Regional Councils in order to prevent duplication of efforts and minimize the establishment of new council bureaucracy. The Gulf States have been actively involved in the GOMP for several years, and it already embodies much of the spirit and intent of the proposed Regional Councils. We would encourage strengthening existing programs over the creation of new ones.

RECOMMENDATION 9-1 Reauthorization of the Coastal Zone Management Act (CZMA)

We strongly support the reauthorization and full-funding of the CZMA. This should include a minimum of \$85 million for coastal states under the Coastal Management Program and \$20 million for the National Estuarine Research Reserve System. We encourage Congress to reauthorize and amend CZMA as a critical, high priority action for improved coastal and ocean management. We support full-funding and strengthening of elements of the CZMA, including habitat restoration, community planning and programs, watershed management and special area management planning. The CZMA is an important vehicle for implementation of a wide range of Ocean Commission recommendations, because it takes an integrated approach and is a true cooperative program between the federal, state and local governments.

This partnership is vital to addressing ecosystem management, and we believe that the state and local governments should have an important role in this process. A reauthorized CZMA needs to retain its focus on partnerships – the state's working hand-in-hand with local governments. CZMA needs to maintain the

state's ability to implement programs that meet federal goals that best fit each state's ecological, geographical and political sceneries. A reauthorized CZMA needs to allow for flexible state programs and provide for a program to encourage strong planning at the local government level. We encourage the development of a Coastal Communities and Restoration Program to provide funding, at a minimum of \$30 million, for on-the-ground projects that help provide resource and community assessment and restoration plans, planning-oriented research, technical assistance, public access and model, and pilot projects that promote sustainable local communities.

We support the continuing state/federal performance evaluations for the CZMA state programs and the development of flexible, state-developed performance measures. The states should only be required to develop these comprehensive performance measures if adequate federal funding, above the CZMA base funding, is provided to states.

We support an incentive-based approach to expanding partnerships under the CZMA and increasing focus on watershed issues and local planning. We strongly disagree with the use of disincentives and counterproductive penalties that take away program funding for states. We recommend that the federal government work cooperatively with states that are experiencing problems and provide the resources and technical assistance to the states to achieve state/federal goals.

RECOMMENDATION 9-2 Consolidate area-based Coastal Management Programs

We support the consolidation of area-based coastal management in a strengthened National Oceanic and Atmospheric Administration (NOAA). This should include programs administered by other agencies, including the National Estuary Program, the Coastal Barrier Resource System and the U.S. Fish and Wildlife Service Coastal Programs. All of these programs have similar goals and objectives and should be consolidated into NOAA, provided that NOAA is given adequate staff and resources to effectively manage the additional programs. In Alabama, the NOAA sanctioned Alabama Coastal Area Management Program already works very closely with these other area-based programs.

RECOMMENDATION 30-1 Establishment of an Ocean Trust Fund

We strongly support the establishment of an Ocean Trust Fund composed of unallocated federal revenues from Outer Continental Shelf (OCS) oil and gas leasing and development, and resource rents assessed on new activities in federal waters. We believe that states who allow offshore development and production of oil and natural gas should receive a larger portion of the revenue to assist with mitigating environmental impacts related directly or indirectly to OCS oil and gas development and production.

These new sources of funds should be used to support improved ocean and coastal management. These uses should include those activities that support and are consistent with the CZMA, including National Estuarine Research Reserves, the Magnuson-Stevens Fishery Conservation Act and the National Estuary Program. Other activities that support research, monitoring, education and conservation, enhancement or protection of coastal and marine habitats, including wetlands, estuaries, coastal barrier islands and coastal fishery resources should be included in these eligible activities.

We support the establishment of a Trust Fund that would provide 100 percent federal funds and would not require a state match. We would request that the funds be allowed to match federal projects under the Water Resource Development Act. These new federal funds could be used to match US Army Corps of Engineers watershed, habitat restoration and ecosystem management projects.

In consideration of this recommendation, the one-time Coastal Impact Assistance Program should demonstrate to Congress that states are responsible stewards of this type of reinvestment funding.

Specific recommendations to the Commission on Stewardship and Conservation

RECOMMENDATION 11-1 Coastal and Estuarine Land Conservation Program (CELCP)

Alabama strongly supports the formal creation and continued funding for the Coastal and Estuarine Land Conservation Program within the CZMA. Funding for such a program has been authorized, outside of CZMA, since the Department of Commerce, Justice and State Appropriations Act of 2002 (PL 107-77). Since its inception, funding for the program has not been guaranteed, and funds have not been distributed competitively or equitably as initially envisioned. Alabama, like many other coastal states, is currently developing an implementation plan for its CELC Program. The plan identifies priority acquisition targets in the coastal watersheds and describes the process by which acquisition opportunities are evaluated. Alabama strongly recommends that CELCP be formally placed under CZMA, and that each state with NOAA-approved program implementation strategies be allocated baseline annual funding for the program. Baseline funding should be made available to acquire land, to administer the state program, and to cover the ongoing costs of management and/or restoration of lands acquired through the program. Additionally, Alabama supports having a portion of CELCP funds set aside to establish a nationally competitive funding program for large-scale conservation land acquisition. As with the Forest Legacy program, Alabama supports having a mandated regional balance to the distribution of the competitive funds.

RECOMMENDATION 19-1 Strengthening of Scientific and Statistical Committee (SSCs) of Regional Fisheries Management Councils

We believe that in the Gulf of Mexico region this is already being accomplished. We would not recommend preventing individuals with ties to harvesting or processing sectors from serving on the SSC. This could eliminate valuable input from the process and we believe the current process of non-participation when one's background or affiliations might influence a vote will accomplish the purpose of this suggestion. It appears that rotation of members with set terms would weaken the current system in the Gulf of Mexico.

RECOMMENDATION 19-2 Duties of the SSCs

The functions referred to in this recommendation are already occurring in the Gulf of Mexico Fishery Management Council.

RECOMMENDATION 19-3 Councils setting harvest limits

The Allowable Biological Catch should be expressed as a range of values rather than a specific number.

RECOMMENDATION 19-4 Establishment of independent review of scientific information

This is being done in the Southeast Region through the Southeast Area Data Assessment and Review (SEDAR) process.

RECOMMENDATION 19-5 Deadline for SSC to determine allowable biological catch

Deadlines are currently in effect in the Gulf of Mexico region.

RECOMMENDATION 19-6 Time table for development of fishery management plans

This recommendation is vague in terms of timeliness. We feel that the threat of total suspension of a fishery based upon such vague terms is inappropriate.

RECOMMENDATION 19-7 Listing of management information needs

This is done annually by the Gulf of Mexico Regional Fishery Management Council.

RECOMMENDATION 19-8 Requirement for all saltwater anglers to purchase licenses

While total licensing would improve data collection, we would recommend against requiring federal fishing licensing for fishing in state jurisdictions. A combination of state and federal licensing in each respective jurisdiction would be more acceptable. This would also clarify administrative responsibilities.

RECOMMENDATION 19-10 Statutory authority for the Gulf States Marine Fisheries Commission

We do not support this authority for the Gulf States Marine Fisheries Commission. General consensus among the Gulf States and commission staff is that none of the Interjurisdictional stocks in the Gulf region require this treatment for proper management.

RECOMMENDATION 19-11 When stocks cross administrative boundaries

We can't over emphasize the importance of state involvement in this process. All Gulf States should continue to be included in all Commission and Council activities.

RECOMMENDATION 19-12 Submission of nominations for Council positions

This process should remain at each State's Governor's discretion.

RECOMMENDATION 19-14 Training for Council members

This recommendation while having merit is too vague. Prevention of voting privileges for too long could impede the mission of the councils.

RECOMMENDATION 19-15 Amending Magnuson-Stevens to affirm dedicated access privileges

This is moot since the repeal of the ban on Individual Fishing Quotas (IFQs). We recommend not reinstating the ban.

RECOMMENDATION 19-16 Repeal of the Fisheries Finance Program

We strongly agree with this recommendation.

RECOMMENDATION 19-17 Increased funding for Joint Enforcement Agreements

We strongly agree with this recommendation. This has proved to be a successful program that is particularly important in consideration of the increased homeland security needs.

RECOMMENDATION 19-18 Strengthening of cooperative enforcement efforts

We agree with this recommendation.

RECOMMENDATION 19-19 Maximizing the use of Vessel Monitoring Systems

We strongly agree with this recommendation and further would suggest a system of congressional cost sharing with individuals to help defray the cost of this system.

RECOMMENDATION 19-20 Lead agency in managing the integration of VMS

We think it would be best for National Marine Fisheries Service (NMFS) to contract this service from a private contractor rather than burden the U.S. Coast Guard with more responsibility considering the increased Homeland Security activity assigned to that agency.

RECOMMENDATION 19-21 Designation of essential fish habitat

We agree with this recommendation, but we feel that implementation may be difficult.

RECOMMENDATION 19-22 Regional bycatch reduction plans

We agree that this is needed, but feel that more data is needed to enable this recommendation to be implemented.

RECOMMENDATION 22-1 Amendment of the National Aquaculture Act

We agree, but would recommend that the NMFS manage this program. We disagree with the creation of a new Office of Sustainable Marine Aquaculture. This would create another layer of bureaucracy.

RECOMMENDATION 22-2 Responsibilities of the Office of Sustainable Marine Aquaculture

We recommend that the NMFS be responsible for these duties and strongly recommend against the creation of a new layer of bureaucracy with the Office of Sustainable Marine Aquaculture.

RECOMMENDATION 22-3 Increase in funding for expanded marine aquaculture

We agree with this and would further recommend the funds be administered by the NMFS.

RECOMMENDATION 22-4 Adherence to the aquaculture provisions of the Code of Conduct for Responsible Fisheries

We agree with this recommendation.

Specific recommendations to the Commission on Coastal Pollution

Recommendation 14-9 Place Coastal Nonpoint Pollution Programs (CZARA Section 6217) under Clean Water Act Section 319

Alabama supports this recommendation. In this state's opinion, the creation of a separate coastal nonpoint program, in addition to the existing and long standing statewide programs administered by EPA under Section 319 of the Clean Water Act, has been a duplication of effort from the beginning and has made the Section 6217 program difficult, at best, to implement. In Alabama and many other states, water quality programs (including the Section 319 program) are administered by the state's EPA water quality agency. The water quality provisions of the coastal nonpoint program should be no exception. At a minimum, if the jointly administered program remains, NOAA and EPA should review the various land use categories and specific management measures outlined in the program guidance and designate a lead agency for each in

order to avoid confusion and inconsistency. For example, states may be accountable to NOAA on land use planning and coastal zone management issues and accountable to EPA, through the Section 319 program, for those specific water quality issues. As such, we support continued funding for the coastal nonpoint program through the appropriate lead federal agency. Further, we oppose reduction of coastal nonpoint program funding as proposed in the FY05 budget. Wherever the Section 6217 program resides, the provision for sanctioning of baseline CZM and Section 319 funds should be removed during reauthorization. In its current state, the sanctioning provision is extremely regressive.

Specific recommendations to the Commission on Shoreline Management and Coastal Hazards

RECOMMENDATION 12-1 Regional Sediment Management

We strongly support the development of national strategies for managing sediment on a regional basis and, in fact, have been working with the US Army Corps of Engineers and other Gulf states toward that very goal. The Regional Sediment Management approach should take into account both economic and ecosystem needs and be developed and coordinated with input from the states.

RECOMMENDATION 12-2 Army Corps of Engineers Least-Coast Disposal Option

We support the Commission's recommendation that the US Army Corps of Engineers ensure that its selection of the least-cost option for dredging projects reflects a more accurate accounting of the full range of economic and environmental cost and benefits for options that reuse dredge materials, as well as for other disposal methods. Further, we recommend that the Commission strengthen the recommendation by requiring the Army Corps of Engineers to consider non-consumptive benefits of recreation, public access and habitat as an equal use when evaluating the least-cost option.

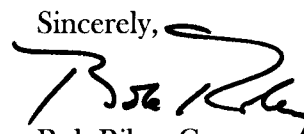
RECOMMENDATION 10-3 Changes to the National Flood Insurance Program (NFIP)

While we are generally in favor of disincentives to building or rebuilding in high hazard zones, we would request that you address repetitive losses by the establishment of pilot programs for mitigation of severe repetitive loss properties. We encourage the use of incentive programs like the Upton-Jones provision in the NFIP, which allowed proceeds from a standard flood insurance claim to be used to relocate or demolish a substantially damaged property, which is in imminent danger of collapse from coastal erosion. We would recommend that the Upton-Jones Program be reinstated.

RECOMMENDATION 10-4 Hazard Mitigation Planning

We support the recommendations and urge that hazard mitigation planning and funding for the development of state and local hazard mitigation planning be increased. We recommend that the Coastal Area Management Program be bolstered as a tool for proactive planning to avoid the impacts of coastal hazards. We encourage the Commission to recommend that State Coastal Management Programs work cooperatively with their counterpart State Hazards Management Agency, as well as the National Oceanic and Atmospheric Administration (NOAA), the Department of Homeland Security-Federal Emergency Management Agency (FEMA), the United States Geological Survey (USGS) and the United States Army Corps of Engineers (USACE) to implement recommendations contained in the report.

In closing, I again commend the US Commission on Ocean Policy and its staff for the diligence illustrated by the completion of this report. Yours was a formidable task to fundamentally review a number of existing programs and make recommendations for positive improvement. You have put forth a fine effort, and Alabama looks forward to working with the federal government to implement the final recommendations, once they are authorized.

Sincerely,

Bob Riley, Governor
State of Alabama

Cc: Alabama Congressional Delegation