

U.S. COMMISSION ON
OCEAN POLICY



AN OCEAN BLUEPRINT FOR THE 21ST CENTURY:
SPECIAL ADDENDUM

**GOVERNORS' COMMENTS
ON THE PRELIMINARY REPORT**

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GOVERNORS' COMMENTS ON THE PRELIMINARY REPORT

SPECIAL ADDENDUM TO *AN OCEAN BLUEPRINT FOR THE 21ST CENTURY*

FINAL REPORT OF THE U.S. COMMISSION ON OCEAN POLICY

WASHINGTON, D.C., 2004

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Comments on the Preliminary Report of the U.S. Commission on Ocean Policy from States, Commonwealths, Territories, Tribal Governments, and Regional Governors Associations

Section 3(g) of the Oceans Act of 2000 requires, in part, that the U.S. Commission on Ocean Policy “provide a copy of the draft report to the Governor of each coastal State,” and “include in the final report comments received from the Governor of a coastal State regarding recommendations in the draft report.”

In recognition of the important contributions oceans and coasts make to inland states, as well as the impacts activities in such states can have on marine waters, the Commission determined that it would solicit comments on its draft report (Preliminary Report) from the governors of *all* states, commonwealths, and territories and the tribal leaders of federally recognized tribes. This Special Addendum contains all of the comments received in response to that solicitation. It also includes one response from a regional governors association.

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U.S. COMMISSION ON
OCEAN POLICY



1120 20TH STREET, NW * SUITE 200 NORTH * WASHINGTON, DC 20036
PHONE: 202-418-3442 * FAX: 202-418-3475 * WWW.OCEANCOMMISSION.GOV

April 14, 2004

Dear Governor:

I am pleased to present the Preliminary Report of the U.S. Commission on Ocean Policy for your review and comment regarding its recommendations, as called for by the Oceans Act of 2000. *Please note that you are receiving an advance copy which is embargoed until 9:30 a.m. on April 20, 2004.*

Your input is critical to our process. The oceans, coasts, and Great Lakes are national treasures of importance to every state and territory. Almost 60 percent of the U.S. population lives in the coastal zone, and the coastal economy contributes fully half of the national GDP. Even those living far from the coasts are inextricably connected to the bounty—and the problems—of our oceans. Every American should feel a sense of stewardship for our oceans.

As you know, our Commission marks the first opportunity the nation has had in almost 35 years to review our ocean policies comprehensively. While the world has changed considerably in that time, many of our policies have not. We believe this Preliminary Report offers an exciting and realistic blueprint for a coordinated and comprehensive national ocean policy for the 21st century. Our draft findings and recommendations are based on over two years of nationwide public meetings, site visits, study, and deliberation, and represent a consensus of the Commission members.

As you will see, our recommendations are action-oriented, providing a logical set of steps that can begin immediately. We are sensitive to the needs and concerns of states and territories, and propose the development of new bottom-up approaches that involve the people who live near and enjoy ocean resources and will be most affected by new policies. In particular, the preliminary report offers workable solutions for many specific issues such as coastal development, fisheries management, habitat protection, pollution control, natural hazards mitigation, and many others.

We are acutely sensitive to the funding constraints facing all levels of government. From the outset of our process, we agreed not to propose anything that would, if implemented, constitute an unfunded mandate. Instead, our report identifies potential sources and mechanisms for covering the costs of all our recommendations, linked to the use of certain offshore resources.

COMMISSIONERS

ADM JAMES D. WATKINS, USN (RET.), CHAIRMAN * ROBERT B. BALLARD, PH.D. * TED A. BEATTIE * LILLIAN C. BORRONE * JAMES M. COLEMAN, PH.D.
ANN D'AMATO * LAWRENCE R. DICKERSON * VADM PAUL G. GAFFNEY II, USN (RET.) * MARC J. HERSHMAN * PAUL L. KELLY * CHRISTOPHER L. KOCH
FRANK E. MULLER-KARGER, PH.D. * EDWARD B. RASMUSON * ANDREW A. ROSENBERG, PH.D. * WILLIAM D. RUCKELSHAUS * PAUL A. SANDIFER, PH.D.
THOMAS R. KITSOS, PH.D., EXECUTIVE DIRECTOR

The enclosed materials include a **hard copy of the Preliminary Report**, as well as an **electronic version of the full report on a CD** located inside the back cover. The CD contains higher quality, color versions of many of the report's graphics, as well as several appendices. Because the report is substantial in size, scope, and level of detail, we hope that the executive summary and detailed table of contents will help guide you through the document.

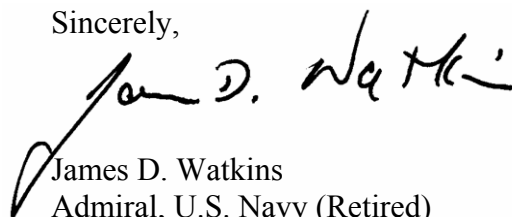
In addition, I invite you to view the **short video included as a DVD** inside the front cover of the report. The video—An Ocean Blueprint for the 21st Century—provides a visual overview of the report and its main recommendations. The complete draft report and introductory video will be available to the public through our Web site, www.oceancommission.gov on April 20th.

All comments on the Preliminary Report are due by May 21, 2004. The Commission eagerly awaits your feedback, which we will review before finalizing our report to the President and Congress. Our strong preference is for comments to be submitted in electronic form to comments@oceancommission.gov. However, we will also accept comments by regular mail (1120 – 20th St., NW, Suite 200 North, Washington, DC 20036) or fax (202-418-3475).

To keep all interested individuals informed, we have supplied copies of the draft report to a number of coastal and natural resource officials and other stakeholders in your region. However, while we are accepting input from all parties during this review period, only your comments to the Commission will be considered as the official response of your state and be included in an appendix in the final report as required by section 3(g)(2) of the Oceans Act.

I want to stress again that you are critical to this process and we look forward to hearing from you. If you have any questions, please contact the Commission's Executive Director, Dr. Tom Kitsos, or myself at (202) 418-3442.

Sincerely,



James D. Watkins
Admiral, U.S. Navy (Retired)
Chairman

Enclosures

cc: Members, U.S. Commission on Ocean Policy
Dr. Tom Kitsos

To: GOVERNORS OF ALL STATES AND TERRITORIES
From: U.S. COMMISSION ON OCEAN POLICY
Subject: COMMENT PERIOD ON PRELIMINARY REPORT

This is to inform you that the U.S. Commission on Ocean Policy is extending its public comment period – the date by which gubernatorial and other stakeholder comments on the Commission’s Preliminary Report are due -- to June 4, 2004. This extension of two weeks will bring the total amount of time that the nation’s Governors will have had the report for review to approximately 50 days, a period somewhat longer than that requested by the Coastal States Organization (March 16, 2004 letter to Admiral Watkins, Chairman).

Notwithstanding this extension, the Commission intends to move ahead with its internal process for analyzing comments and presenting a final report to the President and Congress. It is our understanding that a number of states are making good progress in the development of their comments and should be ready to submit them to the Commission on or near the original deadline of May 21. Thus, on May 24, the Commission will begin to review comments received. All states and other stakeholders are urged to provide their views as close to that date as possible to give the Commission more time for review and consideration. Nevertheless, we will continue to accept and consider all comments received through June 4.

Governors’ comments received from June 5 through June 30 will not be reviewed by the Commission but will, in accordance with section 3(g)(2) of the Oceans Act of 2000 (P.L. 106-256), be included in the Commission’s final report. Because of our production schedule, gubernatorial comments received after June 30 may not be included in the report submitted to the President and Congress.

I would like to emphasize that the Commission’s comment period on the Preliminary Report represents only one of several opportunities that governors and other stakeholders have had, and will continue to have, to express their views on the development of a national ocean policy. The Commission’s fifteen public meetings, including nine regional hearings, provided an initial opportunity for input and a number of state representatives participated in these forums. We believe that the Preliminary Report reflects many of the views expressed by those representing state governments. Further, in the 90 day period after receiving the final report, the President is directed to consult with state and local governments, and other non-Federal interests, prior to submitting to Congress his statement of proposals to implement or respond to the Commission’s recommendations (Section 4(a) of P.L. 106-256). The White House, through the Chairman of the Council on Environmental Quality, has been very clear that it intends to carefully consider the concerns and interests of the Governors in this process.

Finally, I refer you to my e-mail message sent at the beginning of this week in which I emphasized that the Commission's Preliminary Report is intended to be a high-level ocean and coastal "blueprint" on which we are requesting your state's very broad policy views. Implementation of the Commission's recommendations will, in many cases, require legislative action in what remains of this Congress and in future congresses -- a process of course that will continue well after this Commission ceases to exist and one which provides ample opportunity for additional and far more detailed gubernatorial input.

As I have repeatedly emphasized in every message to you going back almost a year now, the views of your Governor and your state are crucial to the Commission in developing its proposal for a comprehensive and coordinated national ocean policy. Admiral Watkins and I hope this extension will provide states that need it the additional time necessary to finish their work and provide a succinct set of comments on the recommendations of direct interest to them.

We look forward to receiving your Governor's comments as soon as possible -- but not later than June 4. If you have any questions, please contact either me or Peter Hill, Special Assistant for Government Relations, at (202) 418-3442.

Thomas R. Kitsos
Executive Director

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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)

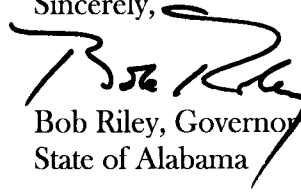
While we are generally in favor of disincentives to building or rebuilding in high hazard zones, we would request that you address repetitive losses by the establishment of pilot programs for mitigation of severe repetitive loss properties. We encourage the use of incentive programs like the Upton-Jones 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,

A handwritten signature in black ink, appearing to read "Bob Riley". The signature is stylized with a large, sweeping initial "B" and a long, horizontal stroke extending to the right.

Bob Riley, Governor
State of Alabama

Cc: Alabama Congressional Delegation



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June 3, 2004

Mr. James D. Watkins
Admiral, U.S. Navy (Retired)
Chairman
U.S. Commission on Ocean Policy
1120 20th Street, NW
Suite 1200 North
Washington, DC 20036

Dear Admiral Watkins:

It was good of you to provide me with a verbal briefing of the U.S. Commission on Ocean Policy Preliminary Report when we visited in Washington, DC. I found our visit a helpful guide in reviewing the report.

I am pleased to forward the State of Alaska's comments on the report. I commend you and the commission for this undertaking. Alaska shares the report's vision for a nationwide Ocean Policy Framework that will produce the environmental results that Alaska has already and will continue to achieve.

- **Alaska's waters and fisheries are a model of the report's vision**

Alaska's comments are offered from a unique perspective. Our shoreline is twice the length of all other states combined, with the largest contiguous offshore ocean mass in the country. Embedded in this tremendous ocean mass are three large distinct marine ecosystems: the Gulf of Alaska, the Eastern Bering Sea, and the Arctic Ocean. Our commercial fisheries produce roughly half the seafood landed in the United States, and the North Pacific Fisheries Management Council is a model cited in the report for its success.

Alaska's oceans are virtually pollution free, productive, and well-managed. Alaska practices what the commission calls a "precautionary approach" and what we refer to as "risk-based decision making" that balances the level of scientific uncertainty, significance, and risk of harm in management decisions. Alaska's risk-based management policies have contributed to the conclusions in the Environmental Protection Agency's 2004 draft report on the condition of the nation's coast that "Alaska's coastal resources are generally in pristine condition. Concentrations of contaminants have been measured at levels significantly lower than those in the rest of the coastal United States."

Alaska depends upon marine transportation and regulates the industry with one of the nation's best oil spill contingency readiness programs. Alaska has implemented interdisciplinary resource management and operates under a comprehensive federal and state pollution control safety net that includes robust water quality standards, land use planning and controls, and coordinated governance and public education. The state's Environmental Monitoring and Assessment Program and Cruise Ship Monitoring Program are just a few of the many programs operating in Alaska that address the environmental monitoring needs described in the report.

- **State sovereignty over coastal waters and uplands must be maintained to implement strategies that achieve national standards but are tailored to unique regional and state conditions**

Alaska's Constitution sets clear natural resource policy for management, public interest, common use, and sustained yield. We are resource-rich and as recognized by the Statehood Act, depend upon that wealth for economic and social stability in our sparsely populated state. It would be unacceptable for any council or board to reduce the state's authority for management of our jurisdictional waters or lands. Our detailed comments strongly suggest changes to the report's treatment of regional ocean councils in order to protect the state's sovereign interests.

From its successful initiatives Alaska has learned an important lesson that is reflected in our detailed comments: resource management requires consistent regulatory programs with standards, authorizations, and enforcement. Resource use or development that compromises environmental quality or sustained yield must be controlled rigorously, whether by limited entry fisheries or upland land use requirements and prohibitions. Non-regulatory and advisory roles are useful, but are meaningless without the implementation enforcement mechanisms that can only come from state or federal government.

The report urges an ecosystem-based management approach linking oceans and coastal activities with watersheds and land use controls. Alaska employs the principles of ecosystem-based management in managing its world-class ocean resources and supports further progress as long as such measures can be implemented in ways that do not erode local and state authorities and are flexible to local conditions.

Common standards for establishing the quality, productivity, and overall health of the nation's oceans are appropriate and necessary. Common environmental standards should ensure that environmental protection is

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seamless across state boundaries. Strategies to implement national standards are necessarily site-specific and should be left up to the states as a policy matter. Our recommendations urge a more in-depth analysis and acceptance of important regional differences to ensure that the unique challenges associated with oil development and subsistence whaling on the North Slope of Alaska for example are not forced into solutions more appropriate to the drainage of the Mississippi River system than to Alaska. Alaska must be acknowledged and treated as a separate region.

- **Risk-based management is the link between national standards and state implementation strategies**

Risk-based management provides the flexibility to achieve national standards with state implementation strategies built upon site-specific data and information. The State of Alaska's water quality standards, contaminated site cleanup standards, environmental monitoring priorities, compliance inspection and enforcement priorities, and resource allocation policies are all driven by very conservative environmental protection and sustained yield assumptions that can be adjusted with relevant site-specific data and monitoring information.

Site-specific data collection and monitoring are essential components of risk-based management. In the absence of site-specific information a "one-size-fits-all" management approach should be used to achieve national standards. However, state implementation strategies that apply the best available site-specific information with on-going monitoring are an appropriate alternative to a one-size-fits-all management approach.

- **A new ocean policy framework should utilize existing law, programs and agencies**

The organizational proposals in the report are complex and contemplate new offices, new staff, and new reporting relationships. Because existing state programs can implement strategies to achieve national standards a new federal implementation bureaucracy is not needed. Our experience with other redundant organizations does not convince us that new government structures for centralized federal management produce better environmental or management results than proper utilization and funding of existing programs and agencies. Alaskans recall the disaster of centralized federal management of our salmon stocks when we were a Territory prior to 1959. Federal mismanagement reduced runs in some areas to such a degree that our fishermen imposed limits on themselves.

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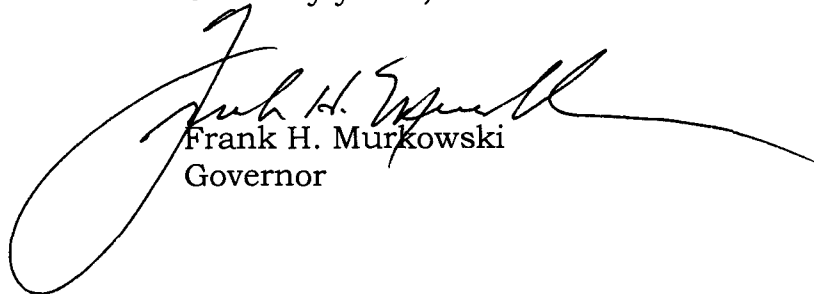
Our resource management success in Alaska has been achieved in large part through the use of traditional state and federal regulatory programs. We have often been disappointed that federal funding for these programs is reduced in favor of new initiatives which are not coordinated with existing programs.

New ocean planning and coordination must not occur at the expense of the workhorse regulatory programs required by the Clean Water Act, Coastal Zone Management Act, Magnuson-Stevens Fishery Conservation and Management Act, National Environmental Policy Act, Oil Pollution Act, and other federal legislation. A renewed federal commitment is needed to fund, strengthen, and improve the coordination of the country's existing pollution control programs that relate to ocean management. Introducing new federal laws, bureaucracy, and budgets is unnecessary, wasteful, and counterproductive.

• **Conclusion**

We look forward to the coastal states playing a lead role implementing the improvements for ocean management outlined in the report. An emphasis on state enforcement mechanisms using risk-based management will strengthen our ability to protect marine ecosystems and manage for success in both environmental protection and resource development. I urge the commission to consider Alaska's comments carefully and pay special attention to our call for affirmation of the states' sovereign role in management of our oceans.

Sincerely yours,



Frank H. Murkowski
Governor

Enclosures

cc: The Honorable Ted Stevens, United States Senator
The Honorable Lisa Murkowski, United States Senator
The Honorable Don Young, United States Representative



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STATE OF ALASKA
OFFICE OF THE GOVERNOR
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June 3, 2004

U.S. COMMISSION ON OCEAN POLICY PRELIMINARY REPORT
STATE OF ALASKA COMMENTS AND RECOMMENDATIONS

INTRODUCTION

The State of Alaska conducted a detailed review of the U.S. Commission on Ocean Policy Preliminary Report and has a number of comments for the commission's consideration. The state's comments are organized in two parts. The first is a summary of Alaska's ocean and coastal management principles. These principles are paramount in Alaska's consideration of any new ocean management policy framework. The second is the State of Alaska's detailed comments on the major recommendations in the commission's report. The summary and detailed comments should be treated as part of Alaska Governor Frank H. Murkowski's comments in the final report to Congress.

SUMMARY OF STATE OCEAN AND COASTAL MANAGEMENT PRINCIPLES

In the Oceans Act of 2000, Congress established the commission to "review previous and ongoing state and federal efforts to enhance the effectiveness and integration of ocean and coastal activities." It is not surprising that in the commission's impressive 413-page report, they were only able to report on the effectiveness and integration of ocean and coastal activities at the national level and not with respect to individual states. It is, therefore, important for states to provide the commission with information regarding state management principles and experience managing ocean and coastal activities within their respective jurisdictions.

The fundamental ocean and coastal management principles important to the State of Alaska and all coastal states are state resource management sovereignty and jurisdiction; area-specific ocean and ecosystem qualities and characteristics; resource management practices and results; and use of applied science and ecosystem monitoring. Alaska-specific information for each of these principles demonstrates the effectiveness of Alaska's management of ocean and coastal activities. This information also provides the context for the State of Alaska's detailed comments on the commission's recommendations.

State Resource Management Sovereignty and Jurisdiction

Like the federal government, state governments are constitutionally created sovereign organizations. Through the United States and Alaska constitutions, the State of Alaska is provided the jurisdictional authority for comprehensive management of biological resources, pollution control, coastal management, resource development and management of intertidal lands and upland watersheds.

When Alaska was a Territory prior to 1959, the United States government asserted exclusive jurisdiction for managing Alaska's ocean and coastal resources. Centralized federal management allowed the use of fish traps with devastating impacts to Alaska's salmon populations. The desire of Alaskans to protect fisheries resources with local management was a preeminent motivation for petitioning Congress to grant Alaska statehood.

In granting Alaska statehood in 1959, Congress ratified Alaska's Constitution which includes a provision that;

“Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the state shall be utilized, developed and maintained on the sustained yield principle.” (Article 8, section 4)

In addition to natural resource management, Alaska's sustained yield principle is reflected in the state's pollution control statutes:

“It is the policy of the state to conserve, improve, and protect its natural resources and environment and control water, land, and air pollution, in order to enhance the health, safety, and welfare of the people of the state and their overall economic and social well being. It is the policy of the state to improve and coordinate the environmental plans, functions, powers, and programs of the state, in cooperation with the federal government, regions, local governments, other public and private organizations, and concerned individuals, and to develop and manage the basic resources of water, land, and air to the end that the state may fulfill its responsibility as trustee of the environment for the present and future generations.” (Alaska Statute 46.03.010).

“Jurisdiction” is a term used frequently in the commission's report. Jurisdiction is commonly understood to mean the authority of a sovereign power to govern, legislate, or administer the law, or an entity with the legal power, right, or authority to hear and decide a cause considered either in general or with reference to a particular matter or place.¹ Jurisdiction is generally specific, defined, and justiciable. To achieve the commission's vision of a new national ocean policy framework, it is critical that jurisdictional

¹ Webster's Third New International Dictionary

authority be appropriately matched with resource management authority. Agencies at all levels of government responsible for ocean and watershed management must be correctly identified and given corresponding responsibility in any resource governance structure.

The “Primer on Ocean Jurisdictions” in chapter 3 of the report does a fair job explaining “the ocean jurisdiction of the United States under international law, as well as the domestic distinction between federal and state waters.” In addition to the three-mile seaward jurisdiction of state governments reported by the commission, state governments exercise considerable jurisdiction governing inland coastal watersheds. Regulating land use activities, managing fish and wildlife, and controlling discharges to air, land, and water in coastal watersheds is primarily a state responsibility.

The nation’s environmental laws are founded on the “primary responsibilities and rights of states”² to manage and protect environmental resources. National standards for environmental quality provide the necessary criteria for managing natural resources that are not restricted by state borders. Strategies to implement national standards are the responsibility of state governments that have the local knowledge and site-specific authorities to regulate and enforce compliance. Post implementation monitoring and analysis is used to determine if state implementation strategies are achieving the national standards.

Area Specific Ocean and Ecosystem Qualities and Characteristics

Alaska is the nation’s only arctic state with environmental issues more common to Russia, Finland, Sweden, Norway, Greenland, and Canada than to other states. Alaska is also the largest ocean state in the country and its oceans include the North Pacific Ocean, Bering, Chukchi, and Beaufort Seas. Alaska has 33,904 miles of shoreline – twice the length of all the other states combined. The estimated tidal shoreline, including islands, inlets and shoreline to head of the tidewater is 47,300 miles. Alaska occupies 20% of the nation’s land base, 40% of the nation’s surface water, and contains half the nation’s wetlands.

Alaska’s oceans are geographically separated and comprise the largest contiguous ocean mass in the country. The Report divides Alaska into two large marine ecosystems, the Eastern Bering Sea and the Gulf of Alaska. There is a third ecosystem not identified in the Report that comprises Alaska’s arctic coast. The Arctic Ocean is a distinct ecosystem of national and international significance.

² Clean Water Act section 1251, Congressional recognition, preservation, and protection of primary responsibilities and rights of States.

Alaska's proven and unexplored natural resources are greater than any other state. Alaska oceans and coastal watersheds produce 25% of the nation's oil, over 50% of the nation's seafood, and minerals from several world-class mines including the world's largest operating zinc mine.

The unique regional qualities of Alaska's ocean and watershed resources are also reflected in their quality. Relative to the oceans and watersheds in the rest of the country, Alaska's resources are healthy, productive, and pollution-free. EPA's 2004 report on the condition of the nation's coast concludes that, "Alaska's coastal resources are generally in pristine condition. Concentrations of contaminants have been measured at levels significantly lower than those in the rest of the coastal United States." Alaska's oceans also support the most productive fisheries in the world and do not suffer from the consequences of concentrated coastal development and urbanization that generates much of the environmental pollution that is found in the rest of the nation.

Alaska Resource Management Practices and Results

The sustained yield principles in Alaska's Constitution and state law are the cornerstone of its resource management success. Alaska's elected representatives have made clear the state's commitment to environmental protection and the responsibility to work with all interests to develop Alaska's resources for the well being of current and future Alaskans.

Federal programs do not adapt easily to Alaska. Federal and state collaboration to balance national policies with local conditions is needed for successful resource management. The State of Alaska has a long history of working successfully in collaboration with federal and local jurisdictions on ocean issues. From joint state and federal oil and gas lease sales in the Beaufort Sea, to the continuing work of the North Pacific Fisheries Management Council, Alaska has significant experience in the benefits of intergovernmental coordination for managing ocean and watershed resources.

Under existing federal environmental law, state governments are reserved significant responsibilities for implementing environmental protection and resource management strategies to achieve compliance with federal goals and standards. Many of Alaska's resource management implementation strategies are based on federally-approved water quality standards, non-point source pollution control plans, impaired water body restoration priorities, coastal management standards and enforceable local policies, and ground-fish allocation and limited entry plans.

The State of Alaska appreciates the commission's recognition of the North Pacific Fisheries Management Council model for sustainable management. The Magnuson-Stevens Fishery Conservation and Management Act established the

North Pacific Fisheries Management Council to have primary responsibility for allocating Alaska's halibut and groundfish resources in the federal Exclusive Economic Zone. Of the council's eleven voting members, Alaska's Governor is authorized to appoint six.

The fishing industry is Alaska's largest private sector employer and provides nearly all of the employment in about half of Alaska's coastal communities. For many of these coastal communities, commercial fishing makes up over 50% of their economic base. Alaska provides half of all of the seafood harvested in the United States. The ex-vessel value (the value paid at the docks to fishermen) of Alaska's seafood in recent years has been approximately \$1.1 billion annually. These dollars flow throughout Alaska's economy when accounting for wholesale and retail values, taxes paid, and the ripple effects on the myriad of support businesses sustained by the fishing industry.

In the 1890's, canneries in Alaska began using very effective floating fish traps in salmon streams. Managed by the federal government, these traps proved so effective that by the 1920s they accounted for 50% of the total salmon catch. As a result, salmon populations declined dramatically because not enough salmon were allowed to escape and spawn.

Following statehood in 1959, one of the Legislature's first acts was to ban fish traps in order to conserve and restore salmon populations. A process clearly delineating allocation from assessment and conservation was implemented: the Alaska Department of Fish and Game manages resources for conservation; the Alaska boards of Fish and Game determine allocations between the resource users. This clear separation in authority between management and allocation authorities is a critical factor in the success of Alaska's fisheries management system. A similar management model incorporating this clear distinction between the assessment/conservation and allocation functions is utilized by the North Pacific Council, and has been acknowledged in the report as a highly successful management model.

The productivity and health of Alaska's fisheries are a reflection of the quality of Alaska's marine and fresh waters. The Clean Water Act is a comprehensive, tested, and credible framework for Alaska's programs to assess, protect, and restore the state's coastal and freshwater resources. The Clean Water Act includes specific provisions for the "recognition, preservation, and protection of primary responsibilities and rights of states."³ Alaska's federally-approved water quality standards are the foundation of the state's water protection programs to protect all water uses and control discharges of pollutants. Alaska has also developed a model program called Alaska Clean Water Actions to ensure that state resource agencies collaborate on prioritizing waterbody needs, actions, and funding decisions. Federal agencies and non-governmental

³ Clean Water Act section 1251.

organization are encouraged to coordinate their actions with the state to prioritize effective use of limited federal resources for assessing, protecting, and restoring water resources.

Use of Applied Science and Ecosystem Monitoring

As noted in the report, applying judicious and responsible management practices should be based on the best available science. Alaska has significant responsibilities for ocean and coastal resource management and is struggling to acquire basic data and funding needed to support sound resource management decisions. Given that unlimited funds will never be available to acquire the data and apply the science needed to predict outcomes with complete certainty, the State of Alaska has learned that management principles and science need to be targeted, cost-effective, and directed toward specific goals and objectives. Data needs should be derived from specific hypotheses to support resource management decisions. The monitoring needs and information requirements for one area are not necessarily the same as for others.

The commission is correct in recognizing the value of ecosystem monitoring. Present monitoring for existing resource management programs is woefully underfunded. The State of Alaska participates in the Environmental Protection Agency Environmental Monitoring and Assessment program that has only recently funded work in Alaska to survey the condition of Alaska's ocean and coastal habitat, water quality, sediment quality, benthic and fish resources. Stream flow information is also necessary to help place water quality information in context. As the report correctly notes, only four National Stream Quality Accounting Network sites are located in Alaska. In addition, a number of other special purpose environmental monitoring stations are managed by federal, state, and local governments, non-governmental organizations, and private sector industries.

With over 365,000 miles of streams and rivers, 47,300 miles of shoreline, and the largest ocean area in the country, the federal government must take a risk-based approach in coordination with the state to prioritize the purpose and locations of Alaska's monitoring stations. As a practical matter, the risk to oceans and watersheds from past, current, and future uses must be taken into account when allocating the limited management resources that can be dedicated to environmental monitoring, scientific investigation, and applied research.

Data collection, monitoring, and scientific inquiry are tools for reducing the uncertainty in a risk-based decision-making process. They also provide the basis for mid-course correction if trends show unanticipated outcomes. The amount of science and monitoring must be proportional to the significance of

the outcome of the resource management decision. Research, science, and monitoring are all key elements of responsible risk-based decision-making, which should be developed and continuously reviewed to meet specific regional needs. At this point and in the foreseeable future, science cannot predict outcomes with complete certainty. There will continue to be a level of uncertainty that is part of a risk-based decision-making process. The commission has proposed a “precautionary approach” that balances the level of scientific uncertainty and potential risk of harm in management decisions. The State of Alaska concurs with this approach.

Conclusion

Alaska’s oceans and coastal areas are unlike any other in the country in terms of their size, productivity, environmental quality, and management based on a constitutionally-required sustained yield principle. Alaska’s resource management successes have been achieved under a strong state Constitution, commitment to collaborate with federal and local management programs, non-governmental interests and neighboring countries, applied science, and environmental monitoring. Alaska’s resource management is driven by site-specific risk-based priorities using local knowledge and solutions to achieve national standards.

The State of Alaska envisions a national oceans policy that acknowledges the jurisdictions of the states and is responsive to the varying characteristics and needs of the states. The state seeks a strong state-federal partnership, which recognizes the roles and responsibilities of all parties, as we pursue a comprehensive national oceans policy. Such a policy and approach would be consistent with the aims and interests expressed in the commission’s report.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

June 3, 2004

**State of Alaska Comments and Recommendations to the
U.S. Commission on Ocean Policy Preliminary Report**

DETAILED COMMENTS

The State of Alaska has reviewed each of the recommendations in the U.S. Commission on Ocean Policy Preliminary Report and offers the following comments for the commission's consideration.

The State of Alaska views a new ocean policy governance framework (Parts II and VIII), sustainable management (Part VI), coastal development (Part IV), degraded waters (Part V), and science-based decisions (VII) as the key ocean management issues for which improvements are needed. The state's detailed comments are limited to specific recommendations relating to the five key ocean management issues. The state is not commenting on a number of recommendations that have minimal application to Alaska or that should be the subject of more in-depth review and debate by the national and regional governance councils which the state supports.

Part II - Blueprint for Change: A New National Ocean Policy Framework

The State of Alaska supports the report's advocacy of an improved national/regional governance structure to resolve ocean and coastal related problems. The report emphasizes the need for a presidential priority to address national ocean issues, improve federal agency coordination at the national level, and establishes a system of regional councils to manage ocean and coastal-related issues that cross federal, state, and local jurisdictions. The State of Alaska agrees that these are areas warranting special attention.

The greatest shortcoming of the commission's Preliminary Report is its failure to fully acknowledge the critical role played by state governments with the sovereign authority to control access to ocean and watershed resources, whether by limited entry fisheries or upland land use requirements and prohibitions. Of the 197 recommendations in the commission's report, only one references the role of state governments "to begin the establishment of

regional ocean councils.” Even in this single recommendation, state sovereignty is given the same deference as “territorial, tribal, and local governments and nongovernmental participants.”

It is not acceptable that states be relegated to a backseat in the national oceans plan through a system of regional councils whose jurisdiction, responsibility, role, authority, and mission are largely undefined. As a sovereign entity responsible for management of natural resources, states must play the lead role in any new regional scheme for ocean and coastal management.

There is an important difference between the roles and responsibilities between governmental and non-governmental organizations that is blurred in the commission’s report and must be clarified. Unlike non-governmental organizations, governmental agencies have the responsibility to implement ocean and watershed resource management policies established in law by elected officials. Treating governmental interests on an equal par with non-governmental interests is unacceptable.

If actions called for in the report to improve the nation’s governance of oceans and watersheds are to succeed, it is critical that jurisdictional authority be appropriately matched with resource management authority. Agencies at all levels of government that are responsible for ocean and watershed management and decision-making must be correctly identified and given corresponding responsibility in any new resource governance structure. The state is particularly concerned that the jurisdiction of state governments be recognized and upheld in any federal government restructuring.

The commission’s Preliminary Report includes important recommendations to reorganize the nation’s oceans and coastal watersheds governance structure. The creation of a National Oceans Council, Presidential Council of Advisors on Ocean Policy, and Regional Oceans Councils are major elements in the recommended governance structure and warrant special attention. Each of these cornerstones to a new oceans and watersheds governance framework will have to acknowledge and build on the existing jurisdiction of constituted governments.

In a number of areas, the commission has recommended the creation of new federal organizations to administer newly-created programs to accomplish results which the State of Alaska believes could be more efficiently achieved by coordinating and funding existing federal agencies and programs. Alaska has successfully implemented existing federal, state, and local programs to manage fisheries, regulate coastal development and control pollution. The state’s implementation strategies operate consistent with existing federal law in collaboration with the same federal agencies that will be members of the National Ocean Council recommended by the commission. When properly funded and coordinated with federal agencies, the environmental objectives

and results sought by the commission can be achieved using existing state and federal organizations. More federal agencies, committees, offices, boards, task forces, centers, and teams are an unnecessary expense that would divert limited resources away from the nation's core environmental protection and resource management programs.

Recommendation 4–1. Congress should establish a National Ocean Council, and a nonfederal Presidential Council of Advisors on Ocean Policy, within the Executive Office of the President to provide enhanced federal leadership and coordination for the ocean and coasts. While Congress works to establish these components in law, the President should begin immediately to implement an integrated national ocean policy by creating them through an Executive Order, and by appointing an Assistant to the President to chair the Council.

This recommendation **should be amended** to provide a clear distinction between governmental organizations with the responsibility, authority, and accountability for natural resource management and pollution control, and nongovernmental organizations that have no jurisdiction for managing ocean and coastal-related resources. Relegating sovereign states that have jurisdiction over many ocean and coastal watershed-related decisions to the same advisory position as non-governmental and interest groups is inappropriate. The State of Alaska recommends that governors be offered periodic review of NOC policy and goals with the voluntary opportunity to submit comments on NOC activities. While such a dialogue must be limited as to not be burdensome or inefficient to any of the parties involved, it must take into account the role of states in the decision-making and policy-implementation processes.

The State of Alaska supports the commission's proposal to have a national level group of governmental and non-governmental ocean policy advisors to the President. The mission of these bodies should be restricted to national ocean policy and federal coordination issues and not be allowed to creep into specific regional, state, or local management decisions or implementation issues.

Recommendation 4–2. The National Ocean Council (NOC) should provide high-level attention to ocean and coastal issues, develop and guide the implementation of appropriate national goals and policies, and coordinate the many federal departments and agencies with ocean and coastal responsibilities. The NOC should be chaired by an Assistant to the President and composed of cabinet secretaries of departments and directors of independent agencies with relevant ocean- and coastal-related responsibilities.

This recommendation **should be amended** to delete any reference to implementation that might confuse the NOC role as a policy coordination body

with no regulatory or resource allocation responsibilities. A cabinet-level body within the federal executive branch to advise the President is the appropriate level of authority for developing and coordinating the federal government's oceans and watersheds policies. It is appropriate for this policy-making body to be comprised of federal representatives with jurisdiction over federal ocean and watershed management under existing core programs like the Clean Water Act, Coastal Zone Management Act, Magnuson-Stevens Act, and other legislation that specifically addresses environmental protection and resource management for oceans and watersheds.

The State of Alaska supports the recommendation for a Presidential assistant to chair the NOC. It is important that the NOC chair be agency-neutral with direct access to the President on national ocean policy.

Recommendation 4–3. The National Ocean Council (NOC) should adopt the principle of ecosystem-based management and assist federal agencies in moving toward an ecosystem-based management approach.

The State of Alaska cautiously **supports** this recommendation. The state appreciates the fact that activities in the area from the inland extent of coastal watersheds can affect oceans out to the offshore boundary of the nation's exclusive economic zone. However, it is important to acknowledge that limited scientific data challenges our ability to fully implement "ecosystem management."

Political borders must not be a barrier to restoring and protecting ocean and watershed resources that function within environmental borders. At the same time, the different jurisdictional authorities within political units must be respected and consulted. It is particularly important that states and their political subdivisions have well-defined unambiguous roles in an ecosystem-based approach to management since their land use designations and controls will frequently be key components of ocean-protection solutions.

The science is still developing to define "ecosystem management." However, continuing to move towards an ecosystem approach is an appropriate goal. The North Pacific Fisheries Management Council has developed a practical working definition for an ecosystem-based approach for fisheries management: "An ecosystem-based management strategy for marine fisheries would be to minimize potential impacts, while allowing for extraction of fish resources at levels sustainable for both the fish stock and the ecosystem." It may not, however, be appropriate to manage living marine resources based upon theoretical assumptions about other potentially distant impacts (e.g. setting salmon harvest levels based on models of the impacts of urban run-off).

Recommendation 4–4. A designated Assistant to the President should provide leadership and support for national ocean and coastal policy. The

Assistant to the President should chair the National Ocean Council (NOC), co-chair the Presidential Council of Advisors on Ocean Policy, and lead NOC efforts to coordinate federal agency actions and involve regional, state, and local stakeholders.

The State of Alaska **supports** this recommendation. Such an assistant would be very useful in coordinating formal communication between the NOC and the governors as advocated in the state's comments on recommendation 4-1. An agency-neutral Assistant to the President could serve as a useful bridge between federal, state, and non-governmental interests in the nation's ocean policies. To facilitate federal coordination on regional issues, the NOC should include a formal avenue for receiving advice from Regional Ocean Councils (ROCs) that is not provided for in the report or recommendations. The reference to "regional" stakeholder in recommendation 4-4 should be more clearly stated if the commission's intent is to have the assistant to the President also serve as a bridge between the proposed ROCs and the NOC and/or the President.

Recommendation 4–5. The Presidential Council of Advisors on Ocean Policy, a formal structure for input from individuals and organizations outside the federal government, should advise the President on ocean and coastal policy matters. The President should appoint to the council a representative selection of nonfederal individuals who are knowledgeable about, and experienced in, ocean and coastal issues.

This recommendation **should be amended** to remove state governments from the proposed list of members. Membership on the Presidential Council of Advisors should be limited to non-governmental individuals and organizations. A non-governmental advisory body is not an appropriate vehicle for conveying the views of state governments. As stated previously, the State of Alaska supports formal communication between the NOC and the governors that correctly reflects the role of the states in policy-making and implementation.

Recommendation 4–6. Congress should establish an Office of Ocean Policy to support the Assistant to the President, the National Ocean Council (NOC), and the Presidential Council of Advisors on Ocean Policy. To provide immediate staff support, the President should include an Office of Ocean Policy in the Executive Order that creates the Council.

The State of Alaska **opposes** this recommendation. The commission's recommendation to establish the NOC has great merit. How the council conducts its proceedings or decides to organize committees, task forces, offices, boards, or work groups should be left to the discretion of the NOC.

Recommendation 4-7. Congress, working with the National Ocean Council (NOC), should amend the National Oceanographic Partnership Act

to integrate ocean observing, operations, and education into its marine research mission. A strengthened and enhanced National Ocean Research Leadership Council (NORLC) should be redesignated as the Committee on Ocean Science, Education, Technology, and Operations (COSETO), under the oversight of the NOC.

The State of Alaska **opposes** this recommendation. It is premature to recommend legislative amendments without further review and evaluation by the National Ocean Council, coastal states, and a non-governmental Advisory Council proposed in the previous recommendations (4-1; 4-5). There is insufficient information or analysis provided in the commission's report to justify the recommended congressional action.

Recommendation 4–8. The National Ocean Council (NOC) should establish a Committee on Ocean Resource Management to better integrate the resource management activities of ocean-related agencies. This committee should oversee and coordinate the work of existing ocean and coastal interagency efforts, recommend the creation of new topical task forces as needed, and coordinate with government-wide environmental and natural resource efforts that have important ocean components. The Committee on Ocean Resource Management should be chaired by the chair of the Council on Environmental Quality and should include undersecretaries and assistant secretaries of departments and agencies that are members of the NOC.

The State of Alaska **opposes** this recommendation. The commission's recommendation to establish the NOC has great merit. How the council conducts its proceedings or decides to organize committees, task forces, offices, boards, or work groups should be left to the discretion of the NOC.

Recommendation 4–9. The National Ocean Council should review all existing ocean-related councils and commissions and make recommendations about their ongoing utility and reporting structure.

The State of Alaska **supports** this recommendation provided this process includes review by coastal states and a non-governmental advisory council. The review of all existing ocean-related councils and commissions should also be expanded to include federal ocean, coastal, and atmospheric programs referred to in recommendation 7-3.

Recommendation 4-10. The National Ocean Council should work with Congress, the Presidential Council of Advisors on Ocean Policy, and state, territorial, tribal, and local leaders, including representatives from the private sector, non-governmental organizations and academia, to develop a flexible and voluntary process for the creation of regional ocean councils.

The State of Alaska **supports** this recommendation. The state agrees that government decision-makers need to collaborate in a formal governance framework to resolve regional ocean and watershed issues that cross jurisdictional lines at the federal, state and local levels. The commission carefully distinguished between jurisdictional and advisory roles at the national policy level. Similarly, the regional governance structure must also not confuse the decision-making roles and responsibilities of state and local government jurisdictions with the advisory role of non-jurisdictional individuals and organizations.

We strongly support and see great benefit in a flexible and voluntary process for the creation of regional ocean councils. However, our support is predicated on limiting Regional Ocean Council membership to governments with ocean and watershed jurisdiction. By including non-governmental entities with governments in the membership for ROCs, the commission's recommendation diminishes state sovereignty and blurs the critical distinction between decision-makers and policy-advisors. Consistent with the governance structure recommended for enhancing ocean leadership and coordination at the national level, the State of Alaska is a strong advocate for advancing a regional governance structure that establishes ROCs composed of state governors with ocean- and watershed-related jurisdiction in the region.

State governors should have the authority and discretion to establish ROCs including the membership, mission, and operating procedures. In addition, the states should have the discretion to establish Regional Policy Advisory Councils with members from non-governmental organizations.

Recommendation 4–11. The President, through an Executive Order, should direct federal agencies with ocean- and coastal-related functions to immediately improve their regional coordination, as a precursor to federal reorganization around common regional boundaries and the eventual establishment of regional ocean councils. As part of this process, federal agencies should collaborate with regional, state, territorial, tribal, and local governments and non-governmental parties to identify major issues of concern in each region.

This recommendation **should be amended** to acknowledge the difference between states and non-governmental organizations. Like federal agencies, states have the jurisdictional authority to develop and implement resource management decisions, whereas non-governmental parties do not. This recommendation should be revised to have federal agencies collaborate directly with states through a ROC governance structure. Non-governmental policy advice would be provided to federal agencies at the national level by the Presidential Council of Advisors on Ocean Policy and could be provided at the regional level by non-governmental regional advisory councils.

The State of Alaska also supports the recommendation for federal agencies to better align their office jurisdictions with common regional boundaries. With the exception of the Environmental Protection Agency, virtually all federal ocean and coastal-related resource agencies recognize Alaska as a distinct region and have aligned their regional office boundaries consistent with the state's. The Forest Service, Fish and Wildlife Service, National Park Service, Coast Guard, National Oceanic and Atmospheric Association, Corps of Engineers, Geological Survey, Bureau of Indian Affairs, Bureau of Land Management, and the Minerals Management Service all have regional offices in Alaska.

Recommendation 5-1. State, territorial, tribal, and local governments and non-governmental participants should use the broad, flexible process developed through the National Ocean Council to begin the establishment of regional ocean councils.

This recommendation **should be amended** to recognize the jurisdiction of states over ocean and watershed issues and, consequently, the necessity of states to take the lead in establishing ROCs and non-governmental Regional Advisory Councils. As states have jurisdiction over many of the issues that would be brought before the ROCs, it is appropriate to make the states the lead agents in the establishment of the ROCs. State governors should bear the responsibility to establish ROCs. State leadership at the regional level is consistent with the commission's recommendation at the national level, which gives the President and Congress the responsibility to establish an NOC separate from a non-governmental Advisory Council.

Recommendation 5-2. Congress should establish regional ocean information programs throughout the nation to improve coordination and set regional priorities for research, data collection, science-based information products, and outreach activities in support of improved ocean and coastal management. The regional ocean information programs should be established immediately, independent of the voluntary, and potentially more complicated, process of establishing regional ocean councils.

The State of Alaska **opposes** this recommendation. Regional information programs must serve and be a part of the ROC framework. Creating an independent regional information program that would set priorities for the research, data collection, and information products that are essential to state resource managers is counterproductive to the commission's goals for improved governance coordination and efficiency.

Recommendation 5-3. Each regional ocean information program, with guidance from the National Ocean Council, should coordinate the

development of a regional ecosystem assessment, to be updated periodically.

The State of Alaska **opposes** this recommendation. Regional information programs and regional ecosystem assessments must be an integral part of the Regional Ocean Council framework, not an independent regional information and assessment program managed by an entirely separate bureaucracy.

Recommendation 5-4. The Council on Environmental Quality should revise its National Environmental Policy Act guidelines to require that environmental impact statements for proposed ocean- and coastal-related activities take into account any available regional ecosystem assessments developed under the oversight of the regional ocean information programs.

The State of Alaska **opposes** this recommendation. The National Environmental Policy Act currently requires the use of the best scientific information available. Recommending the Council on Environmental Quality to amend existing federal requirements to utilize undefined assessments prepared by yet-to-be-created federal programs is premature.

Recommendation 5-5. Congress should establish regional boards to administer the regional ocean information programs. Each regional board should include a broad range of stakeholders, develop a regional plan to be submitted to the National Ocean Council, and oversee the regional ocean observing systems. Program priorities should be carried out primarily through a grants process.

The State of Alaska **opposes** this recommendation. Regional information programs and regional ecosystem assessments must be an integral part of the ROC framework, not an independent program managed by an entirely separate bureaucracy. We do not need another layer of bureaucracy or proliferation of regional oceans programs and boards in addition to the Regional Ocean Councils. The Regional Ocean Councils should be established to address all ocean and coastal-related issues including environmental information and assessment needs.

Recommendation 5-6. The National Ocean Council (NOC) should ensure that adequate support is provided for the operation of regional ocean information programs.

Alaska **opposes** this recommendation. The proposal to separate the regional information program from the ROC is unacceptable. Funding for ocean information programs should be considered by the NOC and ROCs in the context of all ocean issues. It is inappropriate for the commission to single out information programs over other important ocean management needs.

Recommendation 6–1. Congress, working with the National Ocean Council (NOC), should ensure that each current and foreseeable use of federal waters is administered by a lead federal agency. The lead agency should coordinate with other federal agencies with applicable authorities and ensure full consideration of the public interest. Pending congressional action, the NOC should designate interim lead agencies to oversee new offshore activities.

This recommendation **should be amended** to remove Congress from the duty to assign lead federal agencies to specific ocean and watershed topics. The State of Alaska strongly supports the NOC as an administrative vehicle within the executive branch to coordinate the many diverse federal jurisdictions for ocean and watershed management. Assigning a lead federal agency to coordinate the efforts of multiple federal agencies with overlapping authorities for a specific issue or area is an appropriate decision for the executive branch, not Congress.

Recommendation 6–2. Congress, working with the National Ocean Council and regional ocean councils, should establish an ecosystem-based offshore management regime that sets forth guiding principles for the balanced coordination of all offshore uses. It should recognize the need, where appropriate, for comprehensive single-purpose ocean governance structures that are fully integrated with, and based on the principles of the new offshore management regime. The regime should include a process for incorporating new and emerging activities and a policy that a reasonable portion of the resource rent derived from such activities is returned to the public.

The State of Alaska **opposes** this recommendation. It is premature to recommend that Congress establish an offshore management regime until the NOC and ROCs have been established and are operational. Any regime should be driven by the advice of these councils created for this purpose.

Recommendation 6–3. The National Ocean Council should develop national goals and guidelines leading to a uniform process for the effective design and implementation of marine protected areas. Marine protected area designations should be based on the best available scientific information and these areas should be periodically assessed, monitored, and modified to ensure continuing ecological and socioeconomic effectiveness.

The State of Alaska **opposes** this recommendation. The federal framework currently exists to establish policies for marine protected areas (MPAs) through the Marine Protected Area Federal Advisory Committee (MPAFAC). The MPAFAC is working to develop a uniform process for consideration of MPAs.

Any incursion into implementation dilutes and diminishes the authorities of the states and the Regional Fisheries Management Councils and is not acceptable. Further, upon periodic review, any MPAs found not to ensure ecological and socioeconomic effectiveness should sunset.

Recommendation 6–4. Regional ocean councils, or other appropriate regional entities, should actively solicit stakeholder participation and lead the design and implementation of marine protected areas. The design and implementation should be conducted pursuant to the goals, guidelines, and uniform process developed by the National Ocean Council.

The State of Alaska **opposes** this recommendation. ROCs should be established to address all ocean and coastal related issues. Absent ROCs, state governments or individual federal agencies with ocean and coastal related authorities are the appropriate regional entities.

Recommendation 7–1. Congress should pass an organic act that codifies the establishment and missions of the National Oceanic and Atmospheric Administration (NOAA). The act should ensure that NOAA’s structure is consistent with the principles of ecosystem-based management and with its three primary functions: assessment, prediction, and operations; resource management; and research and education.

The State of Alaska **supports** this recommendation. The history of NOAA in oceans research and management policy makes it particularly worthy to serve a leadership role on federal ocean-related policies. The State of Alaska has long shared expertise and resources with NOAA to reach common goals. We recommend that NOAA be relied on to coordinate the federal interaction with state governments, as the lead federal agency on ocean and watershed issues.

During Alaska’s long association with NOAA, responsiveness to state concerns has become a problem at times. The complicated structure of the agency can lead to both internal and external communication difficulties. We recommend that reorganization of NOAA be conducted in a manner that streamlines internal communication within the agency while making external communication with states more accessible. An organic act should be written in a way so that it does not erode the management system in place under the Magnuson-Stevens Fishery Conservation and Management Act, or give NOAA jurisdiction over responsibilities that have traditionally been held by states.

Recommendation 7–2. The President should instruct the Office of Management and Budget (OMB) to review the National Oceanic and Atmospheric Administration budget within OMB’s Natural Resources Programs, along with the budgets of the U.S. Departments of Agriculture, Energy, and the Interior, the U.S. Environmental Protection Agency, the National Science Foundation, the National Aeronautics and Space

Administration, and the U.S. Army Corps of Engineers' Directorate of Civil Works.

This recommendation **should be amended** to explain that the OMB budget review is conducted to understand the relationship of the federal financial investment in ocean and watershed management programs and the environmental results from that investment. Any OMB review of NOAA's budget, along with the budgets of other relevant agencies, should take note of under-funded programs and unfunded mandates. The existence of underfunded programs hampers effective ocean policy today and would continue to do so in any restructured NOAA.

Recommendation 7-3. The Assistant to the President, with advice from the National Ocean Council and the Presidential Council of Advisors on Ocean Policy, should review federal ocean, coastal, and atmospheric programs, and recommend opportunities for consolidation of similar functions.

As noted in the State of Alaska's earlier comments, this recommendation should be combined with recommendation 4-9.

Recommendation 7-5. Following the establishment of the National Ocean Council and the Presidential Council of Advisors on Ocean Policy, strengthening of the National Oceanic and Atmospheric Administration, and consolidation of similar federal ocean and coastal programs, the President should propose to Congress a reorganization of the federal government that recognizes the links among all the resources of the sea, land, and air and establishes a structure for more unified, ecosystem-based management of natural resources.

The State of Alaska **opposes** this recommendation. Until the commission's recommended new National Ocean Policy Framework is in place and results tested, it is premature to recommend that the President completely reorganize the federal government.

Part VIII – The Global Ocean: U.S. Participation in International Policy

The State of Alaska agrees with the report's conclusions that the United States should become more engaged in international agreements that are vital to the health of the world's oceans and coasts. We have much to lose or gain in this arena with the huge fishing fleets of the Pacific Ocean and Bering Sea. Alaska's ports are world-famous for their seafood commerce.

Large treaties such as the Law of the Sea and other United Nations conventions could have a significant impact on the global health of the oceans and its resources. We do not, however, want the United States to be in a

disadvantageous economic position by “enacting and enforcing exemplary policies at home” (page 357) while other countries are not bound by the same management policies.

In a chapter on international aspects of ocean policy, we were disappointed in the lack of discussion of the bilateral and regional treaties that are so vital for proper resource management in U.S. waters. A number of bilateral treaties with Canada and multilateral agreements within the North Pacific region merit mention in this report if it is to be considered comprehensive. These agreements include:

- Pacific Salmon Treaty
- Yukon River Treaty
- International Halibut Commission
- U.S./Russia Intergovernmental Coordinating Committee
- Central Bering Sea Pollock Convention
- North Pacific Anadromous Fish Commission
- North Pacific Marine Science Organization
- International Whaling Commission

States can also offer an important perspective in international organizations that affect ocean policy. Alaska has been active in the Arctic Council. Through its participation with the Department of State, Alaska has strengthened the U.S. position on a number of ocean-related policies, including environmental issues like the Arctic Monitoring and Assessment Programme.

The report also fails to mention that state governments have been active with other local governments in addressing ocean issues. For example, Alaska is a member of the Northern Forum, an association of regional governments from around the arctic region that has investigated some ocean issues.

Recommendation 29–1. The United States should accede to the United Nations Convention on the Law of the Sea.

The State of Alaska **supports** this recommendation and U.S. accession to the Law of the Sea. The convention provides a necessary and useful framework for management of resources outside the jurisdiction of national boundaries.

Recommendation 29–2. The National Ocean Council should coordinate an expedited review and analysis of the ocean-related components of the United Nations Convention on Biological Diversity and recommend to the U.S. Department of State whether, from an ocean perspective, ratification of this treaty would be beneficial to U.S. interests.

The State of Alaska **supports** this recommendation only if the NOC has the composition and the authority as noted in our previous comments.

Recommendation 29–3. The National Ocean Council (NOC) should establish and oversee an interagency committee to support the development and implementation of ocean-related international policy. This committee should be chaired by the U.S. Department of State, make recommendations to the Assistant to the President and the Secretary of State on international ocean policy, and provide technical assistance to the NOC on international ocean issues.

This recommendation **should be amended**. Any committee that oversees implementation of ocean-related international policy should be committed to providing the adequate financial resources for maintaining international obligations. International agreements already affecting states such as Alaska are subject to cuts in federal budgets. Also, states such as Alaska have large stakes in international agreements and have already built up considerable expertise on many international topics. Any committee should include state representatives.

Recommendation 29–4. The National Ocean Council’s international committee should assess emerging international ocean-related management challenges and make recommendations for either incorporating these activities under existing management regimes or developing appropriate new ones. The U.S. Department of State should work with the international community to implement these recommendations.

This recommendation **should be amended**. As states also have a role to play in international agreements on the oceans, the State Department must coordinate activities in this arena with states affected by the agreements. Coordination between the State Department and the State of Alaska, as demonstrated by involvement in the Arctic Council, is an example of how state governments can be consulted and take an appropriate part in international discussions.

Recommendation 29–6. The United States should continue to support and actively participate in major international ocean science organizations and programs.

The State of Alaska **supports** this recommendation. It is in our national interest that the information collected be accurate and complete because it will likely have a substantial impact on policy. We should continue to insist that the international programs and cooperative research be scientifically based with accurate data, and without political bias.

Recommendation 29–7. The U.S. Department of State should offer strong support for U.S. scientists conducting research programs around the world. Existing international partnerships should be strengthened and new partnerships promoted to facilitate the conduct of international research.

The State of Alaska **supports** this recommendation. Alaska has been involved in a number of research and policy initiatives transcending borders, including the North Pacific Anadromous Fish Commission. We are concerned that multi-year research efforts could be impacted or undermined by the funding of new research. We recommend that funding for needed existing efforts not be sacrificed for future projects.

Recommendation 29-8. The United States should increase its efforts to enhance long-term ocean science and management capacity in other nations through funding, education and training, technical assistance, and sharing best practices, management techniques, and lessons learned.

The State of Alaska cautiously **supports** this recommendation. There is frequently much to be gained from international research efforts. However, a tradeoff is often required for funding new projects, and the state recommends that funding for needed existing efforts not be sacrificed for expanded or new projects.

Part VI – Ocean Value and Vitality: Enhancing the Use and Protection of Ocean Resources

The State of Alaska agrees that successful fisheries management depends upon strong, credible science and clear separation between resource assessment and allocation. The North Pacific Fisheries Management Council (NPFMC) and their Scientific and Statistical Committee (SSC) exemplify the efficacy of this management model. The SSC meets prior to and during every NPFMC meeting in order to provide the Council with the best available scientific analyses and the expertise of SSC members. The SSC establishes the Acceptable Biological Catch (ABC) for all of the fisheries resources of the North Pacific; the Council allocates the resources at or below ABC limits. This distinct separation between assessment and allocation is the key to sustainable fisheries management of the North Pacific.

The State of Alaska supports expanded utilization of Dedicated Access Privileges (DAPs). DAPs are an important tool for addressing many pressing fishery management issues: safety, economic efficiency, environmental responsiveness, quality, bycatch reduction, community protection, gear conflicts, and more. Through the North Pacific Fisheries Management Council, Alaska has been combining economic development with environmental

leadership through its adoption of several quota based management systems. With the Community Development Quota (CDQ) program, western Alaskans have access to valuable Bering Sea fisheries that lead to self-sustaining fisheries-related economies. Halibut and sablefish fisheries are managed under the Individual Fishing Quota (IFQ) regime that avoids derby-style fisheries, reduces harvesting capacity, and greatly increases the value of both due to improvements in quality and by making them available fresh nearly year around to the marketplace. Community Quota Entities (CQE) allows remote Gulf and Southeast rural communities to invest in shares of halibut and sablefish IFQ. The American Fisheries Act permitted the formation of harvesting cooperatives amongst Bering Sea factory trawlers, leading to significant improvements in efficiencies, bycatch reduction, and better fisheries data. Alaska believes there is merit to continue consideration of DAPs.

The State of Alaska considers ecosystem management an appropriate and desirable goal for all U.S. fisheries resources. Ultimately, our resource science base will expand sufficiently to support ecosystem management. Until that time, the NPFMC already adopted an ecosystem-based approach for fisheries management, defined as follows: “An ecosystem-based management strategy for marine fisheries would be to minimize potential impacts, while allowing for extraction of fish resources at levels for both the fish stock and the ecosystem.” The NPFMC also incorporates its detailed analyses of the impacts of its actions on fishing communities and those dependent upon them into its decision-making processes, thereby providing for an ecosystem-based management approach embracing both the human and biological impacts.

The State of Alaska remains cautious in its approach to marine aquaculture and recommends a five-year moratorium on all Exclusive Economic Zone (EEZ) permitting, leasing, or development of ocean pen-reared shell and finfish. We support conducting scientific research until such time as the serious environmental concerns of marine aquaculture are addressed, as well as research into the related socio-economic impacts to fisheries-dependent communities. The State of Alaska recommends that any aquaculture permitting process ultimately implemented be expressly authorized only by the RFMCs.

In 1988, the Alaska Legislature banned finfish farming in Alaska. The reasons for this state policy ranged from protectionism to concerns about contamination of our natural stocks. The Alaska Department of Fish and Game has a genetics policy that forbids the importation of live fish that might ruin our wild stocks. While the economic motivation is not strong enough to merit reconsideration of this ban at this time, the contamination potential remains of utmost concern.

Looking only at salmon, Alaska has several user groups comprised of commercial, subsistence, and sport (commercial and recreational) fishermen.

Pen-rearing aquaculture benefits none of these existing groups and to the extent pen-rearing aquaculture threatens existing stocks, it is unlikely Alaska will lift its ban on finfish farming.

Alaska currently has an active invasive species program at the Alaska Department of Fish and Game. Atlantic salmon, as the name suggests, are not native to our waters, yet have been found as far north as the Bering Sea. The ability of this engineered species to disrupt the natural cycle of our Pacific salmon species is a big threat to the State: we will actively fight any challenge.

A section in the report is titled “Addressing Environmental Impacts of Aquaculture.” There should also be sections dealing with the economic and social implications of aquaculture. The report should address whether domestic and international aquaculture competes with or complements wild catch fish harvests and other economic activities. The prevalence of imported farmed salmon is causing significant negative impacts to the Alaska wild salmon fisheries and coastal communities.

The Report notes that farmed Atlantic salmon differs genetically from wild Atlantic salmon, which has ramifications for escapement and the spread of disease. It should also be noted that there is an even larger genetic difference between farmed Atlantic salmon and wild Pacific salmon. Escapements on the West Coast endanger wild Pacific salmon stocks and have the potential to introduce new diseases to the population.

Recommendation 19-1. Congress should amend the Magnuson-Stevens Fishery Conservation and Management Act and related statutes to require Regional Fishery Management Councils (RFMCs) and interstate fisheries commissions to rely on their Scientific and Statistical Committees (SSCs), incorporating SSC findings and advice into the decision-making process. In keeping with this stronger role, SSC members should meet more stringent scientific and conflict of interest requirements, and receive compensation.

To ensure a strengthened SSC:

- ***each RFMC should nominate candidates for service on its SSC. Nominees will typically be scientists with strong technical credentials and experience, selected from federal or state governments or academia. Private sector scientists who are technically qualified may also be nominated if they meet the conflict of interest requirements.***
- ***no individual should be allowed to serve on an SSC if he or she is formally or financially affiliated with any harvesting or processing sector.***
- ***the National Oceanic and Atmospheric Administration (NOAA) should evaluate the qualifications and potential conflicts of***

interest of SSC nominees through an independent review process designed by a credible, scientific organization. Ultimately, SSC appointments should be approved by the NOAA administrator.

- *SSC members should serve for fixed terms to allow for rotation and new members over time.*
- *like RFMC members, participants in the SSC (or their home institutions) should be compensated for time spent on RFMC business.*

This recommendation **should be amended** to read: “Congress should amend the Magnuson–Stevens Fishery Conservation and Management Act and related statutes to require Regional Fishery Management Councils (RFMC) and interstate fisheries commissions to rely on their Scientific and Statistical Committees (SSC), incorporating SSC findings and information into the decision-making process. In keeping with this stronger role, SSC members should meet more stringent scientific and conflict of interest requirements.”

The NPFMC utilizes a strong, independent SSC and never sets the Total Allowable Catch (TAC) above the ABCs set by the SSC. The council accords the scientists a great deal of respect and specifically schedules the SSC to meet immediately prior to and during NPFMC meetings so that council members have access to the most recent scientific deliberations to advise their decision-making.

Alaska supports bullets one and four as written. If conflict of interest is a concern, the second bullet can be modified and expanded so that no individual would be allowed to serve on the SSC if that individual is formally or financially affiliated with any stakeholder group (including NGOs) and not just the harvesting and processing sectors. However, in order to assure maximum accountability and functioning, SSC members should continue to be appointed by the RFMCs and not NOAA administrators (bullet three). Finally, Alaska does not support bullet five, but rather believes that compensation should be limited to travel and per diem costs only.

Recommendation 19–2. Scientific and Statistical Committees (SSCs) should be required to supply Regional Fishery Management Councils with the scientific information necessary to make fishery management decisions. Such information could include reports on stock status and health, socioeconomic impacts of management measures, sustainability of fishing practices, and habitat status. In particular, the SSCs should determine allowable biological catch based on the best scientific information available to them.

The State of Alaska **supports** this recommendation. The NPFMC already functions this way; we attribute much of its success to utilization of this

process. We anticipate improvement in the SSCs' abilities to more thoroughly advise the NPFMC on the socioeconomic impacts of management measures in the future. The NPFMC's Crab Rationalization program—for example—requires mandatory submission of economic data by sectors as part of the program in order to advise the council in its allocation and distribution decision-making.

Recommendation 19–3. Each Regional Fishery Management Council should be required to set harvest limits at or below the allowable biological catch determined by its Scientific and Statistical Committee. The councils should begin immediately to follow this practice, which need to be codified at the next opportunity in amendments to the Magnuson-Stevens Fishery Conservation and Management Act.

The State of Alaska **supports** this recommendation if codification is specifically tied to the process that the NPFMC applies to ABC/TAC-setting process. The separation of assessment and allocation is very distinct and somewhat unique to the ABC/TAC-setting process. However, in numerous other issues, assessment and allocation issues are inextricably intertwined. In the issues where, for example, the RFMC may have to apportion the burden of conservation, the RFMCs must have the flexibility to consider the input of the Advisory Panel, stakeholder concerns, and the public in conjunction with that of the SSC. Therefore, Alaska supports the codification as long as it is limited to the ABC/TAC process.

Recommendation 19–4. The National Marine Fisheries Service, working with the Regional Fishery Management Councils and the interstate fisheries commissions, should develop a process for independent review of the scientific information generated by the Scientific and Statistical Committees in all regions. This process should include three procedures: a standard review, an enhanced review, and an expedited review.

The process should include three distinct procedures:

- *a standard review, undertaken annually by regional scientists, to ensure that the correct data and models are being used.*
- *an enhanced review to evaluate the models and assessment procedures. To ensure that these reviews are independent, a significant proportion of the reviewers should come from outside the region and be selected by a group such as the Center for Independent Experts. These types of reviews would be conducted on a three- to five-year cycle, or as needed, to help ensure that the latest methods and approaches are being used.*
- *an expedited review to be used when results are extremely controversial or when the normal review process would be too slow. In these cases, all reviewers should be selected by a group such as the Center for Independent Experts.*

This recommendation **should be amended** in order to be as successfully utilized by other RFMCs as it is in Alaska. The “standard review” (bullet one) seems to mandate an unnecessary additional layer of review. Currently, the SSC and the Plan Team already conduct internal reviews of the stock assessment models and data provided by the stock assessment authors in the course of establishing ABC/OFL (Overfishing Limit).

The “enhanced review” (bullet two) is problematic and should not be institutionalized, but rather, utilized as needed for specific issues as needed (as cited below).

In regards to the “expedited review,” the NPFMC has generated independent scientific peer review on numerous occasions, as needed (Steller sea lion, F40 Current Harvest Strategy Review, rockfish, etc.). As a general comment, we have concerns about identifying and subsequently codifying specific institutions that may be funded by industry or environmental interests with a stake in the outcome. In order for process to be truly independent, the reviews should go out as RFPs, and an entity should not be specified. Further, such reviews should only apply to the fisheries over which the interstate fisheries managers have authority.

Recommendation 19–5. Each Regional Fishery Management Council should set a deadline for its Scientific and Statistical Committee (SSC) to determine allowable biological catch. If the SSC does not meet that deadline, the National Marine Fisheries Service Regional Science Director should set the allowable biological catch for that fishery.

This recommendation **should be amended**. The state agrees that a deadline is necessary for the SSC to determine the ABC. However, Alaska’s experience with a strong SSC in the NPFMC process leads us to believe that forcing mechanism to establish ABC would be unnecessary if recommendations 19-1 through 19-4 are implemented.

Recommendation 19–6. Once allowable biological catch is determined, whether by the Scientific and Statistical Committee or the National Marine Fisheries Service (NMFS) Regional Science Director, the Regional Fishery Management Council should propose a fishery management plan in time for adequate review and approval by NMFS. If the plan is not presented in a timely fashion, all fishing on that stock should be suspended until NMFS can review the adequacy of the management plan.

The State of Alaska **opposes** this recommendation. This recommendation delays fishing on stocks until a fishery management plan (FMP) is proposed, reviewed, and approved by NMFS. Under current practice, harvest limits are set annually as part of the TAC-setting process under the existing FMP. This recommendation would require creating a new FMP each time harvest limits

are adjusted or set in response to scientific data. It often takes NMFS over a year to review and approve an FMP, and by that time the data most likely will be superseded by new survey data and the process starts all over again. This approach penalizes fishermen for the inaction of the regulators without any repercussions for the bureaucracy. Fishermen should not be punished for failings of the bureaucratic process. An alternate means of putting pressure on the Regional Fisheries Management Councils and NMFS to design and approve a fishery management plan in a timely fashion should be found.

Recommendation 19–7. The Regional Fishery Management Councils and their Scientific and Statistical Committees should develop an annual, prioritized list of management information needs and provide it to the National Marine Fisheries Service (NMFS). NMFS should incorporate these needs to the maximum extent possible in designing its research, analysis, and data collection programs.

The State of Alaska **supports** this recommendation. The NPFMC provides an example of successful implementation. The incorporation of RFMC management information needs into NMFS research, analysis, and data collection programs would be a positive step towards allowing regionally-identified needs to drive national policy.

Recommendation 19–8. The National Marine Fisheries Service, working with states and interstate fisheries commissions, should require all saltwater anglers to purchase licenses to improve in-season data collection on recreational fishing. Priority should be given to fisheries in which recreational fishing is responsible for a large part of the catch, or in which recreational fishermen regularly exceed their allocated quota.

The State of Alaska **supports** this recommendation. We agree that recreational data is important to fisheries management and that data-gathering systems should be implemented for those fisheries. Implicit in the state's support is the recognition that the NMFS will not assert jurisdiction over harvesting activities in state waters. That must remain the responsibility of the state.

Recommendation 19–9. Congress should increase support for an expanded, regionally-based cooperative research program in the National Oceanic and Atmospheric Administration (NOAA) that coordinates and funds collaborative projects among scientists and commercial and recreational fishermen. NOAA should develop a process for external evaluation and ranking of all cooperative research proposals to ensure the most worthwhile projects are funded, the most capable performers are undertaking the research, and the information produced is both scientifically credible and useful to managers.

This recommendation **should be amended**. Increased funding for marine research is important, but should be coordinated through existing regional marine research boards, where possible, rather than by establishment of another layer of federal bureaucracy. The involvement of fishermen in research and regionally-based cooperative research programs would strengthen fisheries management. As they are knowledgeable about regional fishing needs, we suggest that the RFMCs have a role in prioritizing these projects, not the NOAA bureaucracy or Congress.

Recommendation 19–10. Congress should develop new statutory authority, similar to the Atlantic Coastal Fisheries Cooperative Management Act, to support and empower the Gulf States and Pacific States Fisheries Management Commissions. All interstate management plans should adhere to the national standards in the Magnuson–Stevens Fishery Conservation and Management Act and the federal guidelines implementing these standards. States should participate in development of the guidelines to ensure they are relevant to interstate plans.

The State of Alaska **opposes** this recommendation. The state believes that local management control is the best method for managing resources. Part of local control relates to research and information. Alaska supports having its own commission to manage its immense fisheries-related information, and having it located in Alaska.

Recommendation 19–11. Where a fish stock crosses administrative boundaries, Congress should assign clear fishery management jurisdiction and authority. For each fishery management plan, a state, Regional Fishery Management Council, interstate fisheries commission, or the National Oceanic and Atmospheric Administration should be established as the lead authority. That designation should be based primarily on the proportion of catch associated with each management authority. However, once designated, management authority should not shift based on annual changes in landings.

The State of Alaska **opposes** this recommendation. There are several species that cross boundaries between Alaska, Canada, Washington, and Oregon. Some of these species are state-managed and Alaska does not want the federal government asserting jurisdiction over state fisheries. Most of the trans-regional issues in the North Pacific are already addressed through long-term, extensively-negotiated agreements such as the Pacific Salmon Treaty, the International Pacific Halibut Commission, the North Pacific Anadromous Fish Commission, etc. Nothing should alter these treaty arrangements, arrived at with extensive regional involvement and participation. This recommendation would disrupt the existing structure and balance of the Pacific Salmon Treaty, for example, if either the Pacific Fisheries Management Council or the NPFMC was designated as the lead agency over each other.

Recommendation 19–12. Congress should amend the Magnuson–Stevens Fishery Conservation and Management Act to require governors to submit a broad slate of candidates for each vacancy of an appointed Regional Fishery Management Council seat. The slate should include at least two representatives each from the commercial fishing industry, the recreational fishing sector, and the general public.

The State of Alaska **opposes** this recommendation. User groups differ between regions. The current system, whereby a governor appoints representatives, assures the council of a broad representation of regionally-based stakeholders. The existing appointment process works extremely well in Alaska and has resulted in the successful fisheries management regime noted in this report. The requirement for a certain slate of candidates to fill council positions may not be appropriate in all cases. The state supports preserving the current system.

Recommendation 19–13. Congress should give the Administrator of the National Oceanic and Atmospheric Administration responsibility for appointing Regional Fishery Management Council members with the goal of creating councils that are knowledgeable, fair, and reflect a broad range of interests.

The State of Alaska **opposes** this recommendation. Because of the national importance of fisheries management, it is critical that the best appointees possible be sought and appointed. This recommendation gives too much discretion to NOAA to choose council members. These positions deserve the credibility of Secretarial appointment and ought not be demoted.

Recommendation 19–14. The National Marine Fisheries Service (NMFS) should require all newly appointed Regional Fishery Management Council (RFMC) members to complete a training course within six months of their appointment. NMFS should contract with an external organization to develop and implement this training course. Members who have not completed the training may participate in RFMC meetings, but may not vote.

The State of Alaska **supports** this recommendation as training provides for more effective and efficient leadership.

Recommendation 19–15. Congress should amend the Magnuson–Stevens Fishery Conservation and Management Act to affirm that fishery managers are authorized to institute dedicated access privileges. Congress should direct the National Marine Fisheries Service to issue national guidelines for dedicated access privileges that allow for regional flexibility in implementation. Every federal, interstate, and state fishery

management entity should consider the potential benefits of adopting such programs.

At a minimum, the national guidelines should require dedicated access programs to:

- *specify the biological, social, and economic goals of the plan; recipient groups designated for the initial quota shares; and data collection protocols.*
- *provide for periodic reviews of the plan to determine progress in meeting goals.*
- *assign quota shares for a limited period of time to reduce confusion concerning public ownership of living marine resources, allow managers flexibility to manage fisheries adaptively, and provide stability to fishermen for investment decisions.*
- *mandate fees for exclusive access based on a percentage of quota shares held. These user fees should be used to support ecosystem-based management. Fee waivers, reductions or phase-in schedules should be allowed until a fishery is declared recovered or fishermen's profits increase.*
- *include measures, such as community-based quota shares or quota share ownership caps, to lessen the potential harm to fishing communities during the transition to dedicated access privileges.*
- *hold a referendum among all permitted commercial fishermen after adequate public discussion and close consultation with all affected stakeholders, to ensure acceptance of a dedicated access plan prior to final Regional Fishery Management Council approval.*

This recommendation **should be amended**. Alaska supports the general recommendation affirming Dedicated Access Privileges (DAPs), but has concerns with the national guideline bullets as presented. Alaska has positive experiences with different types of DAPs. For instance, through the CDQ program, western Alaska gained significant access to the valuable Bering Sea groundfish resource, while working to create self-sufficient fisheries-related economies within their communities. We support reaffirmation that RFMCs are the only entities that can develop DAPs. Though there may be some broad common themes, each region needs to have the ability to develop DAPs appropriate for the circumstances in that particular region. These circumstances will vary widely by region.

Further, we believe that all DAPs must consider the costs and benefits to harvesters, processors, and fishing communities, and that authority should be provided to ensure that all of these interests are addressed in any DAP. Alaska supports the fee program implemented under MSA (up to 3% of the additional costs) for the research on and management and enforcement of Alaska's IFQ halibut and sablefish fisheries. However, such fees must avoid becoming onerous and counterproductive in developing fisheries.

Recommendation 19–16. Congress should repeal the Fisheries Finance Program (formerly the Fishing Vessel Obligation Guarantee Program), the Capital Construction Fund, and other programs that encourage overcapitalization in fisheries. The National Oceanic and Atmospheric Administration should implement programs to permanently reduce fishing capacity to sustainable levels.

This recommendation **should be amended** specifically to address concerns for capacity reduction. However, Alaska believes that it is still appropriate that CCF funds be utilized for quality, technological, survival and safety gear, and fuel efficiency-type upgrades. Decreasing harvest capacity as a goal should not limit our ability to improve existing commercial fishing vessels.

Recommendation 19–17. Congress should increase support for Joint Enforcement Agreements to implement cooperative fisheries enforcement programs between the National Marine Fisheries Service and state marine enforcement agencies. The U.S. Coast Guard should be included as an important participant in such agreements.

The state **supports** this recommendation.

Recommendation 19–18. The National Marine Fisheries Service and the U.S. Coast Guard should strengthen cooperative enforcement efforts at the national level by developing a unified strategic plan for fisheries enforcement that includes significantly increased joint training, and at the regional and local levels, by developing a stronger and more consistent process for sharing information and coordinating enforcement.

The state **supports** this recommendation.

Recommendation 19–19. The National Marine Fisheries Service, working with the Regional Fishery Management Councils, the U.S. Coast Guard, and other appropriate entities, should maximize the use of the Vessel Monitoring System (VMS) for fishery-related activities by: requiring that VMS with two-way communication capability be phased in for all commercial fishing vessels receiving permits under federal fishery plans, including party and charter boats that carry recreational fishermen, incorporating VMS features that assist personnel in monitoring and responding to potential violations, and identifying state fisheries that could significantly benefit from VMS implementation.

This recommendation **should be amended**. Deployment of VMS should not be required on all vessels, but used as necessary, practicable, and feasible. Congress should provide for a cost/benefit analysis to determine such feasibility, including a cumulative impacts examination as to existing,

overlapping, and redundant requirements for commercial fishing vessels relative to maritime safety, monitoring, and enforcement, and a priority established. The federal government should provide required VMS units. It should be noted that some federal fisheries are conducted in our state waters, and hence, that state authority needs to be respected inside those waters. Additionally, the individual confidentiality of VMS data needs to be taken into consideration.

Recommendation 19–20. The U.S. Coast Guard should be the lead organization in managing the integration of a fishery Vessel Monitoring System (VMS) database into the larger maritime operations database and should work with the National Marine Fisheries Service to ensure effective use of VMS data for monitoring and enforcement.

This recommendation **should be amended** to clarify which agency will use the information and how the information will be used. Currently, our contact for VMS use is NMFS, for both enforcement and management, not the USCG. We're uncertain what the justification is in the recommendation for the USCG to assume the lead. However, if the USCG becomes the lead agency, coordination with NMFS will be necessary.

Recommendation 19–21. The National Marine Fisheries Service (NMFS) should change the designation of essential fish habitat from a species-by-species to a multispecies approach and, ultimately, to an ecosystem based approach. The approach should draw upon existing efforts to identify important habitats and locate optimum-sized areas to protect vulnerable life-history stages of commercially important species. NMFS should work with other management entities to protect essential fish habitat when such areas fall outside their jurisdiction.

The State of Alaska **opposes** this recommendation. Designating EFH based on ecosystems at the present time is not practicable due to the current lack of well-documented scientific analysis upon which to base it. A shift from individual to multi-species management should only occur when this consideration can be addressed in a structured and deliberative way that appropriately places individual species within the multi-species construct. Congress and the RFMCs will be required to give careful consideration to EFH and other management actions during MSA reauthorization; that is likely a more appropriate venue for this discussion. There is concern that the recommendation for a larger role for essential fish habitat would be a basis for expanded federal control. Large expansions of essential fish habitat or habitat areas of particular concern could nullify whole fisheries and have significant economic and social impacts. Well-managed fisheries would need to minimize the amount of essential fish habitat and disruption to fishing industry.

Recommendation 19–22. The National Marine Fisheries Service (NMFS) and Regional Fishery Management Councils should develop regional bycatch reduction plans that address broad ecosystem impacts of bycatch. Implementation of these plans will require NMFS to expand current efforts to collect data on bycatch, not only of commercially important species, but on all species captured by commercial and recreational fishermen. The selective use of observers should remain an important component of these efforts.

This recommendation **should be amended**. The recommendation should clarify what “broad ecosystem impacts” means and identify what scientific information is available to evaluate it. NMFS and the RFMCs are already developing bycatch plans, and should include species prioritization. Cost is likely to be a major factor in development of such plans.

Recommendation 19–23. The U.S. Department of State, working with other appropriate entities, should encourage all countries to ratify the Fish Stocks Agreement and the United Nations Food and Agriculture Organization’s Compliance Agreement. In particular, the United States should condition other nations’ access to fishing resources within the U.S. exclusive economic zone on their ratification of these agreements. Other incentives should be developed by the United States and other signatory nations to encourage all nations to ratify and enforce these agreements.

The State of Alaska **supports** this recommendation. The agreement addressed an outstanding international fisheries management issue and did so in a way that strengthened regional fisheries entities, therefore appropriately supporting fisheries management at its most local level. However, ratification should not be used in the future to justify access to the U.S. EEZ by foreign fishing vessels.

Recommendation 19–24. The U.S. Department of State, working with the National Oceanic and Atmospheric Administration, should review and update regional and bilateral fishery agreements to which the United States is a party, to ensure full incorporation of the latest science and harmonize those agreements with the Fish Stocks Agreement.

This recommendation **should be amended**. Obviously, full funding of existing U.S. commitments to international fisheries management must occur. The recommendation needs to be clarified, however, to assure that “harmonizing” does not disrupt existing international agreements such as the Pacific Salmon Treaty, the International Pacific Halibut Commission, the Central Bering Sea Pollock Convention, etc.

Recommendation 19–25. The National Oceanic and Atmospheric Administration, working with the U.S. Fish and Wildlife Service and the U.S. Department of State, should design a National Plan of Action for the United States that implements, and is consistent with, the International Plans of Action adopted by the United Nations Food and Agriculture Organization and its 1995 Code of Conduct for Responsible Fisheries. This National Plan should stress the importance of reducing bycatch of endangered species and marine mammals.

The State of Alaska **supports** this recommendation. National plans should reinforce the USCOP’s recommendations that plans be formulated with the appropriate RFMCs and subsequently reviewed and approved by Congress.

Recommendation 19–26. The National Ocean Council’s (NOC’s) international committee, which is charged with supporting the development and implementation of ocean-related international policy, should initiate a process to determine the most effective methods of encouraging other nations to implement the United Nations Food and Agriculture Organization’s Code of Conduct for Responsible Fisheries and other Plans of Action, and provide its findings to the U.S. Department of State and the NOC.

The State of Alaska **supports** this recommendation.

Recommendation 20–1. Congress should amend the Marine Mammal Protection Act to require the Marine Mammal Commission, while remaining independent, to coordinate with all relevant federal agencies through the National Ocean Council (NOC). The NOC should consider whether there is a need for similar oversight bodies for other marine animals whose populations are at risk.

This recommendation **should be amended**. The State of Alaska is unclear as to why the MMPA needs to be amended in order for this coordination to occur. The MMC should be independent and advisory only, and must coordinate with NMFS.

Recommendation 20–2. Congress should amend the Marine Mammal Protection Act to place the protection of all marine mammals within the jurisdiction of the National Oceanic and Atmospheric Administration.

The State of Alaska **supports** this recommendation. It consolidates management of all marine mammals, including sea otters, polar bears, and walrus within a single agency, NMFS, where all other marine mammals are currently managed.

Recommendation 20–3. The National Ocean Council should improve coordination between the National Marine Fisheries Service and U.S. Fish and Wildlife Service with respect to the implementation of the Endangered Species Act, particularly for anadromous species or when land-based activities have significant impacts on marine species.

This recommendation **should be amended** to include all federal agencies with land management authorities of approval of water quality standards. There needs to be improved coordination between NMFS, USFWS, and other appropriate federal agencies like EPA, Bureau of Land Management, U.S. Forest Service, Army Corps of Engineers, etc. Efforts also must be made to fix the Endangered Species Act and Essential Fish Habitat consultation process conducted by EPA for Clean Water Act activities. Please see comments on recommendation 4-1 on the appropriate composition and authority of the NOC.

Recommendation 20–4. Congress should amend the Marine Mammal Protection Act to require the National Oceanic and Atmospheric Administration to more clearly specify categories of activities that are allowed without a permit, those that require a permit, and those that are prohibited.

This recommendation **should be amended** to clarify the permit process, as well as the rationale utilized in the process. For example, the methodology for determining categories for fisheries uses the Potential Biological Removals (PBR) formula. The inputs to the PBR formula need to be clarified and qualified, particularly when data is lacking and hypothetical proxies are used for minimum population estimates and productivity factors.

Recommendation 20–5. Congress should amend the Marine Mammal Protection Act to revise the definition of harassment to cover only activities that meaningfully disrupt behaviors that are significant to the survival and reproduction of marine mammals.

The State of Alaska **supports** this recommendation. Research and other important activities have been curtailed as a result of the broader definition of harassment now in use. Clarity will be helpful.

Recommendation 20–6. The National Marine Fisheries Service and the U.S. Fish and Wildlife Service should implement programmatic permitting for activities that affect marine mammals, wherever possible. More resource intensive case-by-case permitting should be reserved for unique activities or where circumstances indicate a greater likelihood of harm to marine mammals. The National Ocean Council should create an interagency team to recommend activities appropriate for programmatic permitting, those that are inappropriate, and those that are potentially appropriate pending additional scientific information. Enforcement

efforts should also be strengthened and the adequacy of penalties reviewed.

The State of Alaska **supports** this recommendation. States need to be included in the development of programmatic permitting. Again, please refer to previous comments in recommendation 4-1 on the appropriate role and composition of the NOC.

Recommendation 20–7. The National Oceanic and Atmospheric Administration and the U.S. Department of the Interior should promote an expanded research, technology, and engineering program, coordinated through the National Ocean Council, to examine and mitigate the effects of human activities on marine mammals and endangered species.

This recommendation **should be amended**. The State of Alaska supports expanded research and technology, but believes that mitigation measures should be developed on a regional basis with the RFMCs, states, and other appropriate entities. We question why the Department of Interior is tasked in the recommendation.

Recommendation 20–8. Congress should increase support for research into ocean acoustics and the potential impacts of noise on marine mammals. This funding should be distributed across several agencies, including the National Science Foundation, U.S. Geological Survey, and Minerals Management Service, to decrease the reliance on U.S. Navy research in this area. The research programs should be well coordinated across the government and examine a range of issues relating to noise generated by scientific, commercial, and operational activities.

The State of Alaska **supports** this recommendation. Not all acoustics may be harmful and some may be helpful as deterrents in protecting whales from large vessel strikes or entanglement in fishing gear.

Recommendation 21–1. Congress should pass a Coral Protection and Management Act that covers research, protection, and restoration of coral ecosystems. This legislation should provide support for mapping, monitoring, and research primarily through the National Oceanic and Atmospheric Administration and the U.S. Coral Reef Task Force.

This recommendation **should be amended**. The legislation as described to support mapping, monitoring, and research by NOAA and the U.S. Coral Reef Task Force should acknowledge that management measures for protection and restoration need to remain with the RFMCs or existing state authorities.

Recommendation 21–2. Congress should codify and strengthen the U.S. Coral Reef Task Force, placing it under the National Ocean Council. The

task force should be strengthened by expanding its responsibilities to include both warm and cold water coral communities and by adding the U.S. Department of Energy and the U.S. Army Corps of Engineers as members. The task force should coordinate the development of regional ecosystem-based plans to address the impacts of nonpoint source pollution, fishing, and other activities on coral resources.

The State of Alaska **opposes** this recommendation. The RFMCs should retain their policy and management authorities to address coral reef fishery interaction issues through fisheries management plans and EFH provisions. The task force should not be involved in fisheries management.

Recommendation 21-3. The National Oceanic and Atmospheric Administration should develop national standards—and promote international standards—to ensure that coral reef resources that are collected, imported, or marketed are harvested in a sustainable manner. The U.S. Department of State should implement incentive programs to encourage international compliance with these standards.

The State of Alaska **supports** this recommendation.

Recommendation 21-4. The U.S. Coral Reef Task Force should identify critical research and data needs related to coral reef ecosystems. These needs should guide agency research funding and be incorporated into the design and implementation of the Integrated Ocean Observing System.

The State of Alaska **opposes** this recommendation. The U.S. Coral Reef Task Force was designed to address warm-water coral issues and tropical geographic regions. Though there are some similarities, the issues and geographic regions involving cold water corals are decidedly different than warm-water corals. Any task force that addresses northern deep-water corals should be a separate entity and must include the NPFMC, the North Pacific Research Board, and the State of Alaska in its representation. Research and data needs should be formulated at the regional level.

Recommendation 22-1. Congress should amend the National Aquaculture Act to designate NOAA as the lead federal agency for implementing a national policy for environmentally and economically sustainable marine aquaculture and create an Office of Sustainable Marine Aquaculture in NOAA.

This recommendation **should be amended** to make NOAA the lead agency, but delete creation of an Office of Sustainable Marine Aquaculture at this time. The creation of this office is premature, pending further studies and research. The RFMCs should be directed to evaluate whether or not environmentally and

economically-sustainable marine aquaculture is possible and/or desirable in their respective regions prior to the creation of any such office.

Recommendation 22-2. NOAA’s new Office of Sustainable Marine Aquaculture should be responsible for developing a comprehensive, environmentally sound permitting leasing, and regulatory program for marine aquaculture.

The State of Alaska **opposes** this recommendation. We support a five-year moratorium on all EEZ permitting, leasing, or development of ocean pen-reared shell and finfish. We support scientific research being conducted to address the serious environmental concerns of marine pen-rearing aquaculture, as well as research into the related socio-economic impacts to fisheries-dependent communities.

Recommendation 22-3. Congress should increase funding for expanded marine aquaculture research, development, training ,and technology transfer programs in NOAA.

The State of Alaska **supports** the recommendation for increased funding for marine aquaculture research related to the environmental and economic impacts, risk mitigation, and technology transfer related to processing waste streams. However, we **oppose** expanded funding for development, training, and extension until the results of the other research are known and decisions are made by RFMCs to support lifting the proposed moratorium.

Recommendation 22-4. The United States should work with the United Nations Food and Agriculture Organization to encourage and facilitate worldwide adherence to the aquaculture provisions of the Code of Conduct for Responsible Fisheries.

The State of Alaska **supports** this recommendation. We feel that efforts by the United States to encourage and facilitate worldwide adherence to the international Code of Conduct for Responsible Fisheries should emphasize the importance of environmental, health, and labor regulations in aquaculture. Laxity in these standards overseas, particularly in Chile, has led to unfair disadvantages to the Alaska wild salmon industry that respects labor and health regulations while preserving the pristine Alaska environment.

Recommendation 23-3. The National Oceanic and Atmospheric Administration, National Science Foundation, National Institute of Environmental Health Sciences, and other appropriate entities should support the development and implementation of improved methods for monitoring and identifying pathogens and chemical toxins in ocean waters and organisms.

The State of Alaska **supports** this recommendation. Developing national sampling and analysis protocol standards is needed so data is comparable. Identification of sources, including global sources, should be the primary focus for chemical toxin monitoring.

Recommendation 24–1. Congress, with input from the National Ocean Council, should ensure that a portion of the revenues that the federal government receives from the leasing and extraction of outer Continental Shelf (OCS) oil and gas is invested in the sustainable development and conservation of renewable ocean and coastal resources through grants to all coastal states. States off whose coasts OCS oil and gas is produced should receive a larger share of such portion to compensate them for the costs of addressing the environmental and socioeconomic impacts of energy activity in adjacent federal waters.

The State of Alaska **supports** this recommendation. The principal author of the Coastal Impact Assistance Program was Alaska Governor Frank H. Murkowski, then U.S. Senator. This concept has merit and we agree that states that produce OCS oil and gas should receive a proportionally greater amount of funding.

Recommendation 24–2. The U.S. Department of the Interior should reverse recent budgetary trends and increase funding for the Minerals Management Service’s Environmental Studies Program.

The State of Alaska **supports** this recommendation. Specifically, we encourage the MMS to work with the state and local communities to develop studies on socio-economic impacts of OCS development on North Slope Borough communities.

Recommendation 24–4. The National Ocean Council (NOC), working with the U.S. Department of Energy and other appropriate entities, should review the status of methane hydrates research and development and seek to determine whether methane hydrates can contribute significantly to meeting the nation’s long-term energy needs. If such contribution looks promising, the NOC should determine how much the current investment in methane hydrates research and development efforts should be increased, and whether a comprehensive management regime for private industry access to methane hydrates deposits is needed.

The State of Alaska **supports** this recommendation. Specifically, we support the evaluation of methane hydrates. There is equal interest in investigating Arctic methane hydrates, so this ocean research will also benefit the arctic pursuits.

Part IV- Living on the Edge: Economic Growth and Conservation Along the Coast

The report states that “serious habitat degradation is evident in every region, state...” but, once again, no Alaska examples are given. We do not believe that the situation portrayed applies to Alaska, but we do support an effective program to ensure long-term protection of these resources. In general, Alaska supports funding for habitat conservation programs. We agree that there is a “lack of adequate knowledge about the structure and function of coastal habitats” and agree that there is a need for “better on-going monitoring.”

The commission’s report makes a number of recommendations to improve policies for managing growth and land use in coastal areas and watersheds. The report’s analysis is broadly applicable to management of the nation’s coastal area and is generally applicable to Alaska’s issues. However, the report does not address Alaska’s existing management structure, regulations, and successful federal and local relationships that blend to create effective management of the oceans.

The Coastal Zone Management Act (CZMA) enables a well-established, integrated review process to allow local, state, and federal entities to consider proposed resource development activities. Each level of government manages aspects within their area of expertise and jurisdiction. This shared implementation works well. States are extremely variable and need flexibility in implementing their coastal programs.

The state supports amending the CZMA, the Clean Water Act, and other appropriate federal laws to provide better financial, technical, and institutional support for watershed initiatives, so long as the appropriate incentives and flexibility for local variability are included. Given the extreme difference in topography, climate, population locations, and local governmental maturity and control in Alaska, the need for incentives and flexibility for local variation cannot be understated.

Alaska has numerous natural hazards. The examples given in the report (e.g., mostly hurricanes) don't relate to Alaska circumstances, and don't acknowledge Alaska's unique regional character. There is no mention of earthquake or tsunami hazards in the report. These hazards create significant risk to occupants and facilities along Alaska's coastline as well as other regions of the country. The state is wary of “universal hazards mitigation planning.” Natural hazards, and the mitigation and planning measures necessary to decrease their effect, differ dramatically in the various coastal regions of the United States.

It would be appropriate for the commission to explicitly recognize the role of global climate change and associated sea level rise, changes in ice and storm patterns, and similar shifts in environmental dynamics that are exacerbating the hazards to many northern coastal communities. These changes call for additional research, planning, and protection measures, particularly in Arctic regions where change has been, and will continue to be most severe.

The commission's report focuses exclusively on federal roles in sediment management. However, state responsibilities for advising the Corps of Engineers on sediment disposal options and ensuring the attainment of water quality standards are equally important. The report references the value of regional dredge teams to develop local solutions. A regional dredge team exists for Alaska, however, the state is expected to participate and develop sediment quality criteria without federal financial support.

The Outer Continental Shelf oil and gas development program seeks to balance the many competing interests involved in offshore energy activity and requires state and local government input. The current process requires consultation with states and locals during the development of five-year lease programs, individual sales, as well as development-production plans. NEPA and the CZMA federal consistency provisions apply. The State of Alaska agrees with the report that "the current process is, on balance, coherent and reasonably predictable" and that "much of the responsibility for the management of the nation's ocean and coastal resources rests with coastal states and local governments."

Recommendation 9-1. Congress should reauthorize the Coastal Zone Management Act to strengthen the planning and coordination capabilities of coastal states and enable them to incorporate a coastal watershed focus and more effectively manage growth. Amendments should include requirements for resource assessments, the development of measurable goals and performance measures, improved program evaluations, incentives for good performance and disincentives for inaction, and expanded boundaries that include coastal watersheds.

The State of Alaska **supports** this recommendation. Specifically, the state supports reauthorization of the CZMA to strengthen the planning and coordination capabilities of coastal states, and amendments that would improve program evaluations, provide additional funding, and create (non-matched) incentives/disincentives for actions. The state could also support amendments for resource assessment if sufficient funds are provided to develop the comprehensive baseline assessment of the state's natural, cultural, and economic coastal resources. The state could support amendments for the development of measurable goals and performance measures if the state were to retain the ability and authority to develop the specific measurable goals and performance measures by which the Alaska Coastal Management Program

would be judged. Further, any financial disincentive should be based on a state's inaction to implement their approved program, not on national CZMA desires expressed by federal agencies outside of the program approval process that may be unacceptable or inappropriate in Alaska.

Recommendation 9–2. Congress should consolidate area-based coastal management programs in a strengthened National Oceanic and Atmospheric Administration (NOAA), capitalizing on the strengths of each program. At a minimum, this consolidation should include the Coastal Zone Management, National Estuarine Research Reserve System, and National Marine Sanctuary programs currently administered by NOAA and additional programs administered by other agencies, including the Coastal Barrier Resources System, the National Estuary Program, and the U.S. Fish and Wildlife Service Coastal Program.

The State of Alaska cautiously **supports** this recommendation. Specifically, the state supports the consolidation of area-based coastal management programs in a strengthened NOAA. However, it is unclear how that consolidation would affect the existing programs, the individual program missions, and/or the funding sources and requirements that are offered by those programs.

Recommendation 9–3. The National Ocean Council should recommend changes to federal funding and infrastructure programs to discourage inappropriate growth in fragile or hazard-prone coastal areas and ensure consistency with national, regional, and state goals aimed at achieving economically and environmentally sustainable development.

The State of Alaska **opposes** this recommendation. The state has a comprehensive network of laws including the federally-approved Alaska Coastal Management Program that are designed to manage and guide development activities and associated impacts, in fragile and hazard-prone coastal areas. Though it is acceptable for a NOC to recommend changes to the federal funding and infrastructure of such listed programs, it would be unacceptable to subject a state such as Alaska to the same national goals of discouraging growth at the expense of achieving economically and environmentally sustainable development. As proven through existing federal programs such as those administered by the U.S. Army Corps of Engineers and the Environmental Protection Agency, one size does not fit all, and some allowances and unique considerations should be afforded to Alaska given the population, coastal area, and issues of state concern.

Recommendation 9–4. Congress should amend the Coastal Zone Management Act, the Clean Water Act, and other federal laws where appropriate, to provide better financial, technical, and institutional support for watershed initiatives. Amendments should include appropriate incentives and flexibility for local variability. The National

Ocean Council should develop guidance concerning the purposes, structures, stakeholder composition, and performance of watershed initiatives.

The State of Alaska **supports** this recommendation. Specifically, the state supports amending the CZMA, the Clean Water Act (CWA), and other appropriate federal laws to provide better financial, technical, and institutional support for watershed initiatives, so long as the appropriate incentives and flexibility for local variability are included. Given the extreme difference in topography, climate, population locations, and local governmental maturity and control in Alaska, the need for incentives and flexibility for local variation cannot be understated. We need to encourage results-based management at the state and local level. The NOC should defer to the states and ROCs on the appropriate stakeholder composition to address inland watershed issues.

Recommendation 11-1. Congress should amend the Coastal Zone Management Act to authorize a dedicated coastal and estuarine land conservation program. To achieve this, each state coastal zone management program should identify priority coastal habitats and develop a plan for establishing partnerships among willing landowners for conservation purposes.

This recommendation **should be amended** to provide flexibility. Specifically, we believe that each state should independently identify priority coastal habitats and develop plans for establishing partnerships among willing landowners for conservation purposes; states with common borders could work on this effort jointly via a regional approach. Alaska is already doing this type of work as part of several partnership programs that we have with federal and private entities. We also agree that more funding should be identified for this proactive approach to conservation, and support increased funding to states under the CZMA to fund these efforts.

Recommendation 11-2. The National Ocean Council should develop national goals for ocean and coastal habitat conservation and restoration efforts and should ensure coordination among all related federal activities. The regional ocean councils and regional ocean information programs should determine habitat conservation and restoration needs and set regional goals and priorities that are consistent with the national goals.

This recommendation **should be amended** so this effort is driven from the bottom up, not the top down. The State of Alaska agrees that national goals should be identified for ocean and coastal habitat conservation and restoration efforts. However, significant regional differences exist and it is important for the states and ROCs take the lead to develop regional goals that recognize regional differences and needs, and that also provide some flexibility. From

experience, we have learned that all too often national goals can be too inflexible to meet regional needs.

Recommendation 11-3. Congress should amend relevant legislation to allow federal agencies greater discretion in using a portion of habitat conservation and restoration funds for related assessments, monitoring, research, and education.

The State of Alaska **supports** this recommendation. We strongly support this recommendation if it is implemented in conjunction with state input regarding priorities for necessary assessments, monitoring, research, and education, which are all needed components of habitat conservation and restoration efforts. In all facets of restoration science, federal discretion to fund this type of work has been a chronic problem. We need a systematic, pro-active approach under the leadership of states and ROCs for research, project evaluation, and subsequent future designs.

Recommendation 11-4. The National Ocean Council should coordinate development of a comprehensive wetlands protection program that is linked to coastal habitat and watershed management efforts, and should make specific recommendations for the integration of the Clean Water Act Section 404 wetlands permitting process into that broader management approach.

The State of Alaska **opposes** this recommendation. The state has jurisdiction over all lands and waters in the state, regardless of Clean Water Act jurisdiction. In order for the state to establish appropriate wetlands management tools and to pursue wetlands management primacy, it is critical that Clean Water Act jurisdictional wetlands be clearly distinguished from those that are managed solely under state law. Which wetlands are and are not subject to the Clean Water Act must be absolutely clear to the Corps, EPA, the state and the public. In the spring of 2003, EPA and the Corps issued an Advance Notice of Proposed Rulemaking to begin the process of refining, and making clear, CWA jurisdiction over wetlands and other waters. In November 2003, the agencies suspended this rule making. In a January 12, 2004, letter from Alaska Governor Frank H. Murkowski to EPA Administrator Mike Leavitt, the state requested that EPA complete this rulemaking effort clarifying when federal jurisdiction may or may not be claimed. The issue of federal jurisdiction under the Clean Water Act must be resolved on a statewide or regional basis, rather than the current, case-by-case basis.

Part V – Clear Waters Ahead: Coastal and Ocean Water Quality

Federal efforts need to focus on improving implementation of the Clean Water Act's provisions for establishing water quality standards, and managing point

source and nonpoint source pollution control. State implementation should be strengthened with federal funds and federal agency cooperation to focus resources on areas of greatest risk determined by state and regional priorities.

One of Alaska's greatest challenges is federal cooperation in managing the state's freshwater and coastal resources. EPA grant formulas that arbitrarily cap funding available to the state for operating water quality programs, and preventing and controlling nonpoint source pollution are a major obstacle to achieving Alaska's water quality protection goals.

The Clean Water Act programs implemented by EPA must also be flexible and responsive to regional and state issues. Congressional initiatives and EPA must allow states to focus on areas that pose the greatest risk to local water resources. National programs and performance measures that apply a one-size-fits-all do not work across states that face different problems and potential solutions. For example, development of best management practices for nonpoint source pollution control is a greater priority in Alaska than implementing programs to protect swimmers from pathogens at beaches. The reverse may be true in states like Hawaii where exposure to pathogens at beaches could be a higher priority.

Improved coordination between federal agencies and states is needed to achieve the nation's fishable, swimmable, and drinkable water quality goals. EPA and federal resource trustee agencies need to improve responsiveness to state efforts to develop rational water quality standards. The Endangered Species Act and Essential Fish Habitat consultation process for water quality standards approval actions in Alaska is broken. Alaska has a long history of federal delay in approving the state's water quality standards due in large part to the poor coordination between the EPA, USFWS, and NOAA/NMFS.

The commission's report references nutrient pollution as the most pervasive and troubling problem facing the nation's waters. Unlike the Missouri and Mississippi watersheds, Alaska has insignificant agricultural runoff from cultivation and animal husbandry. The "dead zones" described in the report are not found in Alaska. Nutrients in Alaska's lakes and rivers are due primarily to the seasonal return, spawning, and death of anadromous fish. The lack of basic information on Alaska's water quality and application of one-size-fits-all solutions to national water quality problems diverts attention away from legitimate priority areas in Alaska such as strategies for controlling storm water pollution.

The state agrees with the report's finding that invasive species are one of the greatest threats facing U.S. coastal environments and supports efforts to highlight this issue. The report provides a good outline of present knowledge and an orderly approach to future marine invasive species work. However, the

state is troubled by the lack of discussion on pen-rearing aquaculture as a source of invasive species. It was equally troubling to see the commission's recommendations to increase the amount of aquaculture activity in federal waters. Alaska has significant concerns regarding the introduction of non-native Atlantic salmon to Alaska waters that have escaped from pen-rearing aquaculture farms in adjacent British Columbia. The state recommends the commission clearly identify pen-rearing aquaculture operations as a source of contamination and develop concrete recommendations to prevent these engineered species from contacting natural stocks.

Recommendation 14–8. The National Ocean Council (NOC) should establish significant reduction of nonpoint source pollution in all impaired coastal watersheds as a national goal, and set specific, measurable objectives focused on meeting human health- and ecosystem-based water quality standards. The NOC should ensure that all federal nonpoint source pollution programs are coordinated to meet those objectives.

The State of Alaska **opposes** this recommendation. The Clean Water Act mandates that states establish nonpoint source pollution reduction objectives, and this law has worked well in Alaska. The state agrees that federal nonpoint source pollution programs should be coordinated to meet state objectives and supported with sufficient funding to achieve the goals of the Clean Water Act.

Recommendation 14–9. To improve and strengthen federal efforts to address nonpoint source pollution, Congress should amend the Clean Water Act to move the National Oceanic and Atmospheric Administration's enforceable nonpoint source pollution program, created under Section 6217 of the Coastal Zone Act Reauthorization Amendments, to become a part of the U.S. Environmental Protection Agency's incentive-based program, created under Section 319 of the Clean Water Act.

The State of Alaska **supports** this recommendation. Merging NOAA's 6217 program with the Clean Water Act Section 319 program will reduce the administrative burden on states for meeting multiple program objectives and will facilitate state efforts to address nonpoint source pollution problems. Adequate federal resources are necessary to enable states to implement best management practices.

Recommendation 14–10. Congress should provide authority under the Clean Water Act and other applicable laws for federal agencies to impose financial disincentives and establish enforceable management measures to ensure action if a state does not make meaningful progress toward meeting water quality standards on its own.

The State of Alaska **opposes** this recommendation. This is the wrong approach. There is currently not adequate funding for Alaska to measure and control nonpoint source pollution. In fact, EPA arbitrarily caps funding provided to Alaska. Alaska must not be placed at risk for losing federal assistance due to inadequate Clean Water Act funding at the national level. In Alaska, there have been far too many examples of failed federal implementation strategies that apply a one-size-fits-all approach to resource management. Results-based management to resolve regional issues at the state and local level should be encouraged. Direct federal implementation or financial disincentives should not be based on a state's failure to implement national desires that are voiced by federal agencies outside the formal program approval process.

Recommendation 14–11. The U.S. Environmental Protection Agency and other appropriate entities should increase outreach programs that provide local land use decision makers with the knowledge and tools needed to make sound land use decisions that protect coastal water quality. State and local governments should revise their codes and ordinances to require land use planning and decision-making to carefully consider the individual and cumulative impacts of development on water quality, including effects on storm water runoff.

The State of Alaska **supports** this recommendation. Outreach and technical assistance programs have value and are appropriate. Mandatory federal land use requirements to address local site-specific water quality problems are often misdirected and fail to achieve positive environmental results.

Recommendation 14–14. The U.S. Environmental Protection Agency, states, and watershed groups should explore regional approaches for managing atmospheric deposition, particularly when it affects water bodies in states far from the source.

The State of Alaska **supports** this recommendation. The report should also acknowledge the role of international transport of pollutants. Long-range transport from Asia and Northern Europe may exceed any local and regional deposition. The majority of regional and local sources are re-entrainment from natural sources such as dust. To date, adequate federal funding has not been available to assess long-range transport in Alaska.

Recommendation 15–1. The National Oceanic and Atmospheric Administration, U.S. Geological Survey, and U.S. Environmental Protection Agency, working with other appropriate entities, should develop a national water quality monitoring network that coordinates existing and planned monitoring efforts, including monitoring of atmospheric deposition. The network should include a federally funded

backbone of critical stations and measurements needed to assess long-term water quality trends and conditions.

The State of Alaska **supports** this recommendation provided state governments are acknowledged as the primary “appropriate entities” the federal agencies should work with. The national water quality monitoring network must be developed in partnership with states which are primarily responsible for the assessment, reporting, protection, and restoration of the nation’s waters under the Clean Water Act.

Recommendation 15-2. The National Oceanic and Atmospheric Administration should ensure that the national water quality monitoring network includes adequate coverage in both coastal areas and the upland areas that affect them, and that the network is linked to the Integrated Ocean Observing System, to be incorporated eventually into a comprehensive Earth observing system.

The State of Alaska **opposes** this recommendation. The national water quality monitoring network must be developed in partnership with the states, which are responsible for assessment, reporting, stewardship, and restoration. The Integrated Ocean Observing System and Comprehensive Earth Observing System is currently too poorly defined to justify linking it with more credible and established resource management based environmental monitor systems. It is inappropriate to jump to the conclusion that an extremely expensive ocean and possibly global observing systems are warranted when existing water quality monitoring programs remain underfunded.

Recommendation 15-3. The National Oceanic and Atmospheric Administration, U.S. Geological Survey, and U.S. Environmental Protection Agency, working with other appropriate entities, should ensure that the national water quality monitoring network includes the following elements: clearly defined goals that fulfill user needs and measure management success; a core set of variables to be measured, with regional flexibility to measure additional variables where needed; an overall system design that determines where, how, and when to monitor and includes a mix of time and space scales, probabilistic and fixed stations, and stress or and effects-oriented measurements; technical coordination that establishes standard procedures and techniques; and periodic review of the monitoring network, with modifications as necessary.

This recommendation **should be amended** to explicitly recognize the need to coordinate with states. Once again, the commission’s recommendation fails to acknowledge state governments as the “appropriate entity” these federal agencies should work with to develop water quality monitoring goals and priorities.

Recommendation 15–4. The National Oceanic and Atmospheric Administration, U.S. Geological Survey, and U.S. Environmental Protection Agency, working with other appropriate entities, should ensure that water quality monitoring data are translated into timely and useful information products that are easily accessible to the public and linked to output from the Integrated Ocean Observing System.

This recommendation **should be amended** to explicitly recognize the need to coordinate with the states. The commission’s recommendation fails to acknowledge state governments as the “appropriate entity” these federal agencies should work with regarding water quality monitoring goals and priorities. Outputs must be regionally relevant and meet regional decision-making needs. They must also not duplicate or supplant any state information management systems.

Recommendation 16–2. Congress should provide the U.S. Coast Guard with the resources necessary to sustain and strengthen the performance-based inspection program for marine safety and environmental protection. Coast Guard resource commitments in these areas should be coordinated with new demands for vessel security inspections and other security requirements.

The State of Alaska **supports** this recommendation. Congress should provide the Coast Guard with the resources to continue their marine safety and environmental protection missions in light of their new homeland security responsibilities.

Recommendation 17–1. The U.S. Coast Guard’s national ballast water management program should: apply uniform, mandatory national standards; incorporate sound science in the development of a biologically meaningful and enforceable ballast water treatment standard; include a process for revising the standard to incorporate new technologies; ensure full consultation with the U.S. Environmental Protection Agency, both during and after the program’s development; and include an interagency review, through the National Ocean Council, of the policy for ships that declare they have no ballast on board.

The State of Alaska **supports** this recommendation. Current USCG rulemaking is not uniformly applicable and we believe that it must be. Alaska believes ballast water from interstate shipments can and should be regulated to limit or prevent future invasive species. Other major issues not mentioned in this recommendation are the existing problem with ballast water report data and the inability to effectively enforce existing standards. Both need immediate attention.

Recommendation 17-2. The National Ocean Council should commission an independent, scientific review of existing U.S. ballast water management research and demonstration programs and make recommendations for improvements.

The State of Alaska **supports** this recommendation but is concerned that while the NOC review of ongoing U.S. ballast water management work will provide valuable insights, we believe that it may actually result in a delay in fixing an obvious problem on which much progress has actually already been made. States frustrated by the federal government's lack of reasonable action currently regulate shipping entering their waters far more strictly than the federal government does. Continued inaction by the federal government will only lead more states to enact their own unique rules. For this reason, any review should be done as expeditiously as possible.

Recommendation 17-3. The National Ocean Council, working with the Aquatic Nuisance Species Task Force and the National Invasive Species Council, should coordinate public education and outreach efforts on aquatic invasive species, with the aim of increasing public awareness about the importance of prevention.

The State of Alaska **supports** this recommendation and acknowledges both the importance of outreach and the accomplishments to date by the organizations named. We recommend that pen-rearing aquaculture operations also be targeted for receiving information about invasive species as this industry has been an important past vector, and may become more so if proposed EEZ aquatic farms are allowed prior to adequate research on identification and quantification so that mitigation can be implemented.

Recommendation 17-4. The Aquatic Nuisance Species Task Force and the National Invasive Species Council, working with other appropriate entities, should establish a national plan for early detection of invasive species and a system for prompt notification and rapid response.

The State of Alaska **supports** this recommendation, but suggests that these organizations work closely with the National Ocean Service (NOS) of the National Oceanographic and Atmospheric Administration. The NOS has already developed a model plan that is in place in Hawaii.

Recommendation 17-5. The National Ocean Council should review, coordinate, and streamline the current proliferation of federal, regional, and state programs for managing marine invasive species. Coordinated plans should be implemented to develop risk assessment and management approaches for intentional and unintentional species introductions that minimize the potential of invasions at the lowest cost.

This recommendation **should be amended** to mandate both a review and coordination of federal, regional, and state invasive species efforts, as well as increased funding and awareness of the need for both monitoring and research. While funding and legislation are also needed, individual marine invasive species programs need coherent and strong leadership at the national level.

Recommendation 17-6. The United States should take a leading role in the global effort to control the spread of non-native aquatic species by working internationally to develop treaties, agreements, and policies to minimize the introduction and establishment of such species.

The State of Alaska **supports** this recommendation. It is appropriate that the U.S. take a leading role in the worldwide effort to control invasive species efforts. Invasive species ignore all political borders: they are as costly—or more so—to other countries' economies as they are to our own. The U.S. should take a particularly strong role in establishing agreements with our nearest neighbors. As Alaska has experienced with Atlantic salmon escapements from British Columbia, invasive species find it easy to cross our long borders.

Recommendation 17-7. The National Ocean Council should coordinate the development and implementation of an interagency plan for research and monitoring to understand and prevent aquatic species invasions. Research and monitoring should focus on gathering baseline taxonomic information, identifying invasive pathogens and vectors of introduction, understanding the human dimensions behind species introductions, and developing new options for minimizing invasions.

The State of Alaska **supports** this recommendation. Because monitoring and research efforts are an integral part to any successful invasive species program, we recommend including them both in recommendation 17-5. Alaska supports additional funding for this work as it will surely pay for itself many times over in the end.

Recommendation 18-1. The National Oceanic and Atmospheric Administration should establish and support a marine debris management program.

This recommendation **should be amended** to have the NOC examine whether marine debris efforts would benefit from consolidation within a single agency. Any large-scale debris management and collection program has the potential to impact state and local government solid waste programs—both through waste collection and added federal regulatory requirements. Any marine debris management program must work with state and local governments to ensure that local solid waste aspects of the marine debris management program are achievable and will not create other solid waste management problems.

Recommendation 18–2. The National Ocean Council should re-establish an interagency marine debris committee, co-chaired by the U.S. Environmental Protection Agency and National Oceanic and Atmospheric Administration. The committee should work to expand and better coordinate national and international marine debris efforts, including public outreach and education, monitoring and identification, research, and partnerships with local government, community groups, and industry.

This recommendation **should be amended**. The State of Alaska agrees that interagency coordination on marine debris is an important aspect to implementation of ocean policy. However, rather than re-establishing the committee under a co-chair structure, we believe the NOC should determine which federal agency is best-suited to provide leadership to cover the broad, cross-cutting responsibilities and appoint one chair.

Recommendation 18–5. The U.S. Department of State should increase efforts to ensure that all port reception facilities meet the criteria necessary to allow implementation of Special Areas protections under Annex V of the International Convention for the Prevention of Pollution from Ships.

The State of Alaska **opposes** this recommendation. Application of the “special area” designation to all port reception facilities diminishes the purpose to the special designation. Not all areas should be classified as special. In addition, small ports within the state could have a difficult time if upgrades were necessary. That, coupled with the fact, that debris isn’t a large issue in Alaska would make this recommendation extremely burdensome, if adopted.

Part VII: Science-based Decisions: Advancing our Understanding of the Ocean

Alaska’s oceans and resources are healthy. They are healthy because Alaska is a leader in applying science and the principles of ecosystem-based management in managing its world-class ocean resources. Alaska also recognizes other equally important guiding principles that are critical to proper stewardship of our oceans and coasts. These include sustainable yield principles, multiple use management, resource development, relationships between oceans and watersheds, and consumption of ocean products. The North Pacific Fisheries Management Council, Alaska’s regional fisheries management council, is one of the most successful federal-state management processes yet created.

The State of Alaska seriously questions the relative magnitude of suggested funding for science-based information systems, research and data collection. For example, both doubling the investment in ocean research and

implementing the Integrated Ocean Observing System (IOOS) are included as critical items, and each carries a \$650+M/year price tag (Table 30.1, p374). However, most organization and management recommendations in the Report focus on use and protection of the nation's oceans, and those should receive priority for funding. Funding IOOS appears grossly imbalanced. Further, it is unclear whether these amounts are part of, or in addition to, the doubling suggested in recommendation 25-1. We suggest that prioritization and allocation to different elements of the national strategy either be left to the NOC process at the national level with regional priorities established by the Regional Ocean Councils.

The proposed Integrated Ocean Observing System (IOOS) should not be funded and implemented in a manner which is not relevant or useful for environmental and resource management decision-making. There is a legitimate need for a sustained, integrated national ocean observing network to support the wide variety of activities from marine transportation, weather forecasting, and monitoring the status of our ocean resources. However, IOOS must not be implemented at the expense of existing core resource management information-gathering and applied research programs.

Ecosystem-based management must be tempered with the realities and practicalities of what can be performed and what results can be produced. The concept of ecosystem-based management, while a worthy goal, engenders false expectations as the ultimate problem solver. The realities are that the concept remains largely undefined in scope, content and purpose. Ecosystems are dynamic and there likely is no constant baseline that can be fixed in time as the norm by which all change can be measured.

The use of ecosystem-based management principles and science need to be targeted, cost effective, and directed toward specific goals and objectives. Data needs should be derived from specific hypotheses to support resource management decisions. The monitoring needs and information requirements for one area are not necessarily the same as others. For example, IOOS comes at an extraordinary cost and requires a complex governance structure. Yet, the demand and user needs for the data are speculative.

As noted in the report, applying judicious and responsible management practices should be based on the best available science. To make practical resource management decisions, it is ill-advised to advocate that elaborate science and monitoring produce perfect information needed to implement ecosystem-based management. At this point and in the foreseeable future, science cannot predict outcomes with complete certainty. While science is extremely important, it must be recognized that a level of uncertainty is part of any risk based decision-making process.

Data collection, monitoring, and scientific inquiry are tools for reducing the uncertainty in a decision-making process. The amount of science and monitoring must be proportional to the significance of the outcome of the resource management decision. In that regard it is premature to endorse specific research and environmental monitoring elements of the plan, such as IOOS implementation, until regional councils have formed and assessed the management priorities and information needs for their areas. Research, science, monitoring, and ecosystem based approaches, are all key elements of responsible risk based decision-making which should be developed to meet specific regional needs.

Recommendation 25–2. The National Ocean Council should develop a national ocean research strategy that reflects a long-term vision, promotes advances in basic and applied ocean science and technology, and guides relevant agencies in developing ten-year science plans and budgets.

This recommendation **should be amended**. The State of Alaska agrees that balance between applied research and curiosity-driven research is important to maintain our status as the world’s leader in ocean science. The council will need to involve states in any national ocean research strategy to avert duplication of efforts already underway with state fish and game agencies and universities.

Recommendation 25–3. The National Ocean Council should create a national program for social science and economic research to examine the human dimensions and economic value of the nation’s oceans and coasts and encourage ocean research agencies to include socioeconomic research as part of their efforts. An operational socioeconomic research and assessment function should be designated within the National Oceanic and Atmospheric Administration.

The State of Alaska **opposes** this recommendation. As noted earlier, the commission’s recommendation to establish the NOC and ROCs has great merit. It is premature to identify what, if any, programs the NOC should create until the councils are established and operational.

Recommendation 25–5. The National Ocean Council should coordinate federal resource assessment, mapping, and charting activities with the goal of creating standardized, easily accessible national maps that incorporate living and nonliving marine resource data along with bathymetry, topography, and other natural features.

The State of Alaska **supports** this recommendation. Coordination of federal mapping and charting activities is a good idea. However, Alaska is far behind the Lower 48 in terms of existing data sets and deserves special consideration

when planning, mapping, and charting activities. Compared to mapping and charting datasets for the Lower 48's shoreline, the resolution of existing datasets for Alaska's shoreline are relatively coarse, if available at all. As a result, mapping and charting activities for Alaska will be challenging, especially considering that Alaska's shoreline is about twice as long as the shoreline of all of the Lower 48 states combined.

Recommendation 26-1. The National Ocean Council should make development and implementation of a sustained, national Integrated Ocean Observing System a central focus of its leadership and coordination role.

The State of Alaska **opposes** this recommendation. It is premature to conclude that IOOS should be the "central focus" of the NOC. The enormous costs for implementation of an integrated ocean observation system in comparison to the costs needed by coastal states to implement resource management decisions are disproportional to the responsibilities and role played by coastal states. In Alaska this is aggravated by the enormity of our coastline and ocean resources. An integrated, user-driven ocean observing system must be designed to meet the specific goals and objectives for regional resource management issues. The extent and amount of monitoring and observations must be proportional to the significance of specific regional resource management needs. It is premature to propose or endorse any high-cost global monitoring plans, such as the integrated ocean observation system, when it has not yet been determined at the regional level whether or not such a scheme is necessary for critical resource management decision-making.

Recommendation 26-3. Congress should amend the National Oceanographic Partnership Act to formally establish Ocean.US, with a budget appropriate to carry out its mission. Ocean.US should report to the National Ocean Council's (NOC's) Committee on Ocean Science, Education, Technology, and Operations. Congress should make Ocean.US funding a line item within the National Oceanic and Atmospheric Administration's budget, to be spent subject to NOC approval.

The State of Alaska **opposes** this recommendation. Ocean.US is proposed as a governance structure to establish policy and provide oversight for all components of an integrated ocean observation system and to ensure strong integration among the regional, national and global levels. It is a federally-directed top down proposed system which has not yet been formally reviewed or approved by coastal states. Its mission is expansive and its costs are expensive. It brings with it its own needs for regional input and governance. The need for establishing this structure has not been demonstrated. The organizational makeup of the various offices, committees and advisory bodies for the National Ocean Council should be made by the National Ocean Council after it comes into existence. Monitoring needs and monitoring parameters are

best determined at the regional level through the coastal states. Endorsing or investing in an Ocean.US approach prior to identifying the key parameters and concerns of the regions will only exacerbate the current problem of inadequate resources that now exist at the regional and coastal states level.



GOVERNOR ARNOLD SCHWARZENEGGER

June 3, 2004

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

Re: Preliminary Report of the U.S. Commission on Ocean Policy

Dear Admiral Watkins,

Thank you for the opportunity to provide the U.S. Commission on Ocean Policy with California's vision for protecting and managing the nation's oceans and coastal resources. Your report is a wake-up call that our oceans are in trouble and in need of help. In response to this need, actions must take place at the international, national, state, regional and local levels, as these issues are just as important globally as they are to concerned citizens trying to protect the waters off a local beach.

The Commission's Preliminary Report identifies the challenges we face and the inefficiencies of current ocean management mechanisms. The blueprint for change advocated in this document suggests a phased approach for making our national system of governance more effective, efficient and less cumbersome. I concur with the need for this reform and will vigorously support efforts to make it a reality.

I do offer a note of caution. It is difficult to assess at this early stage whether the on-the-ground application of the nearly 200 recommendations will avoid the historical tendency to create more government, unnecessary provisions, or duplication. Therefore, as we move toward the specifics of implementation, I plan to work with Californians, members of your commission, Congress, and the Bush Administration to ensure that we avoid pitfalls of the past. I am optimistic that working together we can be successful in this historic effort to improve ocean management.

A Call for Action

The Commission's Preliminary Report is an important call for action. As you know, California is a leader in ocean and coastal management. We have developed innovative processes which address the management of fisheries, marine protected areas, shoreline change, water quality and myriad other issues. These processes provide valuable models for use by other states and encourage new national approaches. It is critical for California and other coastal states to join



the call made by the U.S. Commission on Ocean Policy to move forward with a comprehensive plan of action.

With that spirit in mind, I am directing my Secretary for Resources, Mike Chrisman, California's lead cabinet level official for ocean and coastal management, to work with the Secretary of the California Environmental Protection Agency, Terry Tamminen, who oversees California's regulatory programs for air, water, toxics and solid waste management, to develop a plan of action for ocean and coastal management in California. Our last comprehensive assessment and strategy for action on the ocean was completed in 1997.

The implementation plan will assess what has changed since our 1997 analysis and will reflect the improvements and national reforms suggested in the Commission's Preliminary Report. I have requested that this implementation plan explore important actions that can be taken by my administration, the legislature, or by partners in industry, academia, public interest groups, and philanthropic interests. I have further requested that it be completed within 90 days. At a minimum, this plan shall include:

- **Governance.** Actions that can be taken to improve the ocean and coastal governance structure in California and to institute a new era in protecting and managing our ocean and coastal resources with measurable results.
- **Economic Assessment and Funding.** Actions that can be taken to support adequate funding from a variety of sources for ocean and coastal management activities, and ways in which ocean and coastal dependent industries can function more efficiently.
- **Research, Education and Technology Development.** Actions that can be taken to support increased funding for a more robust system of research, education and technology (including the development and implementation of a national integrated ocean observing system).
- **Stewardship.** Actions that can be taken to apply the evolving expertise and experience with ecosystem management to all matters dealing with ocean and coastal management in California.

The action plan will be prepared with close consideration of the findings of the Commission's Preliminary Report, which provides a comprehensive treatment of ocean issues from inland watersheds to the deep ocean waters off this nation's coasts. My comments on the Preliminary Report focus more on the tools that will guide the treatment of these issues (using the principles of governance; economics; research, education and technology; and stewardship) than on the specific findings and recommendations, as these will be subject to extensive discussion and debate in the weeks, months and years ahead. Attached you will find additional and more detailed comments on subjects ranging from clarifying the roles of federal agencies and ecosystem management to public education and non-point source water pollution.

Admiral James D. Watkins

June 3, 2004

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Ocean Governance

The Preliminary Report provides clear findings regarding the fragmentation, duplication and confusion that is present in the federal system of ocean and coastal governance. These findings and associated recommendations to elevate ocean governance issues, and to provide the most effective and efficient ways to coordinate agency actions, are necessary and warranted. I believe, however, that immediate steps should be taken to enact a national ocean policy and measurable management goals associated with this policy. I also believe that coastal states should have representation on both the National Ocean Council and on the Presidential Council of Advisors on Ocean Policy because of our critical role in ocean and coastal management.

As part of that effort, I believe that we need to focus on making our existing systems of governance work better, rather than simply inventing new ones. I support the need to clarify the role and functions of the National Oceanic and Atmospheric Administration and to conduct the same level of analysis for the many other federal agencies with ocean management responsibilities. I also concur with the need for additional attention to regional issues, which could be addressed by the recommended system of regional councils. I would only support such councils, however, if they serve to enhance existing efforts at regional (or sub-regional) scales without duplication. I believe you should consider recommending that these councils be established by statute if accompanied by sufficient flexibility in their design and implementation and with sufficient funding to help address the unique needs of each region. In the meantime, the Commission should recommend that the federal government provide incentives to encourage initial regional meetings to identify needs and working relationships.

In addition, it is time for this nation to re-authorize the Coastal Zone Management Act to strengthen provisions for addressing non-point source pollution and to maintain the federal consistency provisions that allow California to address the adverse impacts of federally approved activities, such as oil and gas development off our coast. At the international level, I join with the members of the U.S. Commission in calling for the United States to ratify the Law of the Sea Convention to keep this nation fully engaged in management and commerce matters.

Economic Assessment and Funding

There is no national accounting system in place in the United States to regularly assess the economic benefits derived from the ocean. Other sectors of the economy, such as agriculture, have accounting systems which annually report on the economic value and benefit from these industries. Although an accounting system is recommended in the Preliminary Report, it should be brought forward as one of the major structural recommendations.

The Preliminary Report appropriately recognizes the need for increased investment to support ocean and coastal management. I support the establishment of an Ocean Policy Trust Fund as well as a thorough evaluation of all available funding sources and partnership opportunities, but would insist that no incentives for additional offshore oil and gas development be created through the use of funds from these revenue sources.

Research, Education and Technology Development

The Preliminary Report makes a compelling case for supporting and strengthening the United States' commitment to ocean and coastal research, education programs and technology development. I concur that we must renew our commitment and double the federal ocean and coastal research budget. Because coastal states are critical to carrying out national ocean and coastal management objectives, there should be greater emphasis on assessing state needs and developing management oriented research to address these needs. I also strongly support the recommendation to develop a national Integrated Ocean Observation System and believe that California will serve as a leader in this effort, having already invested \$21 million to develop one component of such a system.

Stewardship

The Commission's Preliminary Report recommends that ecosystem management be a guiding principle for ocean and coastal management. I applaud this approach, particularly the emphasis on the need to address the connections between land and sea. California has been a leader in developing and implementing ecosystem management approaches to fisheries, water quality, habitats, shorelines and other coastal and ocean resources. I support using such approaches throughout the nation.

The Preliminary Report makes some recommendations supporting a greater emphasis on ecosystem management, yet it could go much further. For example, the Preliminary Report's section on fisheries does not address specific recommendations for implementing ecosystem-based management found in California processes, such as the Marine Life Management Act. California's approach to ecosystem management should be considered a national model in the final commission report. In addition, the Commission should consider the leadership provided by California through the Marine Life Protection Act and Marine Managed Areas Improvement Act, which together provide a clear mandate for evaluating and designing an understandable and scientifically-based system of marine protected areas. In contrast, there is little procedural guidance at the federal level and no clear process for designating no-take reserves in federal waters.

In addition, the Preliminary Report recognizes the importance of reducing land-based sources of polluted storm water and non-point pollution to our waterways and, ultimately, our oceans. I concur with the high priority need to address this issue. At this time, however, I disagree with the recommendation to transfer the coastal non-point source pollution control program from the National Oceanic and Atmospheric Administration to the U.S. Environmental Protection Agency. California had the first non-point source pollution control program in the nation to receive full federal approval and we are making significant progress with implementation. I also believe that we should exercise caution regarding the movement of other programs such as the recommendation to move the National Estuary Program from the U.S. Environmental Protection Agency to the National Oceanic and Atmospheric Administration. As stated earlier, my preference is to improve existing programs rather than create new approaches unless problems are identified that make such actions absolutely necessary.

Admiral James D. Watkins

June 3, 2004

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Once again I applaud you and the members of the U.S. Commission on Ocean Policy on this excellent effort. I believe it is a significant statement, and not by chance, that both your commission and the independent Pew Oceans Commission came to similar conclusions about the state of our nation's oceans and the need for action. You have my commitment to work with you as you take steps to implement important and necessary changes.

Sincerely,

A handwritten signature in black ink, appearing to read "Arnold Schwarzenegger". The signature is fluid and cursive, with a prominent initial "A".

Arnold Schwarzenegger

cc. Members, U.S. Commission on Ocean Policy

AS: mc/resources

Comments from the State of California on the Preliminary Report of the U.S. Commission on Ocean Policy June 4, 2004

General Observations

We appreciate the challenges that the U.S. Commission on Ocean Policy has faced over the past two and one half years to prepare this report. Through 15 public meetings, and numerous other forums you have identified the complexities of addressing ocean and coastal issues at the federal level with management from 15 departments and agencies, oversight by 60 congressional committees, and compliance with the provisions of 144 statutes. The fragmentation, duplication and inefficiency created by the current management regime played a major role in the development of almost 200 recommendations included in the Preliminary Report.

There is also a growing recognition of the critical role of non-governmental entities such as academia, industry, and public interest groups to assist in ocean and coastal management. On May 6 the California Resources Agency and California Environmental Protection Agency convened the California Ocean Summit to ask representatives from these "non-governmental interests" to provide us with their expert advice on your Preliminary Report. In addition, these two agencies requested comments from state departments, boards, commissions and conservancies, as well as any other organization or member of the public that wished to provide comments. The testimony and comments received have been used to help formulate California's comments and have confirmed the need for a call for action at both the national and state levels for improving the management and protection of ocean and coastal resources.

Ocean and Coastal Governance

Improvements in Coordination are Critically Needed. The Preliminary Report provides clear findings regarding the fragmentation, duplication and confusion that is present in the federal system of ocean and coastal governance. We concur with these findings and with recommendations to establish a National Ocean Council, to appoint an assistant to the President to chair the council, and to establish a Presidential Council of Advisors on Ocean Policy. We would urge that the Commission also recommend the enactment of a national ocean policy act to provide a statement of U.S. ocean policy and clear and measurable management goals. We also believe that coastal states should have representation on both the Ocean Council and on the Presidential Council of Advisors on Ocean Policy that are recommended to be established because of our critical role in ocean and coastal management.

We concur with the need to address regional issues through a system of regional councils, but recommend that these councils be guided and supported by the provisions of the new national legislation and resulting budgetary processes. We believe you should consider recommending that these councils be established by statute if accompanied by sufficient flexibility in their design and implementation and with sufficient funding to help address the unique needs of each region. In the meantime, the Commission should recommend that the federal government

provide incentives to encourage initial regional meetings to identify needs and working relationships within regions under consideration.

Clarify the Roles of Federal Agencies. We believe that the improvements recommended for coordinating federal agency processes (establishment of the council, advisor, and advisory council) are critical for making sense out of the current assets available for management. However, we also support the need to improve many of the functions of agencies currently charged with implementing these duties. Specifically, we support the need to clarify the role and functions of the National Oceanic and Atmospheric Administration (NOAA). In addition, we support consideration of an “organic act” that would codify the establishment and mission of the organization.

We believe that this evaluation is critically important and long overdue. As noted in the report, federal agencies with major ocean and coastal responsibilities in addition to NOAA include, among others, the Department of the Interior, U.S. Environmental Protection Agency, National Aeronautical and Space Administration's Earth Science Enterprise, U.S. Army Corps of Engineers, U.S. Coast Guard, and U.S. Navy. We strongly support the recommended efforts to improve the coordination among these agencies.

Renew Commitment to Coastal Zone Management. The Coastal Zone Management Act (CZMA) has provided the backbone of coastal protection and management in this nation for over 30 years. The federal consistency provisions of the act allow California, and other coastal states with certified Coastal Management Programs, to review federal permits for activities such as offshore oil and gas in the Outer Continental Shelf for consistency with the certified program. California also had the first coastal non-point source pollution control program in the nation to be approved under the provisions of both the CZMA and the Clean Water Act. California strongly supports the recommendation for reauthorizing CZMA with the maintenance of the federal consistency provisions and provisions to address coastal non-point source pollution.

U.S. Leadership in International Law. The Preliminary Report addresses key issues at the international level and it documents the historic leadership that the United States has demonstrated in this area. However, the United States' influence has been lessened by the reluctance to ratify the Law of the Sea Convention, which has been referred to as a “constitution for the ocean.” Because we have yet to ratify this convention, international law is being made in the Law of the Sea Tribunal, in the Seabed Authority, and in the Continental Shelf Commission – all without the participation of the U.S. which has significant ramifications for international developments in fisheries, mineral extraction and other issues of importance. Ratification can bring the U.S. back into this arena, and we support the recommendation that the Law of the Sea Convention be ratified by the U.S.

International Trade Agreements. The report does not address the potential effect of international trade agreements on coastal and ocean management and protection policies. The final report should evaluate the potential, if any, for transnational companies to challenge certain ocean management policies and practices based on claims that such policies create trade barriers or could have an adverse effect on investment expectations.

Economic Assessment and Funding

Need for a National Ocean Economic Accounting System. There is no national accounting system in place in the United States to regularly assess the economic benefits derived from the

ocean and coast. Other sectors of the economy, such as agriculture, have economic accounting systems that annually report on the economic value and benefit from these industries. Such information is important, in that it informs decision makers about the need for, and benefits of, investment in management and infrastructure to support these economic benefits.

We agree with, and applaud, the conclusions of the Commission making a clear linkage between healthy oceans and a healthy economy. A study by the California Research Bureau came to this conclusion years ago, and we are encouraged to see the Preliminary Report acknowledges this important relationship. Although the Preliminary Report recommends the creation of a national accounting system, it is not featured as a major structural change to be made at the national level. We believe that creating such a system should be one of the top priority recommendations in the final report.

Ensure Adequate and Sustainable Funding. The Preliminary Report recognizes the need for increased investment in all aspects of ocean and coastal management. We support the establishment of a National Ocean Policy Trust Fund, including the recommended use of revenues from outer continental shelf (OCS) oil and gas operations, and fees from specified users of ocean and coastal resources. However, we encourage:

- A thorough evaluation of the long term sustainability of any funding sources identified, and
- A clear determination that funding from these sources would not provide incentives for future offshore oil and gas development.

California is opposed to new offshore oil and gas development along its coast, and has prevailed in litigation against the U.S. Department of the Interior regarding California's right and duty to ensure that any re-issuance of oil and gas tracts on the OCS be consistent with the requirements of the National Environmental Policy Act and the Coastal Zone Management Act. California would vigorously oppose any funding process that would provide incentives for new offshore oil and gas development on the OCS.

Research, Education and Technology Development

Strengthen and Support Research, Monitoring and Education. The Preliminary Report makes a compelling case for supporting and strengthening the United States commitment for ocean and coastal research, education programs and technology development. We strongly support the key recommendations to double the federal ocean and coastal research budget, strengthen education programs, and recognize and support key research programs such as the National Sea Grant Program. The Preliminary Report addresses the need for coordinated national water quality monitoring programs and regional research programs that could help inform the efforts of regional management programs, which we believe should be established throughout the United States as recommended.

Research should be the foundation of good public policy, but often it is not. The recommendations contained within this Preliminary Report can go a long way to ensuring that science plays a stronger role in our decisions about protecting and managing ocean and coastal resources.

Create an Integrated Ocean Observing System. The Preliminary Report recommends that Congress fund the development of an Integrated Ocean Observing System to be guided by a National Ocean Council. This system would be based on a series of regional observing systems (including the California State Coastal Conservancy's Coastal Ocean Currents Monitoring Program), and will become part of a global observing system. California is investing \$21 million to develop the coastal currents monitoring system because it will, among other things, provide critical information for navigation safety, search and rescue operations, oil spill trajectory analysis and cleanup, fisheries management, and the analysis and management of existing or new marine protected areas. We strongly support this recommendation to develop an Integrated Ocean Observing System at the national level and will work closely with the federal government and other partners to integrate California's leadership effort into that system.

Make Research Relevant to Coastal States. Coastal states and local governments are often frustrated that current research programs do not address their priority research needs, research findings are difficult to locate, and the current complexity of NOAA and other agency processes makes it difficult to seek out opportunities to conduct research to meet their management needs. We concur with the principles developed by the Coastal States Organization (CSO) that emphasize the need to support management oriented research that can be used by managers at the regional, state or local level. We also concur with the CSO findings that federal research priorities and dissemination strategies should be developed in consultation with coastal states and other stakeholders. There should be greater emphasis on these issues of state interest and management relevancy in the Commission's final report.

Promote Lifelong Ocean Education. The Preliminary Report acknowledges the need to build national awareness of our oceans and promote lifelong ocean education. The report identifies critical classroom needs, resources and research, higher education and workforce needs. Importantly it recognizes the need and opportunity for a cross disciplinary approach to strengthening science literacy in the nation's classrooms – involving social sciences, as well as natural science. It also recognizes the opportunity for ocean science to be incorporated into national achievement tests, which could promote more focused ocean science instruction in the nation's classrooms. These recommendations are consistent with recent actions in California to enact the Education and the Environment Act that calls on the State Department of Education, the State Board of Education, and the Office of the Secretary of Education together with other state agencies and stakeholders to bring ocean and other environmentally related education into the classrooms of California's K-12 public schools.

The report could be strengthened by also emphasizing the opportunities in educational programs offered outside of the classroom. California and other states are blessed with a variety of programs offered by non-profit or private institutions such as aquariums, educational outreach organizations and other non-governmental programs. These programs are often conducted in collaboration with local, state or federal government management programs that use hands-on education in the field, on the beach, or in the water. This education process can also be used to help address conflicts between recreational users and their impact on the environment. These programs should be more highly encouraged in the final report and should be considered for enhanced collaboration with new or ongoing programs at all levels of government.

Stewardship

Support an Ecosystem Management Approach. The Preliminary Report recommends that ecosystem management be a guiding principle for ocean and coastal management, an

approach we applaud and support. California has played a leading role in developing and implementing an ecosystem approach to managing fisheries, water quality, wetlands, shorelines, and other resources. As stated in the Preliminary Report, ecosystem management “looks at all the links among living and nonliving resources, rather than considering single issues in isolation.” In 1997, California led the nation with an ocean strategy which advocated for ocean management that considers the linkages within California’s entire ocean ecosystem, including inland watersheds; bays, estuaries, and coastal lagoons; near shore ocean waters, and deep ocean waters. All of these areas are biologically connected, and the challenge has been and will continue to be to make our system of governance responsive to these ecological relationships.

California’s approach to fisheries management through the Marine Life Management Act is an example of this approach, where management is based not on a single species but rather on an entire ecosystem. This approach does not simply focus on exploited populations of marine life, but the multiple species and habitats that make up the ecosystem, from inland watersheds to the deep ocean. Similar principles are used in the California Marine Life Protection Act which deals with marine managed and protected areas, the CalFed process which deals with management issues in the San Francisco Bay/Delta region, and the Natural Communities Conservation Planning Program which seeks to conserve natural communities at the ecosystem scale while accommodating compatible land uses. We believe that these principles are critical to implementing new approaches such as “smart growth” programs on land, and for guiding the management, protection, and sustainable use of resources off the California coast.

Use Marine Protected Areas as a Tool. The Preliminary Report’s recommendations related to marine protected areas (MPAs) are consistent with California policy, specifically the Marine Life Management Act (which employs reference reserves as baselines for fishery management) and the Marine Life Protection Act (which calls for a coherent network of MPAs). The Preliminary Report endorses MPAs as one of many tools for ensuring that ocean policy adheres to sound guiding principles.

The Commission should consider the leadership provided by California in this area in its evaluation of national processes. California has a clear legislative requirement to evaluate, and to create where needed, networks of MPAs. The California Fish and Game Commission has clear authority to designate all types of protected areas – including no-take reserves. There is no similar guidance at the federal level and no clear process for designating no-take reserves in federal waters.

Building Sustainable Fisheries. The findings of the Preliminary Report indicate that fishery management processes can be improved and that major fishery problems are related more to governance than inadequate science. Among the most important of the Commissions recommendations are separating decisions regarding how many fish can be taken from the ocean (so-called “assessment decisions”) from decisions about allocation of the available harvest and other operational issues (“allocation decisions”); shifting management from a species by species approach to a multi-species approach and ultimately an ecosystem based approach; developing regional bycatch reduction plans that address broad ecosystem impacts of bycatch, and; exploring the use of “dedicated access privileges,” such as individual fishing quotas, community quotas, cooperatives, and territorial or area access programs, consistent with national guidelines to mitigate potential problems that can result from granting such privileges.

The Preliminary Report's section on fisheries does not address innovative approaches for implementing ecosystem-based management that can be found in California processes. California's Marine Life Management Act provides a clear process for implementing ecosystem-based approaches and should be viewed a national model in the final commission report. Similar to our offer regarding the Marine Life Protection Act, we would be happy to work with the Commission to provide more specifics on our authorities and how this process could also serve as a national model.

Reduce Non-Point Source Water Pollution. The Preliminary Report recognizes the importance of reducing sources of polluted stormwater and non-point pollution. The report makes the case regarding the critical impact polluted stormwater and non-point source pollution has on the health of our coastal waters. These represent the largest ocean water quality concerns that we have in California and we concur with the high priority need to address this issue.

For coastal states the Preliminary Report recommends the transfer of the coastal non-point pollution control program currently in the National Oceanic and Atmospheric Administration (NOAA) to the U.S. Environmental Protection Agency (USEPA). We oppose this recommendation at this time because it would significantly weaken our ongoing efforts to effectively address the single most significant source of ocean water pollution. It was precisely because existing USEPA programs alone were not working to effectively address polluted runoff that Congress, in 1990, enacted amendments in connection with the reauthorization of the Coastal Zone Management Act to mandate development and implementation of coastal non-point source pollution control programs by coastal states.

NOAA's program requires coordination and integration of USEPA's water quality protection programs and state coastal management programs dealing with land use. Eliminating the NOAA coastal non-point source pollution control program at this time would take the country back to the days when water quality protection agencies did not talk with coastal zone management agencies dealing with land use issues. We also believe that we should exercise caution regarding the movement of other programs such as the recommendation to move the National Estuary Program from the U.S. Environmental Protection Agency to the National Oceanic and Atmospheric Administration. Our preference is to improve existing programs rather than create new approaches unless problems are identified that make such actions absolutely necessary.

Support Watershed Management. The Preliminary Report provides a strong emphasis on using watershed approaches to help protect, manage and restore coastal and ocean ecosystems. We concur with the need to move toward a watershed approach. As California's ocean strategy recognized in 1997, managing our coastal and inland watersheds is critical for managing our coastal bays, lagoons, and nearshore ocean waters. California has made progress in this area through a variety of partnerships such as the Water Quality Protection Program of the Monterey Bay National Marine Sanctuary, the watershed programs of the Santa Monica Bay Restoration Commission, and a variety of regional watershed approaches, funding strategies, and multi-county efforts to address salmonid conservation planning and recovery.

The California Resources Agency and the California Environmental Protection Agency are working closely together to develop an integrated watershed management grant program, to improve coordination of watershed programs among state agencies, and to work closely with

watershed groups, local agencies and other stakeholders to secure funding and implementation of integrated watershed planning, management and monitoring activities.

Another critical component to watershed management is the provision for monitoring. We fully support the recommendations in the Preliminary Report regarding the need for monitoring, and particularly the recommendations for creating an Integrated Ocean Observing System that will help us understand the ocean impact of our efforts to manage water quality within our watersheds.

Preventing the Spread of Invasive Species. The Preliminary Report recognizes the issues surrounding the proliferation of invasive species in many of this nation's coastal waterways and nearshore waters. We agree that the introduction of aquatic invasive species through ballast water discharges has created significant economic, environmental, public health and safety impacts in the United States and around the world. The current National Ballast Water Management Program has failed to achieve the National Invasive Species Act's objective to "prevent the unintentional introduction and dispersal of nonindigenous species into waters of the United States." This has been an issue in California with infestations up and down the coast and within our major ports, and a serious concern with the introduction of *Caulerpa taxifolia* (killer algae) in some small estuarine systems in Southern California. Therefore, we support a strong program at the national level to address invasive species.

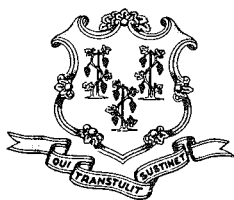
Protecting Coastal Wetlands. The Preliminary Report recommends that the Ocean Council coordinate the development of a comprehensive wetlands protection program that is linked to coastal habitat and watershed management efforts, as well as make specific recommendations for the integration of the Clean Water Act Section 404 wetlands permitting process into that broader management approach. We agree with the need for this level of coordination and believe that our Southern California Wetlands Recovery Project (SCWRP) provides a model for establishing a national program. The SCWRP includes relevant federal, state and local agencies and other stakeholders in a process to identify wetland restoration projects, necessary science considerations, and potential funding sources, working together from project identification to project implementation. The program is linked to coastal habitat restoration and protection efforts, watershed management programs, and efforts to manage coastal sediments since they can potentially be used for restoration purposes.

The Preliminary Report can be strengthened by recommending that the federal government, in partnership with the states, establish minimum mapping criteria for wetland mapping to support a national wetland inventory. In addition, states should receive support for implementing regulatory and nonregulatory wetland programs. Unlike other water programs under the Clean Water Act, California and other states have shouldered the entire burden of funding wetland programs that are delegated to or assumed at the state level.

Manage Sediment on a Regional Basis. The Commission's Preliminary Report recommends that coastal sediment management be conducted on a regional basis. It also recognizes that the U.S. Army Corps of Engineers should broaden its criteria for determining the least-cost options to encompass the outcomes of regional sediment planning and management. We concur with this emphasis on the need to manage coastal sediments on a regional basis, instead of on a case-by-case basis at each lagoon, harbor or beach and to also broaden the criteria for establishing least-cost management options.

California has taken a leadership role in this area by creating the Coastal Sediment Management Workgroup (CSMW) with the U.S. Army Corps of Engineers. This group discusses federal, state and local sediment issues and the projects necessary to resolve them. The CSMW is now working on a "Coastal Sediment Management Master Plan" to identify sediment management issues on a regional basis for the entire California coast. This Master Plan is being used as a pilot for the ongoing development of the National Shoreline Management Study currently underway through the Corps of Engineers. Other sediment management models in California worth consideration are the Dredged Materials Management Office in San Francisco Bay and the Contaminated Sediments Task Force which addresses similar issues for southern California ports.

These types of government partnership approaches to regional sediment management should be considered as national models. The recommendations in the Preliminary Report could be strengthened by adding a discussion of the role of coastal states and local governments in developing a national coastal sediment management strategy for improved assessment, monitoring, research and technology development.



JOHN G. ROWLAND
GOVERNOR

STATE OF CONNECTICUT
EXECUTIVE CHAMBERS

June 4, 2004

Admiral James D. Watkins, USN (Ret.)
U.S. Commission on Ocean Policy
1120 20th Street, NW
Suite 200 North
Washington, D.C. 20036

Dear Admiral Watkins:

Thank you for the opportunity to submit comments on behalf of the State of Connecticut in response to the preliminary report of the U.S. Commission on Ocean Policy. I am impressed by the scope and vision of the Commission's work, and I expect that the final report will serve as a blueprint defining the nation's relationship to its coastal and ocean resources for decades to come. The Commission has rendered a vital service in drawing attention to the significant challenges we face and in sounding a call to action to protect the coastal and ocean resources, uses and values that are so important to every coastal state and to the nation as a whole.

As demonstrated in the report, our coastal, Great Lakes and ocean resources are national assets. Connecticut's own ocean and coastal resource, Long Island Sound, may be relatively small in size but it looms large in significance to Connecticut's economy and quality of life, and to neighboring states and the Nation as well. Over 15 million people live in the Sound's drainage basin, and many of them use the Sound directly for fishing, boating, or recreation, or indirectly as a source of seafood, a transportation corridor, and ultimately, a touchstone of geographical and cultural identity. All of these uses, in turn, depend on the cleanliness and quality of the Sound's waters and the integrity of its resources and habitats. The most recent study which evaluated the economic value of Long Island Sound's resources and uses indicated that the commercial, recreational, and intrinsic value of the Sound totaled over \$5.5 billion per year. Indeed, few other estuaries on this continent can rival Long Island Sound's combination of natural resources, environmental significance, recreational value, and proximity to a vast and diverse population of users.

However, the report also documented that the economic, environmental and social benefits generated by coasts and oceans are at risk. Our ability to ensure these benefits for future generations will depend on better understanding the impacts and interaction of human intervention and taking steps now to support sustainable development and conservation of coastal and ocean resources, so that we can improve the quality of life in coastal communities, ensure the nation's long term economic and ecological well-being, and affect positive outcomes "on the ground" at the state and local level. It is clear that citizens and government at all levels will need to work harder and devote more resources to achieve these goals.

As a result, Connecticut strongly supports the Commission's broad findings and recommendations. We are particularly pleased by the report's focus on regional ecosystem management, linking watersheds and coastal land use with coastal and ocean health, and on research, education and science-based management. These themes parallel initiatives currently underway in Connecticut's Department of Environmental Protection and other state agencies. However, in order to focus our comments where they might be most useful, I will not recite the many aspects of the report that we fully support; instead, my comments below will highlight general issues and concerns within particular sections of the report. In addition, I am enclosing more specific comments as an attachment.

Within the context of our overall endorsement of the report, Connecticut's overarching concern is that the report's policy recommendations not be separated from the funding necessary to accomplish them. Realizing the vision of healthy, sustainable ocean development and resources will depend on a substantial, long-term and comprehensive commitment of effort and resources over time. Without the political will to engage in such a commitment, only bits and pieces of the recommendations can be implemented, and we will miss the opportunity that the Commission's work has created.

A New National Ocean Policy Framework

Connecticut supports the Commission's recommendations to streamline responsibilities and oversight roles among agencies and programs charged with setting, implementing, and enforcing national ocean policy, and to foster regional coordination and cooperation in the areas of research, priority-setting, resource management, policy, and education and outreach. In particular, the creation of a National Ocean Council (NOC) with direct contact with the President will help elevate ocean issues in terms of U.S. national priorities.

Connecticut also supports a vital role for states and existing regional institutions as necessary partners in coastal and ocean management. States must become full-fledged management partners, not simply the recipient of federal mandates to manage better. Newly established federal agencies or commissions should avoid new bureaucracy and encourage innovation at the regional and state level. For instance, the National Ocean Council should focus on its core responsibilities to "provide high level attention to ocean and coastal issues, develop and guide implementation of appropriate policies, and coordinate..." federal agencies. The ecosystem-based Regional Ocean Councils (ROCs) should be more flexible, build upon current efforts, and avoid conflict with Fisheries Management Councils and State Commissions or other existing regional efforts, such as the Long Island Sound National Estuary Program, in which the states already play a strong management role. The ROCs should focus on bringing the collective resources and expertise of the federal agencies together with states and stakeholders to address significant issues that are identified at the state, local and regional level (See e.g. Recommendations 4-11, 5-1 and 6-4), not issues identified only by federal agencies at the national level. (See e.g. Recommendation 4-2.) Also, the report should indicate that the existing regional restoration and conservation initiatives will require significantly more resources than have been identified. The NOC and ROCs should be given the responsibility of working with the states to assess these additional needs and work with federal agencies, states, private sector and non-governmental organizations to identify funding sources and innovative financing for these regional and place-based management initiatives.

On the federal agency level, we support the concept of a strong lead federal ocean agency and a consolidated structure, but many programs touching coastal and ocean issues are so varied and far-flung that some organizational divisions are necessary. We would not want attention and effort to be diverted from the Commission's substantive message to federal bureaucratic turf battles. For instance, while it would probably be desirable to consolidate nonpoint source (NPS) programs by moving NOAA's 6217 program to EPA along with the 319 program, that would result in the lead coastal and ocean agency having no programmatic responsibility for the vital issue of coastal NPS management. One possibility would be for NOAA to become focused on living resources and physical habitat, and EPA to take the lead on water quality and watershed management, with strong communication and coordination provided by the NOC and regional councils. In any event, the Commission's final recommendations may need to focus as much on coordination among existing agencies as on reorganizing or creating new federal institutions.

Economic Growth and Conservation along the Coast

Connecticut fully appreciates the links between land use, watershed management, coastal development, and the health of coastal and ocean waters and resources. We have had an active coastal zone management (CZM) program for over twenty years, and we recognize that that the national CZM network must redouble its efforts to protect coastal resources and uses, starting with the reauthorization of the federal Coastal Zone Management Act. As a result, as the Commission noted, states and local governments will need to be more active than they have been in managing coastal and watershed development. This will require institutional, legal and political support as well as considerable long-term funding commitment to build capacity for science-based management and to enforce and implement the management programs. The challenge of altering existing patterns of land-side coastal and watershed development is much more socially, economically and politically complex than simply creating new management structures and policies for publicly-owned state public trust waters or offshore ocean resources, and the difficulties of making serious changes to those patterns can scarcely be overstated. Therefore, we are concerned that the Commission's recommendations to create performance incentives for State coastal management programs (Rec. 9-2) and coastal nonpoint programs (rec. 14-8, 14-9, 14-10, 14-12) may, without sufficient ongoing financial, informational and institutional support from the federal government, result in a situation where states are required to divert limited resources to attain federally-defined objectives without sufficient support. Instead, we support the Coastal States Organization's recommendation that the CZMA reauthorization include a Coastal Communities Program to assist states and their municipalities in planning and managing land uses to support sustainable coastal development, protect and restore coastal habitats and other resources, reduce exposure to coastal hazards, and revitalize urban waterfronts. In order to meet the ambitious goals set by the Commission, the Coastal Communities Program will need to provide substantial technical and financial support.

Moreover, if the states are prepared to assume responsibility for more active and effective management of coastal lands, waters and watersheds, federal agencies must also embrace their own responsibilities to achieve consistency with existing federally-approved state management plans. The report's discussion in Chapter 6 of the need for new governance structures in offshore federal waters should serve to highlight the primary importance of state management interests in nearshore state waters, as expressed through their CZM programs. The CZM federal consistency process already exists, and should be the mechanism for coordinating federal activities with state coastal management goals and

objectives. Unfortunately, Connecticut's experience, based almost entirely on activities directly affecting state waters, has been that many federal agencies have been reluctant partners, at best, in the federal consistency process, and that when push comes to shove NOAA has tended to support the federal agencies' interests rather than encouraging the agencies to cooperate with our NOAA-approved CZM programs. As a result, recent consistency appeals decisions suggest that industry and development interests, not the states, will have the last word in determining how state coastal waters are managed and developed. While we recognize that national interests may need to take priority in federal waters, we suggest that the Commission revisit the need to enhance state authority over state-owned and managed public trust lands and waters.

Coastal and Ocean Water Quality

Nonpoint source pollution (NPS) is perhaps the most ubiquitous and yet intractable aspect of improving coastal and ocean water quality. Measurable pollution reduction goals, as recommendation 14-8 suggests, will require ongoing and substantial funding to build state and local capacity to implement existing controls. In fact, analyses of state section 6217 coastal nonpoint programs showed that the states already possess enforceable mechanisms to require better NPS management, but lack the resources to ensure that appropriate BMPs and land use practices are adhered to on the local level where most land use decisions are implemented. In light of existing management programs, capabilities, and costs the Commission may have underestimated the level of effort that would be required to educate and provide local land use commissions with the "knowledge and tools needed to make sound land use decisions." Thus, given the need for better implementation of existing water quality authorities and management programs, such as the Water Quality Standards established under the Clean Water Act, it may be counterproductive for the NOC to establish separate national NPS goals for coastal waters. Instead, the NOC should coordinate within the structure of federal water quality programs (as they may be consolidated or modified) to ensure that coastal NPS issues are adequately addressed.

The Commission should also consider added emphasis on the links between NPS and atmospheric pollution, especially for nitrogen and mercury that impact coastal waters significantly. The science of atmospheric deposition has been repeatedly documented in peer-reviewed journals and state and federal assessments. Atmospheric deposition originates from known sources, contributes to water quality impairment and climate change, has severe human health impacts, and is subject to affordable and effective control technologies, including energy conservation, that are ready to be applied today. It appears somewhat incongruous that the Commission would propose measurable objectives and financial disincentives for NPS and stormwater management, where scientific monitoring and management is relatively weak, but does not recommend stricter air emissions controls where the science, effects and control technologies are well established.

Enhancing the Use and Protection of Ocean Resources

As a state with an estuarine rather than an open ocean coast, Connecticut's commercial and recreational fishing community is our primary link with the management of ocean resources. Consequently, we are concerned that the Commission's recommendations to reform fisheries management seem to place undue emphasis on scientific data alone in the development of management decisions. Of course, the scientific advice underlying fishery management, whether it comes forth from federal stock assessments or scientific and statistical committee deliberations, is essential to good management. However, fisheries management also has social,

economic and political dimensions, which are not necessarily incorporated into scientists' expertise or frame of reference. Regional Fisheries Management Council members are expected to consider scientific as well as social and economic factors in developing management strategies satisfactory to their region and serving the national interest. When the scientific advice is dire, the scientific findings should overrule concern for the social and economic impacts, but scientific and human interests should both be considered when the viability of the resource is not in jeopardy. Such judgment calls are the essence of marine fisheries management and the RFMC process, and we believe that the regional councils of government managers and appointed members of the public are the most appropriate bodies to make these important decisions. Scientists alone, who have no such obligation to consider the human dimension of marine fisheries management, should not be solely responsible for selection of management targets and the schedules to achieve them.

Advancing Our Understanding of the Oceans

Connecticut, with our wealth of educational institutions and programs related to ocean issues, strongly supports strengthening the science-based decision-making process by significantly increasing funding support for ocean science research and augmenting the technical transfer of scientific results into forms and products that can be utilized by government agencies, stakeholders, and citizens at all levels. The support and promotion of enhanced, coordinated, and comprehensive ocean science educational programs, both formal and informal, will help build broad-based understanding and support for a strong national ocean policy. However, we would like to emphasize that research priorities should be focused on areas most relevant to resource management, and to caution that research alone often cannot provide the "answer" to resource and use management issues. Especially in a context of scarce resources, continuous data-gathering should not become a substitute for taking action to address the many challenges identified in Chapter 1 of the report.

We are also concerned that more detailed attention should be devoted to the crosscutting issue of global warming and climate change. The report makes several references to global climate change in the document, but we believe that a separate chapter should be dedicated to this significant issue, including a series of recommendations with regard to both mitigation and adaptation. On our own coast of Long Island Sound, we have seen evidence of a long-term warming trend, with observed sea level rise and serious implications for habitats, species range, and the viability of seagrass, wetlands and other coastal resources. Connecticut has taken steps to address climate change at the state level, including legislation to tighten auto and powerplant emissions standards, but we will need to take part in coordinated national and international efforts to understand, manage, and plan for climate change. As such, we believe it should be a primary focus of a national ocean policy.

Implementing a New National Ocean Policy

We commend the Commission for squarely facing the challenge of unfunded mandates, and strongly support the funding mechanisms embodied in the Ocean Policy Trust Fund recommendations. However, as Commission members are undoubtedly aware, one of the most significant challenges in implementing the report's recommendations will be to ensure that adequate and sustainable funding mechanisms actually come to pass. We are concerned that the Commission may not fully comprehend the true cost of implementing many of the management recommendations, particularly at the state and local levels. The costs estimated in Table 30.1 may cover federal-level administration, and provide a solid start to research and monitoring needs of our coasts and oceans, but it may be seriously limited in

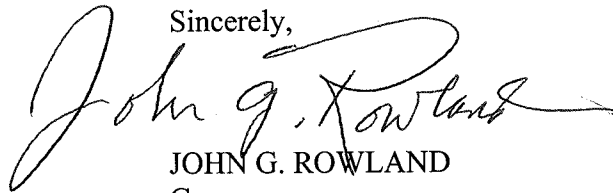
the management areas that will bear the real burden of creating on the ground changes at the state and local levels. Federal support for state actions is given as \$500 million in the first year, growing to \$1 billion in year 3 and thereafter, relying on the Ocean Trust Fund (oil and gas revenues) for funding. For perspective, federal funding of the Section 319 program is about \$300 million a year nationwide, which barely scratches the surface of state and local NPS management needs. Connecticut receives about \$2.5 million per year, possibly enough to make a small water quality difference in one of our 169 towns each year. To meet the small (10%) stormwater nitrogen load allocation developed by the Long Island Sound Study, for example, Connecticut's Department of Environmental Protection estimates the cost could well exceed \$1 billion in capital expenditures alone. Given that the cost of the Integrated Ocean Observing System - just one aspect of research and monitoring - is estimated at \$290 million in the first year and \$760 million thereafter, scientific and research needs will likely claim a substantial, albeit justified, portion of available coastal and ocean budgets. Against this background, it may be a very daunting task to fully assemble the resources necessary to meet coastal and ocean management needs.

Thank you for your consideration of Connecticut's comments. While our responses may seem to focus more on those areas of the report with which we have concerns, I want to reinforce Connecticut's strong appreciation and support for the main themes of the preliminary report. We look forward to working with other states and our federal partners to translate the Commission's recommendations into new and revitalized administrative, management and monitoring efforts.

If you have any questions or need any additional information concerning Connecticut's coastal and ocean concerns, please contact Commissioner Arthur J. Rocque, Jr. of our Department of Environmental Protection. He can be reached at (860) 424-3001.

Once again, thank you for the Commission's hard work and contribution to advancing the national interest in protecting our coastal and ocean resources.

Sincerely,



JOHN G. ROWLAND
Governor

JGR/AJR/db

Enc.

cc: Commissioner Rocque
Coastal States Organization

Attachment Connecticut State Agency Comments

Chapter 4. Enhancing Ocean Leadership and Coordination

The Commission calls for establishment of a National Ocean Council (NOC) and a nonfederal Presidential Council of Advisors on Ocean Policy within the Executive Office of the President. However, both councils should incorporate state representatives to take advantage of the opportunity for better intergovernmental coordination.

Chapter 5. Advancing a Regional Approach

A regional approach is appropriate for ocean management, but the scientific, logistical and jurisdictional obstacles were not satisfactorily resolved in the report. Nevertheless, there have been some at least partially successful examples of regional councils and programs that should be further explored. Perhaps with a little more federal support, and more effort to be inclusive, regional councils (Recommendation 5-1) under NOC would be effective. The regional ocean information programs (Recommendation 5-2), if well-funded, would be very helpful, as would Regional Ecosystem Assessments, although those would require a significant infusion of funds and a long time frame. Without significant support for the underlying science, the recommendation (5-4) that environmental impact statements for coastal- and ocean-related activities consider the regional ecosystem assessments may not result in any real improvement. The composition of regional boards (Recommendation 5-5) brings the right people to the table, but needs some creative structuring to ensure the resulting plans are brought back to the individual states and implemented. Again, success may depend on the level of funding.

Chapter 6. Coordinating Management in Federal Waters

The discussion of coordination is focused on marine resource management, without much reference to water quality impacts. Those related to atmospheric deposition warrant a comment at a minimum, and other land-based pollutant sources may also come to bear. In the interest of coordinating issues, water quality should be included here in the context of an integrated ecosystem management approach.

Chapter 7. Strengthening the Federal Agency Structure

The restructuring of NOAA is the only agency addressed; accordingly, the report should explain how the function and roles of other key federal agencies, such as EPA and the Department of Interior, would be affected.

Chapter 9. Managing Coasts and Their Watersheds

Recommendation 9-1: The inclusion of "coastal watersheds" in the CZMA would only be important if Coastal Programs took a stronger water quality management slant, in close coordination with EPA programs with the same goal. However, the coastal watersheds are too narrowly defined, from a water quality management perspective. The Commission related nonpoint runoff from the entire Mississippi River basin to hypoxia in the Gulf of Mexico. Managing geographically limited "coastal watersheds" within a small fraction of that basin tends to undermine the watershed and ecosystem management concept. The report has not made it clear how habitat/water quality management activities will be divided among agencies, and giving

NOAA water quality authority in just a small strip of land near the coast makes little sense. Water management activities, such as Connecticut's nitrogen control program, would be out of place under NOAA, which does not have permitting authority for water pollution control.

Overall, we support Recommendation 9-2's suggestions for consolidation, with the possible exception of moving the National Estuary Program to NOAA. An alternative option would be to remove water quality management out of NEP, leaving it in the traditional CZM activity domain of wetlands, habitat, and perhaps adding full authority over dredging, or to locate NEPs at the NOC or regional council levels, where multimedia and interjurisdictional issues should be resolved. In addition, the Commission should ensure that each state CZM program receives the full benefits of the National Estuarine Research Reserve system. Despite the significance of Long Island Sound, NOAA has not established a NERR in Connecticut, and existing NERRs are not able to contribute to meeting our particular coastal research and educational needs.

Chapter 11. Conserving and Restoring Coastal Habitat

While managing coastal habitat is important in itself, the report makes only limited reference to other related benefits of habitat restoration. Selection criteria and restoration goals should ensure that maximum benefits are attained along comprehensive, ecosystem-based lines. For instance, while the Commission leaves room for developing an inclusive program, it should also emphasize water quality considerations in the development of restoration programs (Recommendation 11-1 and Recommendation 11-2). The implementation of Recommendation 11-4 by the NOC, in coordinating different federal programs, will be particularly important in this regard. The report should also recognize the important role that state CZM policies play in the preservation and conservation of coastal habitats. Examples from Connecticut include the establishment of preservation oriented policies for sensitive coastal habitats such as intertidal flats, tidal wetlands, beaches and dunes and eelgrass beds that require activities conducted at all levels of government to preserve these resources. Such statutory policies are often more effective than restoration planning in conserving coastal and ocean resources.

Chapter 13. Supporting Marine Commerce and Transportation

The section on Harbors, Channels, and Waterways should have a clear statement on ensuring continued availability of open-water disposal options for dredging projects.

Recommendation 13-4 on Short Sea Shipping should include a new funding source for capital costs associated with short sea shipping programs modeled after the Ferry Boat Discretionary Funding Program.

Chapter 14. Addressing Coastal Water Pollution

It's not clear what Recommendation 14-1 adds to existing programs, and it may do little more than simply reinforce ongoing activity. It is insufficient simply to call for blanket nutrient removal, because levels of removal could vary to reflect the level of impairment and management need. On the other hand, unambiguous removal requirements, while perhaps economically wasteful, would make management of interstate problems simpler. The Commission should consider some revision of the language, from "into nutrient-impaired waters" to "that contribute to degradation of nutrient-impaired waters." Our Connecticut River situation is a good example, since no upstream

discharges of nitrogen in Massachusetts, New Hampshire, and Vermont are “into” nutrient-impaired waters.

Recommendation 14-2 addresses an important topic, but “public education” is probably not the way to improve septic system maintenance. It will require local ordinances that require homeowners to maintain their systems, or municipally run maintenance programs funded by tax dollars.

Recommendation 14-3 represents the status quo for management, but the additional research recommended is needed. The existing suite of BMPs is not very effective in all cases, and can be costly.

Recommendation 14-4 should be unquestioned. It is common knowledge that the state revolving funds are under funded by federal sources, and the needs for stormwater and NPS are even higher.

Connecticut is among the states that are experimenting with tradable credits for nutrients, as suggested in Recommendation 14-5.

Page 162 mentions oil runoff from streets that comes from leaking cars. The Commission should recommend regular inspections of automobiles for leaking fluids and require their repair, much as is done for exhaust emissions.

An increased focus on NPS is critically important to successful watershed management programs, but the report on pages 164 – 165 tends to perpetuate the arbitrary and problematic distinction between stormwater as a point source and other runoff as a NPS. This bifurcation, derived from legislation and legal interpretation of the Clean Water Act, makes management efforts more costly and inefficient than they would be if these two, closely related pollutant sources were combined under one authority and program. Thus, an alternative to Recommendation 14-7 might be to consolidate NPS and stormwater programs under one authority, especially the Environmental Quality Incentives Program of the USDA, which does not have a strong enough link to state NPS and stormwater programs. States have very limited ability to direct EQIP funds where they are most needed. There also needs to be a strong link to atmospheric pollution control programs, especially for nitrogen and mercury that impact coastal waters significantly. Recommendation 14-9, which puts 6217 into the hands of EPA, is a good start, but only a start at a better organization of these authorities.

The Commission’s recommendation to have the NOC set a NPS goal for coastal waters is well intentioned, but redundant with existing water quality authorities and management programs. It would be more efficient to work within a modified structure to ensure that coastal needs are being adequately met.

Expanding the use of state revolving funds to address NPS (p. 168) is not a new idea but would require a large infusion of added funds to meet needs. The huge stormwater Phase II implementation costs, for example, could not begin to be paid through revolving funds at current levels of capitalization.

Recommendation 14-10 will only prove counterproductive without an enormous infusion of funding. States are already shackled by inadequate funding to manage NPS, as well as by limitations in the effectiveness of BMPs, particularly for urban and suburban areas, and are also reluctant to order unfunded local mandates that would force municipalities to shoulder the burden. If EPA were to reclaim these programs when states fail to meet goals, it would never have the resources to do any better. This recommendation should include a fact-finding first step that would assess current management and costs and pair them with funding sources.

Recommendation 14-11 is a laudable goal, but current environmental science does not allow us to "...consider the individual and cumulative impacts of development on water quality, including effects on stormwater runoff." Further, local ordinances that require land use planners and decision-makers to only "consider" the impacts may not lead to desired management actions. If we knew how to effectively control NPS and stormwater, we could simply require the appropriate BMPs and land use practices be applied. The Commission should consider the level of effort that would be required to educate and provide land use commissions with the "knowledge and tools needed to make sound land use decisions." This is another recommendation that should first assess existing management programs, capabilities, and costs.

For Recommendation 14-12, the Commission should first have a team of experts assess the feasibility of the recommendation, and develop workable recommendations within a realistic budget.

Recommendation 14-13 should first identify the programs and activities that will allow watershed groups to "address problems associated with nonpoint source pollution". A strategy will only be as good as the underlying technical capabilities, and available funds, which the Commission may not fully appreciate. A more effective use of limited funds may be to enhance existing state and regional coordination efforts rather than create new watershed groups.

Chapter 16. Limiting Vessel Pollution and Improving Vessel Safety

Recommendation 16-6 assumes that MSDs effectively treat sanitary wastes from boats. There is ample evidence that they do an inadequate job of disinfecting, and do not reduce BOD or nutrient levels. MSDs should therefore be discouraged unless they can be proven to be reliable and meet more stringent BOD and nutrient levels as well as disinfect. The cost of systems that meet these standards, and the space they would take, make them impracticable for small vessels. This leaves Type III systems (holding tanks and landside pump outs) as the best alternative. They should become the minimum standard for all coastal waters, and the Commission should make such a recommendation.

Recommendation 16-7. The Commission suggests that EPA should conduct a thorough assessment, including field inspections to verify the availability and accessibility of functioning pumpouts in both existing and proposed No Discharge Zones (NDZs). Based on Connecticut's recent experience with designation of NDZs, that is exactly what EPA Region I does now for new proposals. A thorough review period including public notice and public participation was included in the development of the application for federal approval of Connecticut's designation of the NDZ. EPA should pressure states that are not moving forward on NDZ development, to do so.

There should be no “burden of proof” required of an impact from vessels in nearshore areas. Unambiguous NDZs in all coastal waters should be the goal.

Recommendation 16-8. The Commission's recommendation that an incentive program be developed to encourage use of treatment systems is not likely to promote improvements in water quality. In our experience, the small-scale treatment systems are difficult to keep in working order and do not in any event remove nutrients from boat sewage. Accordingly, holding tanks and shore-based treatment including nutrient removal are a far better method of minimizing all impacts of vessel sewage.

Consolidation of the programs related to marine sanitation may have some merit. However, its current association with other programs encourages the active participation in the program by boaters and anglers who are the payers of the excise tax that support these programs. The user pay-user benefit feature of the programs should be maintained.

Recommendation 16-9 seems like more work than it's worth. All vessels entering U.S. ports should be required to have Best Available Technology, or consistent attainable standards, for air emissions. Adoption of Recommendation 16-10 would seem to set such consistent standards anyway.

Chapter 17 Preventing the Spread of Invasive Species

We commend the Commission for recognizing the significance of invasive species and devoting a chapter to this issue in the draft report. However, the report gives too much weight to ballast water as the source of invasions and insufficient attention to other pathways, such as the use of non-native plants in the nursery trade and even in restoration projects, and non-native bird species in coastal areas. More and more states are beginning to document the adverse impact of expanding mute swan populations on native waterfowl populations and submerged aquatic vegetation. Non-migratory geese populations are also contributing to water quality degradation (e.g., nitrogen enrichment and coliform).

Recommendation 17-4. We agree with prevention as the first line of defense against invasive species. Prevention should include actions such as 1) using only plant or animal stock that is native to the specific geographic area in question, 2) subjecting any new plants or animals to be introduced for any purpose to an assessment of potential invasiveness. For example, since the mid-1980's, Connecticut's Department of Environmental Protection has prohibited the use of plants for tidal wetland restoration that are not derived from the shores of Long Island Sound, and Florida has employed laboratory procedures to test the potential 'invasiveness' of aquatic plants using techniques such as meristem culture. Education is an important tool in this arena, but we need more aggressive measures to assure that new introductions have low invasive potential.

Chapter 19: Enhancing the Use and Protection of Ocean Resources

We support many of the recommendations in Chapter 19. These include Recommendations 19-2, 19-4, 19-7, 19-9, 19-15 through 19-18, and 19-20 through 19-25. We recommend an addition to 19-19 and we are concerned with Recommendation 19-8 (see below). We disagree, in part or in whole, with Recommendations 19-1, 19-3, 19-5, 19-6, and 19-10, 19-11, 19-12, 19-13 and 19-14. Our specific comments on these recommendations follow.

Recommendation 19-1. Fishery management decisions should rely on sound science and incorporate SSC findings and advice into the decision-making process. We do not believe this should be accomplished to the exclusion of the other important elements of fishery management (see below at 19-3). We agree that the credentials of SSC members should be above reproach and that members should not have conflicts of interest, whether they are financial or professional in nature, that is, those with an inordinate stake in the outcome of the deliberations. This could include the employees of government agencies and environmental organizations as well as those contracted by fishing industry groups.

We disagree with the suggestion that NOAA or NMFS should approve or disapprove of the members of a RFMC's Scientific and Statistical Committee. A broader range of reviewers is necessary. The RFMCs select their committee members by soliciting nominations and reviewing credentials through a vetting process administered by council staff. Since about one-third of the voting members of each RFMC are state and federal agency managers, this mitigates against the implied concern of the Commission that SSCs will become populated with biased individuals.

Recommendation 19-3. We agree that SSCs (and the NMFS and councils' staffs, for that matter) should be required to supply necessary scientific information. We also agree that SSC estimates of allowable catch based on the best science available should be the starting point in determining management targets. The scientific advice underlying fishery management, whether it comes from federal stock assessments or scientific and statistical committee deliberations, is essential to good management decisions.

However, science is not perfect and, as the report acknowledges, it is not always certain. It often requires informed judgments to select from among competing views. Science is also not the only important factor in natural resource conservation decisions. Conservation is both resource protection and the meeting of human needs – for food, recreation, and commerce as well as non-consumptive purposes. Judgment calls often must be made when science is uncertain or to balance resource needs with human needs. For example, who should decide how restrictive a resource management goal should be and how quickly it should be achieved? What if meeting the goal by the deadline means the infrastructure necessary to support a viable fishery is lost to development, for example, waterfront piers and fish dealerships being converted to residential condominiums? Who should decide how much to moderate the management program in order to meet the goals but also preserve the fishery infrastructure?

RFMC members are expected to consider the scientific arguments as well as the human ones in developing management strategies satisfactory to their region and for the benefit of the Nation. That's the judgment call that is the essence of marine fisheries management and the RFMC process. We believe that the regional councils of government managers and appointed members of the public are the most appropriate bodies to make these important decisions, and that this recommendation should be reconsidered.

Recommendation 19-5. We believe there should be a mechanism to resolve indecision in the setting of allowable catches but, again, regional councils of government managers and appointed members of the public are the most appropriate bodies to make these decisions. We do not believe

it is desirable to vest that responsibility in a single chief scientist of a federal agency. If an argument sufficient to persuade an SSC to come to closure cannot be made, it is unlikely that the argument will be more persuasive if the NMFS Science Director attempts the action by decree.

Recommendation 19-6. The report makes a valid point regarding the need for timely fishery management. However, it is not justifiable to recommend a total closure of the recreational and commercial fisheries of all the states in a region, with the massive disruption that would ensue, simply because a regional fishery management council did not satisfy the NMFS's procedural need for a timely and adequate review of an FMP or amendment.

The law currently authorizes the Secretary of Commerce to develop a secretarial plan or amendment if NMFS feels sufficient or timely management progress is not being made. If the Secretary cannot muster a sufficient justification for secretarial action when NMFS feels there is a shortfall in the process, we doubt that the justification will be sufficient to justify the total closure of several states' fisheries. Unless irreparable harm will come to the resource by delaying a decision, the management system and society will probably benefit by taking the additional time to come to a satisfactory conclusion. We urge the Commission to reconsider this recommendation.

Recommendation 19-8. The licensing of marine anglers is a divisive issue. A marine recreational fishing license may be necessary for data collection and fishery management purposes but the issue should be addressed in dialogue with the NMFS, state agencies and the states' citizens, perhaps through interstate marine fishery commissions, but not as a federal mandate.

Recommendation 19-10. We do not believe that fishery management plans of the interstate fishery commissions should be required to adhere to the national procedural standards of the Magnuson-Stevens Act, or to the federal guidelines implementing those standards. Many of the process-oriented difficulties associated with Magnuson Act plans can be attributed to the inflexibility of the federal guidelines. The interstate fishery management process on the Atlantic coast is efficient and it works. The Atlantic States Marine Fisheries Commission has standards that are embodied in its charter. If additional guidelines are necessary, they should emanate from discussions initiated within the Commission.

Recommendation 19-11. While we agree that having a single management entity responsible for each plan would be desirable in many cases, it would not be appropriate to make this determination by federal legislation. We believe marine resource managers are best suited to determine which management body should manage a particular fishery. We believe that more emphasis should be put on encouraging existing management authorities (councils, interstate commissions, the NMFS) to determine which body would be best suited to develop a particular plan. In the case where the bodies strongly feel a joint process is appropriate, they should be free to do so.

Recommendation 19-12. The notion that the Nation's Governors should be prevented from submitting nominations that unequivocally satisfy their interests in accomplishing marine fishery management is not acceptable. Governors should be invited to appoint whomever they so desire to the state's "obligatory" seat on the council, as long as the nominee is knowledgeable regarding the subject fisheries of the RFMC, whether as a fisherman, researcher, educator or person with some other relevant qualifications. The language of Recommendation 19-12 should be limited to "at-

large" nominees only and, then, the Secretary should be free to achieve an appropriate balance by appointing RFMC members from the Governors' at-large slates of nominees of commercial and recreational fishery candidates and other members of the public who are knowledgeable about the subject fisheries.

Recommendation 19-14. This recommendation should be re-stated to strongly encourage all newly-appointed council members to complete such training rather than to mandate the activity. These members should not be prevented from voting until they have completed the proposed training. They have gone through a rigorous nomination and review process. They have all met the standard of being knowledgeable regarding the subject fisheries of the RFMC, prior to being appointed. While training prior to being seated is an excellent suggestion and should be strongly encouraged, it is inappropriate to withhold a member's right to vote until training has been completed.

Recommendation 19-19. While we agree that implementation of VMS is a worthwhile endeavor, we believe that the Congress should fund the fisheries VMS programs nationwide through general appropriations or the OCS revenue sharing program mentioned earlier in the report rather than through user fees.

This program is in the broad national interest for far more than fisheries management alone (e.g. Homeland Security, search & rescue operations). Moreover, operators in many fisheries that are depressed at this time, or those who operate in small, marginally-profitable but culturally and socially significant fisheries, cannot necessarily afford the cost of initial purchase and monthly maintenance of such systems. Finally, the costs should not be borne by fishermen alone because fishermen do not have the ability to pass on such costs to consumers (i. e. price paid is determined more at the wholesale level rather than by the harvester). However, those fishermen provide an invaluable benefit to society in producing fresh seafood for consumption by the non-fishing public and that public benefit justifies a more broadly-based funding plan than to require the fisherman, alone, to pay for the system.

Finally, Chapter 19 would be enhanced if the Commission were to strongly recommend that enhanced funding be provided specifically to support the marine fishery management activities of the coastal states as well the National Marine Fisheries Service and the regional fishery management councils (RFMCs).

Upon enactment of the Sustainable Fisheries Act Amendments to the Magnuson-Stevens Act in 1996, significant new responsibilities were undertaken by the Service, the councils and the states. States, in particular, do not receive Congressionally-authorized funding in support of their statutory obligation to participate during the councils' development of fishery management plans under the Act. The report of the Commission represents a timely opportunity to rectify that shortcoming. It would be helpful if the Commission acknowledged that new resources are needed by the coastal states to cover existing as well as new mandates and increased funding is required for the NMFS and the RFMCs to improve management of marine fisheries.

Chapter 25. Creating a National Strategy for Increasing Scientific Knowledge

Research, monitoring and education programs are important to fill understanding and management gaps that abound in the coastal and ocean environment, and we commend the Commission for focusing on eliminating our collective deficit in coastal and ocean science. However, while doubling the size of the federal budget for ocean research (currently at \$650 million annually) seems impressive, this would effectively place us in relative terms where we were 25 years ago. That is, ocean research now accounts for 3.5% of the federal research budget, but 25 years ago the allocation was 7%. When one considers the contribution of sea-related activities to the gross domestic product (by some estimates equivalent to 50% of the GDP), this recommendation seems significantly inadequate. Comparing the ocean research budget to, for instance, the size of NASA's budget, and the relative economic contributions of coastal and ocean-related vs. space-related activities, leads to the conclusion that even a doubling of ocean research funding is not sufficient.

Chapter 26. Achieving a Sustained, Integrated Ocean Observing System

We strongly support the establishment and operation of an Integrated Ocean Observing System, and facilitating access to and use of the data by many stakeholders. Ocean.US, with National Ocean Council oversight, should develop a set of core variables to be collected by all components of the IOOS, and the Commission should further recommend creating a national network of long-term monitoring reference sites, such as that established by the MarClim initiative in the United Kingdom.

Chapter 28. Modernizing Ocean Data and Information Systems

The first priority in coastal and ocean data availability should emphasize use by professionals – university, federal and state managers. However, to support educational and outreach efforts some emphasis should also be placed on the broader user community, including citizens and pre-college students. We assume that the proposed Ocean.IT group will provide due consideration of data and information access and usage at all levels.

Chapter 29. Advancing International Ocean Policy and Science.

The international perspective on climate and resource management issues poses a truly daunting challenge, but virtually every water quality, habitat, resource and human effect probably includes a component related to an international management need. One prime example is global warming, which can't be effectively managed by an individual nation. The report makes some praiseworthy recommendations to promote international science and adhere to some of the international treaties and agreements that suit federal policies, but without a heightened sense of need and value on the federal level, there will be little progress in addressing the most significant climate change-related problems.

Chapter 31. Summary of Recommendations

While this chapter provides a consolidated look at state roles, it offers little new authority other than a seat on regional councils. Beyond verbal encouragement (“opportunities for them to contribute to an integrated national ocean policy”) and talk of improvements and restructuring to enhance the way states do business, there are few new tools and inadequate funding to get the job done. Instead, we suggest that the bullet list on pages 380-381, “Important areas for state involvement” should be translated into a primary agenda for regional council discussions, and that the regional recommendations be adopted by the NOC. The topics on this list, such as the third

bullet regarding incorporation of coastal watersheds into coastal and NPS management, should serve as a jumping-off point for discussions among the states and the federal agencies, coordinated by the NOC. Federal managers need to work cooperatively with the states, tapping into the states' knowledge bases, rather than simply mandating better management according to federally-determined criteria.



State of Delaware
Office of the Governor

Ruth Ann Minner
Governor

June 1, 2004

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**Subject: Preliminary Report of the U.S. Commission on Ocean Policy
Governor's Draft, Washington, D.C., April 2004**

Dear Admiral Watkins:

I am pleased to submit Delaware's comments on the Preliminary Report of the U.S. Commission on Ocean Policy. Your findings and recommendation are of the utmost importance to Delaware. As you may be aware, no piece of land in Delaware is farther than eight miles from tidal water. As such, the Atlantic Ocean and its estuaries have profound impact on Delaware's economy and environment.

We have conducted a thorough review of the Preliminary Report. We held three public workshops across the state and all participants overwhelmingly recognized the importance of the oceans and coasts. We solicited comments from expert reviewers, requesting comments on either specific chapters and/or recommendations. These included many of my state agencies, local government planning departments, the University of Delaware and other institutions of higher learning, the State Conservation Districts, and many knowledgeable individuals.

Over 400 specific written comments (115 pages of text) from more than fifty specialists were received and considered. We also reviewed and considered hundreds of letters and dozens of verbal comments. Highlights of comments received are presented below. Other important issues that merit formal comment are included in the attached comprehensive summary of Delaware's comments.

While most of the recommendations in the report are commendable, I cannot emphasize enough that they will be meaningless unless adequate funding is provided to the States for our roles in implementation.

Management and Implementation

Management and implementation of solutions was inadequately addressed throughout the report. Certainly, “governance” was discussed, but the focus was from a national perspective. We are a *Nation of States*, and the states are where many of the decisions impacting our coasts and oceans will be made. The impact of human activities cuts through every chapter of the report, yet the management of these human activities, whether as individuals, communities or cultures are barely discussed. Chapter 9 mentions the need to reauthorize the Coastal Zone Management Act (CZMA) and recommends amendments that are worthwhile, but reflects a misunderstanding of the importance of this law to coastal states. **Congress must reauthorize and amend the CZMA.** This reauthorization must recognize and strengthen the CZMA’s community planning and smart growth elements, ocean management, watershed management, habitat restoration, and support special area management planning.

This effort should be linked with the other recommendations concerning management of watersheds and implementing the changes needed to restore ecosystems. Many issues discussed in the report could be addressed by enhancing state coastal management programs. Managing urban growth, restoration of brownfields, reducing pollution from watershed land uses and practices into coastal waters, avoiding or reducing natural hazards along shorelines and in floodplains, and reinvesting in port and harbor facilities are examples of areas where coastal management programs can have a significant impact. These efforts dovetail with my Livable Delaware program.

Education

We here in Delaware agree that there is a need for a systemic change in coastal and ocean literacy in order to advance the stewardship of these vital resources. However, the recommendations in Chapter 8 give only superfluous recognition of state and local responsibility and control in education. The report omits the U.S. Department of Education and both state and local education entities from responsibilities and funding. There is not a recommendation for any financial incentives to facilitate state partnering with higher education to infuse coastal and ocean-based examples into curricula at our schools. There needs to be. There is no recommendation for the engagement of educators who write the educational standards that students and teachers must meet. There needs to be.

The report identifies the importance of education and public awareness in developing stewards of our coasts and oceans. Yet I must say, it is naive in its expectations and too simplistic in its recommendations for the desired changes in ocean literacy. This is particularly evident for the broader K-12 education/pre-college community. The report has undercapitalized the effort required. The funding levels have not recognized that the infusion of ocean science education throughout the pre-college sector is a new initiative that requires new money. The funding levels recommended are inadequate to impact the educational system in the US. With regard to ocean education, the plan leaves many children behind.

Science

Perhaps the most difficult challenge facing the management of our coastal and ocean resources is managing those resources in a social environment of scientific uncertainty. Many of the most pressing issues and problems affecting the coastal and ocean environment are complex and often difficult to explain in simple cause-and-effect terms. The oceans are the major driver of earth's life support system, the minimal support for coastal and ocean science is not acceptable. Our lack of understanding of watersheds, estuaries and oceans dynamics has resulted in piecemeal legislation to address the 'problem of the moment' and wasted our financial resources in applying management strategies based on incomplete understanding. The report calls for ecosystem-based management, which assumes we understand how ecosystems, with all their interconnected parts, work. The Commission should reduce the time to ramp up funding for science from its recommended 5 years to the 2 or 3 years it has suggested for other priorities.

Monitoring and Observation

Delaware strongly supports an Integrated Ocean Observing System (IOOS). There are many examples of how a system modeled after the National Weather Service programs would help Delaware, just one will be presented here (others are in the attachment). We want to provide the advice and counsel stipulated in the report and I offer Delaware to serve as a pilot.

Neither Delaware nor any other state should be responsible for underwriting the cost of such a system. IOOS is planned to be a national federation of regional systems. Regional systems are not defined according to state or other jurisdictional boundaries – they are organized by ecosystems. Even though IOOS will be organized by regions in order to accommodate the uniqueness of each ecosystem, IOOS is still a national system. Some early drafts of federal legislation to appropriate funds for IOOS have gone so far as to stipulate \$1:\$1 match federal: state. The National Weather Service is not funded by state matching funds and neither should the IOOS.

IOOS and Localized Storm Impacts

The National Weather Service (NWS) network of observing stations and remote sensing capabilities are exemplary in predicting regional events and rainfall over large areas. There is the need for a more localized observing system in regions as discovered by the unfortunate incident of September 15, 2003. While NWS locations only reported 1 to 2 inches of rain throughout the region, a localized storm band of Tropical Storm Henri deposited an estimated 8 to 11 inches of rainfall over the headwaters of the Red Clay Creek watershed. This deluge caused an estimated 4.3 millions dollars of damage downstream. The area was designated a federal disaster area. Due to lack of a real-time warning system, there was little advanced warning to homeowners and businesses in the area. If this event had not happened during daylight hours there could have been a significant loss of life. The technology exists to couple weather radar with local real-time stations to accurately predict localized storm events and provide early warning, but funding and an organized structure for implementation must be secured. The IOOS would provide the ways and means to accomplish a real-time observing network and early warning system to protect the citizens of Delaware from future storm events.

Governance

It is undeniable that strong leadership is needed at the federal level to affect the major changes called for in the report. The proposed National Ocean Council in Chapter 4 may be the best solution, but I caution the Commission against the establishment of a new bureaucracy at the expense of existing statutory mandates. The National Ocean Council should coordinate and facilitate national missions and implementation and assists in regional, state and local implementation. The information describing the Presidential Council of Advisors on Ocean Policy (recommendation 4-5) lacks sufficient details. Additionally, Presidential Council of Advisors on Ocean Policy must include **at least** one Governor of a coastal state. The workload assigned to both of these Councils may require more than a “small staff”.

The proposed regional governance and research framework for coastal and ocean issues (recommendation 4-10) is good. Delaware is a part of the Mid-Atlantic Regional Systems that relates to the Mid-Atlantic Bight, ranging from Cape Cod to Cape Hatteras. We would like to volunteer to work with other states in this region to pilot this framework.

Although Delaware does not have oil or natural gas production facilities off its coastline, there is potential for new liquid and methane hydrate natural gas supplies from both shallow and deep water off the Delaware coast. We are also engaged in preliminary discussions with companies proposing renewable energy projects including offshore windmills and tidal turbines. With increased emphasis on utilization of not only renewable energy resources, but also on potential utilization of sand and gravel resources and emplacement of artificial reefs, competition exists for ocean-based resources offshore Delaware. Effective management of these competing uses is imperative so that as a nation we do not go down the same piecemeal “land use” path in the ocean as we have on land.

Funding

I commend the call to provide sufficient funding for a dedicated coastal and estuarine land conservation program. Delaware has long recognized the importance of protecting open space. Having been the creator of our open space program, I am especially grateful that the Commission recognizes the importance of permanent conservation of our critical coastal and estuarine lands.

The establishment of an Ocean Policy Trust Fund outlined in recommendation 30-1 is critical to implementing the changes proposed throughout the report. Delaware asks the Commission to strongly consider an allocation formula that recognizes that there are not just two categories of states, those with offshore federal land leases and those without.

The Delaware River supports the second largest petrochemical industry in the nation and must deal with the cumulative and secondary impacts of this industry, including accidental releases from refineries, oil spills and shoreline erosion caused by ship traffic. The US Coast Guard estimates that approximately 70% of all crude oil entering the Eastern United States transits the Delaware Bay. Over a ten-year period, the main shipping channel between Philadelphia and the Atlantic Ocean accommodated an average of 107 million tons per year involving over 150 different commodities. Crude petroleum and petroleum products represent more than 80% of the total tonnage of commodities moved. Volatile Organic Carbon (VOC)

emissions from petroleum transport and production are a significant source of ozone precursors. Controlling VOC emissions from lightering activities in the Bay and offshore has been targeted to help Delaware attain Air Quality Standards for Ozone. Additionally, maintenance dredging and potentially deepening the Delaware River Main Channel to accommodate this vessel traffic has wide reaching environmental impacts.

The amount of material moving through Delaware and its impact is vastly out of proportion with the population and coastline of the state. Thus, any distribution of OCS funds based solely on impacts of offshore leasing and development programs would put Delaware at great disadvantage. Delaware is clearly impacted by the movement and production of petroleum and any additional impacts from OCS exploration or production need to be equitably compensated.

Fisheries

While Delaware applauds many of the proposed improvements to fisheries management (Chapter 19), there are a few recommendations that Delaware believes warrant more consideration. Primarily, our concern rests with the attempts to separate science from management and the subsequent lack of flexibility afforded the Regional Fishery Management Councils should the Science and Statistical Committees (SSC) be granted sole authority in determining allowable biological catch. The current structure of our Regional Council, the Mid-Atlantic Fishery Management Council, has been carefully developed over the past two decades. It is effectively managing fish stocks by relying on stock assessment data from the National Marine Fisheries Service (NMFS) and advice from the SSC, while leaving the final decision for determining allowable biological catch and quota specifications up to the Council. This integration of science and management allows the necessary flexibility for our regional council to best manage the resource.

Another concern is suspending fishing on a stock for which a Fishery Management Plan (FMP) has not yet been approved by the NMFS. This would constitute an unfair burden on those whose livelihood depends on the fishery. Fishermen should not be penalized for a delay in the approval process considering that they have no control over the review and implementation of the FMP. Interim measures can be formulated that will allow some level of fishing to occur until a final FMP is approved.

Habitat


I applaud the emphasis on ecosystem management. Today, Delaware's coastal habitats are facing multiple threats including loss and degradation due to land development and poor local land-use planning. These impacts are largely seen on the land, but extend into the submerged habitats of our bays and ocean. From the introduction and proliferation of non-native invasive species to pollution and contamination, threats to Delaware's habitats take many forms. Delaware's marine resources are rich in species, genetic and ecosystem diversity and economic value. Marine ecosystems support many valuable recreational and commercial fish species. However, the conservation of habitat diversity in the ocean and bays, have been are even more neglected than on land.

While we have made many strides in protecting and restoring coastal habitats such as wetlands, the undersea habitat of our ocean and estuaries has received little attention. When establishing habitat conservation and restoration needs, more consideration must be given to benthic habitat in general. Due to difficulties in mapping and assessing these habitats, they are often overlooked. Yet these habitats are critical to the protection of multimillion-dollar fishery industries, the base for multimillion-dollar tourist and recreation industries, and the locations of largely unknown biological diversity. There is a critical need to identify the distribution of benthic habitat resources, assess the relative worth of services provided, and provide guidelines for conservation and restoration. Delaware is currently undertaking this type of effort, but there are no guidelines or coordinated efforts in place for working in adjacent states or federal waters. We can no longer ignore the need to protect these critical habitats simply because they are out of sight and out of mind.

Management tools for decision-makers to protect the state's marine biodiversity cost money. Such tools as biological inventories, research, monitoring, training and recruiting professionals, regulating threats to marine ecosystems and fisheries require a stable source of revenue. I encourage the Commission to allow states to set the agenda for addressing these needs based upon the financial resources available. We would like to know as much as possible about our ecosystems, but can't afford to do assessments everywhere before addressing the problems we are aware of now.

There are many actions that the President and Congress can take now to immediately implement some of the changes called for in the report. The organizational changes proposed in the report will take time and effort. They will also draw resources away from our shared goals. I urge you to focus on the no-regret actions now.

Thank you for the opportunity to comment. Delaware looks forward to working with our national partners in protecting our valuable coasts and oceans.

Sincerely,

Ruth Ann Minner
Governor

Cc: Secretary John A. Hughes, DNREC
Sarah Cooksey, DNREC

Attachment

THE STATE OF DELAWARE'S
SPECIFIC COMMENTS ON THE
PRELIMINARY REPORT OF THE U.S. COMMISSION ON OCEAN POLICY
GOVERNORS' DRAFT, WASHINGTON, D.C., April 2004

This document provides specific comments on recommendations that warrant special attention from Delaware's viewpoint. If a specific recommendation isn't addressed, it means we either supported it or felt it would not impact our state.

PART I Our Oceans: A National Asset and PART II Blueprint for Change: A new National Ocean Policy Framework, Chapters 1 – 7

The first three chapters (Recognizing Ocean Assets and Challenges, Understanding the Past to Shape a New National Ocean Policy and Setting the Nation's Sights) are primarily historical and background information. As such, we offer only one comment and one question.

Figure 1.3 is very difficult to read, and in the final printing hopefully will be sharper. "The Near Shore", defined as postal zip code areas that touch the shoreline of the oceans, Great Lakes, and major bays and estuaries, seems incorrect for Delaware.

Figure 3.1 has Delaware within the Northeast U.S. Large Marine Ecosystem. Since Delaware's coast and our stretch of the Atlantic Ocean is situated more or less in the middle of the Mid-Atlantic bight, which extends from Cape Cod to Cape Hatteras, how will the proposed Northeast U.S. Large Marine Ecosystem, which appears to exclude the Carolinas, impact our relationship with the existing political and biological structure?

Chapters four, five, six and seven (Enhancing Ocean Leadership and Coordination, Advancing a Regional Approach, Coordinating Management in Federal Waters and Strengthening the Federal Agency Structure) primarily address important changes needed at the national and regional level. Delaware's major comments on these larger organizational changes are included in the cover letter. We do offer the following comments and questions:

It is unclear how the Regions will report and work with the National Ocean Council and how state rights will be protected within the proposed framework.

Certainly, marine protected areas are important tools for ecosystem-based management. We want to make it clear that no marine protected area should

be established in or adjacent to state waters without the concurrence of affected states.

What is on the axis of Figure 7.1?

CHAPTER 8: Promoting Lifelong Ocean Education

Strengthening ocean awareness and understanding are critical developing public opinion that the ocean is a national priority. The recommendations of this chapter are all necessary to impact this change in public opinion; however, the recommendations often do not recognize funding sources, appropriate partners, or the process for implementation at the state and local levels.

The State of Delaware strongly agrees with the following three recommendations:

- 8-6** Ocean.ED, working with state and local education authorities and the research community, should coordinate the development and adoption of ocean-related materials and examples that meet existing education standards.

In order to incorporate ocean science into K-12 learning it is imperative that existing and new ocean-related materials be correlated to education standards. Existing standard and supporting materials should be formally identified before proceeding with new materials.

- 8-8** Ocean.ED should promote partnerships among school districts, institutions of higher learning, aquariums, science centers, museums, and private laboratories to develop more opportunities for students to explore the marine environment, both through visual means and hands-on field, laboratory, and at-sea experiences. Ocean.ED should ensure that ocean-based educational programs and materials acknowledge cultural differences and other aspects of human diversity, resulting in programs that expose students and teachers from all cultures and backgrounds to ocean issues.

Partnerships among school districts, universities, marine science and education institutions, aquaria, science centers, museums, and private organizations are critical to the development of ocean education and awareness programs for both the K-12 community and lifelong learners. Incentives and financial support are critical to enhancing these partnerships.

- 8-16** Ocean.ED, working with other appropriate entities, should enhance existing and establish new mechanisms for developing and delivering relevant, accessible information and outreach programs to enhance community education.

This recommendation moves ocean science to the lifelong process referenced in the chapter title. When capturing the K-12 and collegiate audiences, only approximately 27% of the general public is engaged. Informal education institutions are often

challenged with balancing a variety of environmental topics with limited resources. Assistance from Ocean.ED would be beneficial to enhancing ocean sciences informal education.

The following additional comments and suggestions to modify the recommendations of Chapter 8 are offered:

Chapter 8 recommendations appear too national in the approach, especially as they relate to K-12 education. There is a noticeable omission of the Department of Education and the state and local education administrative entities. Funding is necessary to encourage and implement suggested K-12 programs and partnerships. Marine science educators must be engaged in the decision making process to determine exactly what must be known to be deemed “ocean literate” and to engage educators who write the standards to incorporate the appropriate inquiry based science education.

Chapter 8 does not mention the National Estuarine Research Reserve System as a partner in ocean education. In many states, including Delaware, coastal education, including ocean literacy, often is administered through the respective Reserve.

The State of Delaware has concerns that Chapter 8 has undercapitalized the effort required for the desired changes in ocean literacy. While the recommendations are on target, funding levels have not recognized the infusion of ocean science education throughout the pre-college sector as a new initiative and one that requires new money. The funding levels recommended are inadequate to impact the educational system in the United States.

CHAPTER 9: Managing Coasts and Their Watersheds

9-1 Congress should reauthorize the Coastal Zone Management Act (CZMA) to strengthen the planning and coordination capabilities of coastal states and enable them to incorporate a coastal watershed focus and more effectively manage growth. Amendments should include requirements for resource assessments, the development of measurable goals and performance measures, improved program evaluations, additional funding to adequately achieve the goals of the Act, incentives for good performance and disincentives for inaction, and expanded boundaries that include coastal watersheds.

We strongly agree with this recommendation and, as outlined in our cover letter, this action should be implemented now due to the proven track record of success of the CZMA.

The Federal CZMA should be reauthorized to strengthen planning and coordination. This action would help support our Livable Delaware initiative to control sprawl and better manage growth.

We also support the amendments to strengthen the act. These amendments encompass a huge effort, that will take many years and greatly increased funding to accomplish, but are needed improvements. The proposed amendments for “resource assessment, goals, and performance measures” would also help to re-invigorate Delaware’s efforts for Environmental Indicators for the Coastal Zone. The amendment for incentives/disincentives has promise, but needs more attention and detail to make sure that performance criterion is applicable to the real world.

Our experience in Delaware may also provide a useful argument to the national debate over extension of our coastal zone boundaries to include coastal watersheds. Delaware currently includes its entire State in our approved Coastal Management Program. This has reduced conflict and allowed for more holistic management. We believe that other States would find it easier to deliver on the ground results by boundary expansion, since many of the coastal problem arise from upstream stresses on the Coastal area.

9-2 Congress should consolidate area-based coastal management programs in a strengthened National Oceanic and Atmospheric Administration (NOAA), capitalizing on the strengths of each program. At a minimum, this consolidation should include the Coastal Zone Management, National Estuarine Research Reserve System, and National Marine Sanctuary programs currently administered by NOAA and additional programs administered by other agencies: the Coastal Barrier Resources System; the National Estuary Program; and the U.S. Fish and Wildlife Service Coastal Program.

Insufficient information has been included to make any informed decision or to take a position on this recommendation.

Consolidation of various NOAA, EPA, and USFWS Coastal and Estuarine Programs under NOAA could significantly reduce redundancy and streamline management efforts. This will undoubtedly be difficult to accomplish, and is unclear if the end result would outweigh the cost and problems associated with such a massive reorganization. It may be that further attention to watershed, basin, state, and interstate mechanisms and federal support for funding these mechanisms will craft unified strategies focused on specific targets, standards and outcomes. This will likely yield better results than a federal reorganization.

At the State level, we have enjoyed a great deal of cooperation from the various federal agencies including NOAA, EPA, USGS, USFWS, and others. The recommendation is made in the context of "a strengthened National Oceanic and Atmospheric Administration (NOAA)." While there is certainly merit in this concept, the report doesn't provide enough information to evaluate whether this conceptual idea would truly provide any benefits if actually implemented. Also, if we are to truly accomplish a broad watershed or ecosystem approach, will NOAA’s mission be expanded to include specific focus on key issues that are currently addressed as the mission of other agencies without losing some level of expertise?

Clearly more information is needed to understand this recommendation. We would support strengthening of NOAA to better bring together and coordinate the good efforts of the other federal agencies with a strong focus on coastal and ocean issues.

- 9-3** The National Ocean Council should recommend changes to federal funding and infrastructure programs to discourage inappropriate growth in fragile or hazard-prone coastal areas and ensure consistency with national, regional, and state goals aimed at achieving economically and environmentally sustainable development.

We support changing federal funding policies to discourage inappropriate growth, as it will most directly address one of the primary stressors of coastal areas. However, it is critical that each State define "inappropriate" growth. Delaware does this through our Livable Delaware Initiative to develop State Strategies for Growth (another part of Livable Delaware). This plan considers our critical coastal resources and other green infrastructure as well as areas where we support growth. This strategy will be incorporated into Delaware's Approved Coastal Management Program by reference and should not be subordinated to any federal definition for appropriate growth. The approved program also outlines areas of special concern due to their importance to the State's economy, such as the need to support the Port of Wilmington, where a difficult balance between coastal resource protection and investment must occur without undue hardship on our maritime infrastructure.

- 9-4** Congress should amend the Coastal Zone Management Act, the Clean Water Act, and other federal laws where appropriate, to provide better financial, technical, and institutional support for watershed initiatives. Amendments should include appropriate incentives and flexibility for local variability. The National Ocean Council should develop guidance concerning the purposes, structures, stakeholder composition, and performance of such initiatives.

This recommendation seeks to address coastal and natural resources issues on a watershed scale. This has long been recognized as an important approach in Delaware. We even believe it should be taken a step further to have an ecosystem wide approach that includes watershed planning. This will better integrate economic goals, habitat goals, green infrastructure goals, and water quality goals from a "carrying capacity" perspective.

While supported, more detail on what the guidance proposed will include would be helpful. If this recommendation provides flexibility that allows increased interagency coordination and cooperation for regional resource protection initiatives it will be helpful. If it simply adds new guidance that interferes with flexibility for local variability, it may deter better regional initiatives. To be successful, those working in the specific region must be an integral part of the development and/or selected use of any National guidance to ensure it meets the needs of the specific geographic area.

CHAPTER 10: Guarding People and Property Against Natural Hazards

- 10-1** The National Ocean Council should review and recommend changes to the U.S. Army Corps of Engineers' Civil Works Program to ensure valid, peer-reviewed cost-benefit analyses of coastal projects, provide greater transparency to the public, enforce requirements for mitigating the impacts of coastal projects, and coordinate such projects with broader coastal planning efforts.

More valid, peer reviewed cost benefit analysis of coastal projects by USACE is vital to building public trust and confidence in government. Not doing so could create more opposition to good projects or promote wasteful spending on unnecessary projects.

Chapter 10, page 122, cites correcting the National Flood Insurance Program rate structure as a way to discourage building in high risk areas. Yet recommendation 10-1, which deals with the USACE civil works projects, fails to mention the larger potential that changing the way projects are funded could have in discouraging development in high risk areas. According to a study completed by the University of Delaware, shore protection projects are a powerful influence in coastal land prices, likely far more so than the NFIP. This recommendation may have far more influence on coastal development in high hazard areas than changes to the National Flood Insurance Program outlined in recommendation 10-3.

- 10-2** The National Ocean Council should establish a task force of appropriate federal agencies and representatives from state and local governments, with the Federal Emergency Management Agency in the lead, to improve the collection and usability of hazards-related data.

Better management and sharing of coastal hazards data can improve emergency planning. Due to the regional nature of coastal hazards, a Federal agency with adequate funding and coordination ability will be a valuable asset to improve planning.

- 10-3** The National Ocean Council should recommend changes in the National Flood Insurance Program (NFIP) to reduce incentives for development in high-hazard areas.

While we agree that changes to the National Flood Insurance Program to provide a disincentive to development in high hazard areas is needed, more information is needed on the specific examples provided.

The goals of this recommendation are to establish a "clear" disincentive for building in high risk areas by requiring actuarially sound rates for insurance. Actuarially sound rates would not be a disincentive; it would be a neutral policy. It is unclear this specific action will actually help. Additionally, this section mentions assistance in retrofitting older structures. Such grants or other forms of assistance may actually encourage continued occupation of high risk flood hazard areas.

We recommend that a more detailed evaluation be conducted to identify specific changes to the NFIP that would clearly provide disincentives from either building or staying in high hazard areas. Until these are defined, this effort may not be accomplish its stated objectives.

- 10-4** The National Ocean Council (NOC) should encourage Congress to increase financial and technical assistance to state and local entities for developing hazards mitigation plans consistent with requirements of the Federal Emergency Management Agency (FEMA). The NOC should also identify opportunities for conditioning federal hazards-related financial and infrastructure support on completion of FEMA-approved state and local hazards mitigation plans.

If the National Ocean Council successfully convinces Congress to increase financial and technical assistance for developing hazard mitigation plans, we could reduce problems such as those that occurred at Glenville, Little Mill Creek, and routinely along our Atlantic Coast. This saves lives and millions of dollars.

We encourage improved coordination and cooperation between FEMA and the Corps in developing hazard reduction plans for beachfront communities, and the maintenance of hazard reduction projects.

CHAPTER 11: Conserving and Restoring Coastal Habitat

- 11-1** Congress should amend the Coastal Zone Management Act to authorize and provide sufficient funding for a dedicated coastal and estuarine land conservation program.

We strongly agree with this recommendation. The addition of a CZMA amendment funding Habitat Conservation will advance Delaware's Land Protection Program goals. Furthermore, federal funds designated for coastal and estuarine land conservation will complement, and become match to, land acquisitions approved by the State's Open Space Council.

- 11-2** The National Ocean Council should develop national goals for ocean and coastal habitat conservation and restoration efforts and should ensure coordination among all related federal activities. The regional ocean councils and regional ocean information programs should determine habitat conservation and restoration needs and set regional goals and priorities that are consistent with the national goals.

Delaware agrees with this recommendation. We also hope that in the setting of habitat conservation and restoration needs, more consideration will be given to benthic habitat in general. Due to difficulties in mapping and assessing these habitats, they are often overlooked. There is a need to identify the distribution of benthic habitat resources, assess the relative worth of services provided, and provide guidelines for conservation and restoration. Delaware is currently undertaking this type of effort, but there are not

guidelines or coordination efforts in place for working with adjacent state or federal waters.

- 11-3** Congress should amend relevant legislation to allow federal agencies greater discretion in using a portion of habitat conservation and restoration funds for related assessments, monitoring, research, and education.

We disagree with this recommendation. While we agree with the need for assessment, monitoring, research and education associated with habitat conservation and restoration, it must not come at the cost of on the ground habitat conservation work.

- 11-4** The National Ocean Council should coordinate development of a comprehensive wetlands protection program that is linked to coastal habitat and watershed management efforts and should make specific recommendations for the integration of the Clean Water Act Section 404 wetlands permitting process into that broader management approach.

A more comprehensive wetland protection program linked to landscape ecology is needed to streamline the cumbersome existing federal program. This would be extremely useful and welcomed in Delaware.

CHAPTER 12: Managing Sediment and Shorelines

- 12-1** The National Ocean Council should develop a national strategy for managing sediment on a regional basis, taking into account both economic and ecosystem needs. The strategy should: consider adverse impacts on marine environments due to agriculture, dredging, pollutant discharges, and other activities that affect sediment flows or quality; ensure involvement of port managers, coastal planners, and other stakeholders in watershed planning; and require that ecosystem-based management principles serve as the foundation for permitting processes for activities that affect sediment.

We strongly agree this recommendation. National Sediment strategy built on regional bases is needed. Without this, States may find themselves competing for future sand resources at an increased fiscal cost and higher environmental cost.

Some commenters felt that a major foundation point that should also be made in this chapter with respect to managing sediments, and in particular, contaminated sediments. This additional point is that contaminants associated with sediments in the coastal and ocean environments, with few exceptions, originate from land-based sources.

The report should make a stronger connection between known problems in the coastal and ocean environments and their sources. In particular, the report should include a recommendation to more fully evaluate the connection between on-land sources of pollution and coastal/oceanic impacts.

- 12-3** The National Dredging Team and regional dredging teams should begin to implement more ecosystem-based approaches. The National Dredging Team should implement the recommendations of the 1994 report to the Secretary of Transportation, *The Dredging Process in the United States: An Action Plan for Improvement*, with a priority of developing and implementing a streamlined permitting process. Regional dredging teams, working with regional ocean councils, should establish sediment management programs that include watersheds, coastal areas, and the nation's shoreline.

We disagree with this recommendation. The National Dredging Team and Regional Dredging Team approach was ineffective. The Port of Wilmington has some reservations. They feel that addressing dredging and dredge disposal issues on regional and/or ecosystem basis seems somewhat idealistic and impractical. When one considers the various competing commercial/economic interests within a region and/or ecosystem, it is most likely going to be very difficult to foster cooperation from and among the various private entities affected.

CHAPTER 13: Supporting Marine Commerce and Transportation

- 13-3** The U.S. Department of Transportation should draft a new national freight transportation strategy to support continued growth of the nation's economy and international and domestic trade. This strategy should improve the links between the marine transportation system and other components of the transportation infrastructure, including highways, railways, and airports. Based on the new strategy, investments should be directed toward planning and implementation of intermodal projects of national significance.

This is an opportunity to build and improve the Port of Wilmington and other freight/cargo/passenger points along the coast. The Port feels this would have a positive effect on I-95 congestion and improve railroad access.

Concerns focus on the need for State involvement in the planning process. States must be a part of the planning process or run the risk of having improvements that help the ports but hurt surrounding communities – unwanted roads, rail, and traffic.

- 13-4** The U.S. Department of Transportation should conduct a thorough analysis and assessment of the potential societal and economic benefits of increased short sea shipping.

We strongly agree with this recommendation. This might lead to increased vessel activity along waterways and strengthen local and regional economies. This benefits professional mariners and longshoremen. This may also lead to decreased roadway congestion (locally and regionally).

- 13-5** The U.S. Department of Transportation (DOT), working with other appropriate entities, should establish a national data collection, research, and analysis program

to provide a comprehensive picture of freight flows in the United States and to enhance the performance of the nation's intermodal transportation system. DOT should periodically assess and prioritize the nation's future needs for ports and intermodal transportation capacity to fulfill the needs of the Nation's expected future growth in marine commerce.

The freight information collection program should include:

- Economic models that project trade and traffic growth and determine the impacts of growth on U.S. ports and waterways and the inland infrastructures connected to them
- Models and guides to identify bottlenecks and capacity shortfalls
- Consistent, nationally accepted definitions and protocols for measuring capacity
- Innovative trade and transportation data collection technology and research to fill critical data gaps
- Assessment of the social and economic ramifications of marine transportation investments as compared to other transportation investments

It would provide a source of valuable research data, a potential source of research money for state agencies, private sector, and academia, and would prove invaluable as a resource for state planning efforts. Again, the state would want to be involved to have a say in methodology and focus.

CHAPTER 14: Addressing Coastal Water Pollution

14-1 The U.S. Environmental Protection Agency (EPA) and states should require advanced nutrient removal for wastewater treatment plant discharges into nutrient-impaired waters. Additionally, EPA should support a vigorous effort to characterize the extent of the impact of household and industrial chemicals in wastewater.

In particular, EPA should:

- support research and demonstration projects for biological nutrient removal and other innovative advanced treatment processes to eliminate nitrogen and phosphorus from wastewater discharges.
- ensure that information about innovative advanced treatment processes and technologies is widely disseminated.
- support development of technologies to reduce concentrations of pharmaceuticals, personal care product ingredients, and other biologically active contaminants in wastewater treatment plant discharges.

14-2 The U.S. Environmental Protection Agency (EPA) and states should increase technical and financial assistance to help communities improve the permitting, design, installation, operation, and maintenance of septic systems and other on-site treatment facilities. State and local governments, with assistance from EPA, should adopt more effective building codes and zoning ordinances for septic

systems and should improve public education about the benefits of regular maintenance.

Maintenance of septic systems should include regular inspections to see if they are failing. However, even ‘working’ septic systems add pollutants to coastal waters. Septic systems in areas with nutrient impaired waters should have additional nutrient removal technology added. Ensuring sufficient funding available to assist in the repair or replacement of failing systems is needed. Also, this recommendation does not seem to recognize wastewater spray irrigations as an alternative that is often a better long-term way to address nutrients. These systems use crops to sequester nutrients before they enter surface or groundwater systems.

- 14–3** Where necessary to meet water quality standards, states should issue regulatory controls on concentrated animal feeding operations in addition to those required by the federal government. The U.S. Environmental Protection Agency and the U.S. Department of Agriculture should fund research on removal of nutrients from animal wastes and should develop improved best management practices that retain animal waste-derived nutrients and pathogens on agricultural lands.

The State of Delaware is currently working closely with the U.S. Environmental Protection Agency and U.S. Department of Agriculture, Natural Resources Conservation Service to develop their General CAFO Permit. During this process, the State of Delaware is including criteria they feel is needed in Delaware and agree that there should be funding for research on removal of nutrients from animal waste.

- 14–4** The U.S. Environmental Protection Agency, working with state and local governments, should develop a prioritized, comprehensive plan for long-term funding of the nation’s current aging and inadequate wastewater and drinking water infrastructure, anticipating demands for increased capacity and more stringent treatment in the coming decades. To implement this plan, Congress should fund the State Revolving Fund Program at or above historic levels.

Additional funding for the Clean Water State Revolving Fund Program (CWSRF) is essential to eliminating sources of pollution to Delaware's waters. Delaware has identified \$250 million in projects that need funding. These projects are critical to eliminating both point and non-point sources of pollution from Delaware's waters. Any funding of the CWSRF above historic levels will only hasten the cleanup of Delaware's waters. In addition, it is important to note that the Safe Drinking Water Act SRF is an important fund for infrastructures improvement and pollution control activities for both point and non-point sources. The report could be strengthened by including a description of this important program.

- 14–5** The U.S. Environmental Protection Agency and states should experiment with tradable credits for nutrients and sediments as a water pollution management tool and evaluate the ongoing effectiveness of such programs in reducing water pollution.

While we support the concept of pollutant trading programs, the specific details of the pollutant and the program are the key to whether or not a program will be successful. A sufficient overall reduction in the pollutant loading and its impact on the environment must be ensured in the design of the program.

14-6 The U.S. Environmental Protection Agency and states should modernize the National Pollutant Discharge Elimination System's information management system and strengthen the program's enforcement to achieve greater compliance with permits and develop an effective ongoing monitoring program.

Delaware has an effective monitoring program and agrees that the National Pollutant Discharge Elimination System's information management system needs to be modernized.

14-7 The U.S. Department of Agriculture (USDA) should align its conservation programs and funding with other programs aimed at reducing nonpoint source pollution, such as those of the U.S. Environmental Protection Agency and the National Oceanic and Atmospheric Administration.

In particular, USDA's Natural Resources Conservation Service should:

- Require that its state conservationists coordinate with representatives of federal and state water quality agencies and state coastal management agencies, and participate in watershed and coastal management planning processes, to ensure that funding for agricultural conservation programs complements and advances other federal and state plans.
- Provide enhanced technical assistance in the field to meet the demands of growing agricultural conservation programs.

The State of Delaware and USDA, NRCS design conservation programs through a locally-led process using the State Technical Committee. Partners are encouraged to actively participate as members of the State Technical Committee and coordinate to achieve locally defined conservation concerns. USDA should align its conservation programs and funding with other programs at reducing nonpoint source pollution

We have concerns regarding the following three recommendations (14-8 through 14-10):

14-8 The National Ocean Council (NOC) should establish significant reduction of nonpoint source pollution in all impaired coastal watersheds as a national goal, and set specific, measurable objectives focused on meeting human health- and ecosystem-based water quality standards. The NOC should ensure that all federal nonpoint source pollution programs are coordinated to meet those objectives.

The NOC should also ensure that "all federal nonpoint source pollution programs" are funded at a sufficient level to undertake such a daunting task. Reductions in nonpoint

source pollution are important goals for our State. Federal programs should be designed with appropriate flexibility so that States and local governmental entities can coordinate efforts on the ground to achieve water quality standards. Regional pollutant standards (nutrient standards) could be helpful in this process. Nationally, the achievement of water quality standards should be a rallying point. However, coordination of actual BMP implementation is best achieved at a more local level.

Effective nonpoint source control efforts require a tremendous amount of assessment and priority setting analyses in order to efficiently utilize extremely limited funding. Any additional funding made available for nonpoint source controls should go to those jurisdictions which have accomplished the analyses and are prepared to target those practices which will achieve the necessary reductions. Jurisdictions must be prepared to adopt regulations when necessary. We agree that the National Ocean Council should establish significant reduction of nonpoint source pollution in all impaired coastal watersheds as a national goal. They should work in concert with other federal, state, and local agencies. These goals should be specific and measurable, but also realistic and attainable by our citizens.

- 14-9** To improve and strengthen federal efforts to address nonpoint source pollution, Congress should amend the Clean Water Act to merge the National Oceanic and Atmospheric Administration's enforceable nonpoint source pollution program, created under Section 6217 of the Coastal Zone Act Reauthorization Amendments, into the U.S. Environmental Protection Agency's incentive-based program, created under Section 319 of the Clean Water Act. To support these efforts, Congress should provide adequate federal resources to enable states to implement best management practices.

It is unclear from this recommendation whether the Commission supports one nonpoint source program that uses voluntary efforts such as the U.S. Environmental Protection Agency's incentive-based program, created under Section 319 of the Clean Water Act to correct the problem or one program that is enforceable as the Section 6217 of the Coastal Zone Act Reauthorization was meant to be.

- 14-10** Congress should provide authority under the Clean Water Act and other applicable laws for federal agencies to impose financial disincentives and establish enforceable management measures to ensure action if a state does not make meaningful progress toward meeting water quality standards on its own.

While this recommendation does make sense in addressing coastal water quality, financial disincentives has not worked in the past well. States may lose flexibility needed to work with the diverse communities involved in activities leading to nonpoint source pollution. At times, more federal oversight and enforcement could negatively impact progress that has been made.

- 14-11** State and local governments should revise their codes and ordinances to require land use planning and decision-making to carefully consider the individual and

cumulative impacts of development on water quality, including effects on stormwater runoff. The U.S. Environmental Protection Agency and other appropriate entities should increase outreach programs that provide local land use decision makers with the knowledge and tools needed to make sound land use decisions that protect coastal water quality.

Delaware strongly agrees with this recommendation. Suburban sprawl has become the prevalent development pattern in Delaware. Sprawl contributes to a loss of 3,500 acres of farmland per year, aggravates traffic congestion, destroys natural habitat, contributes to groundwater pollution and increases impervious surfaces. The cumulative impact has been degradation of the state's water quality, biodiversity and local community character. Delaware has adopted watershed management programs to address issues of nonpoint pollution and Governor Minner's Livable Delaware Program is developing statewide policies to address sprawl. Delaware NEMO (Nonpoint Education for Municipal Officials) has initiated a partnership of university, non-profit organizations and state and local governments to develop educational programs to build on these regulatory and policy efforts.

14-12 The U.S. Environmental Protection Agency, working with state and local governments, should ensure that stormwater management programs are based on a comprehensive approach that includes: codes or ordinances requiring best management practices; increased enforcement of legal requirements; monitoring to determine whether goals and state water quality standards are being met and to identify ongoing problems; an adaptive management approach to ensure that efforts are effective and that best management practices are modified as needed; improved public education; and funding and personnel sufficient to implement and enforce stormwater management programs.

Professional training should be emphasized as a component of a comprehensive approach for stormwater management.

14-13 The National Ocean Council and regional ocean councils should strengthen the ability of collaborative watershed groups to address problems associated with nonpoint source pollution by developing and implementing strategies to provide them with adequate technical, institutional, and financial support.

14-14 The U.S. Environmental Protection Agency, states, and watershed groups should explore regional approaches for managing atmospheric deposition, particularly when it affects water bodies in states far from the source.

In some areas, localized sources are also contributing to the problem. These same groups should work towards understanding the localized issues as well through providing funding for research, monitoring, and pilot programs to reduce emission from local sources. In addition, the federal government needs to include international sources, particularly for very fine particles, including mercury.

CHAPTER 15: Creating a National Water Quality Monitoring Network

We have concerns over the following recommendations (15-1 through 15-4):

- 15-1** The National Oceanic and Atmospheric Administration, U.S. Geological Survey, and U.S. Environmental Protection Agency, working with other appropriate entities, should develop a national water quality monitoring network that coordinates existing and planned monitoring efforts, including monitoring of atmospheric deposition. The network should include a federally funded backbone of critical stations and measurements needed to assess long-term water quality trends and conditions.
- 15-2** The National Oceanic and Atmospheric Administration should ensure that the national water quality monitoring network includes adequate coverage in both coastal areas and the upland areas that affect them, and that the network is linked to the Integrated Ocean Observing System, to be incorporated eventually into a comprehensive Earth observing system.
- 15-3** The National Oceanic and Atmospheric Administration, U.S. Geological Survey, and U.S. Environmental Protection Agency, working with other appropriate entities, should ensure that the national water quality monitoring network includes the following elements: clearly defined goals that fulfill user needs and measure management success; a core set of variables to be measured, with regional flexibility to measure additional variables where needed; an overall system design that determines where, how, and when to monitor and includes a mix of time and pace scales, probabilistic and fixed stations, and stressor- and effects-oriented measurements; technical coordination that establishes standard procedures and techniques; and periodic review of the monitoring network, with modifications as necessary.
- 15-4** The National Oceanic and Atmospheric Administration, U.S. Geological Survey, and U.S. Environmental Protection Agency, working with other appropriate entities, should ensure that water quality monitoring data are translated into timely and useful information products that are easily accessible to the public and linked to output from the Integrated Ocean Observing System.

Given the need to maintain consistent monitoring efforts in order to track water quality status and trends, and acknowledging the inconsistencies between state programs, it is important to have a strong federal monitoring protocol. While national monitoring is needed, better coordination and financial support of state efforts are crucial and any national effort should exist to complement and support state required monitoring.

CHAPTER 16: Limiting Vessel Pollution and Improving Vessel Safety

- 16-6** The U.S. Environmental Protection Agency should revise the Clean Water Act marine sanitation device (MSD) regulations to require that new MSDs meet significantly more stringent pathogen-reduction standards. The U.S. Coast Guard should require manufacturers to provide warranties that MSDs will meet these new standards for a specified time period.

We strongly agree with this recommendation. The Delaware Bay and River, the Inland Bays, and Delaware's Atlantic coast are areas of high boat traffic, both recreational and commercial. Stricter control standards for pathogen reduction could greatly reduce the environmental and health risks associated with the discharge of treated sewage from these devices.

- 16-9** The U.S. Environmental Protection Agency, working with other appropriate entities, should investigate and develop incentive-based measures that result in measurable voluntary reductions in vessel air emissions.

Delaware wants to make it clear that in some instances, controls may be the only means to make effective reductions.

- 16-11** Congress should create an incentive program for boat owners to install or use less polluting engines in recreational boats.

We strongly agree with this recommendation. The Inland Bays, an ecologically sensitive area, sees the highest concentration of recreational boaters each year in Delaware. Incentive programs to install or use less polluting engines, which would reduce the total hydrocarbon emissions that contribute to ozone formation, can result in significant reductions in air and noise pollution in these as well as other areas in the state.

- 16-12** The U.S. Department of Transportation, U.S. Coast Guard, U.S. Environmental Protection Agency, and Minerals Management Service should conduct a risk-based analysis of all oil transportation systems, identify and prioritize areas of greatest risk, and develop a comprehensive plan for long-term action to reduce the threat of significant spills.

We strongly agree with this recommendation. The Port of Wilmington is a major port and distribution center for the liquid bulk petroleum products that are carried up the Delaware River by tanker vessels. A petroleum spill from these vessels in the Delaware River or its adjacent waters could result in serious environmental and human health risks. A long-term plan to reduce these threats could reduce the risks of such occurrence within Delaware's coastal waters.

In addition, strong consideration should be made for federal controls on lightering operations. As an example, the lightering that occurs in the Delaware Bay for vessels destined for the various refineries is the largest source of volatile organic compounds in

the state, and this does impact water quality. In 1994, EPA excluded lightering emissions from the scope of the Marine Vessel Unloading Maximum Available Control Technology (MACT) guideline but indicated that "...the Agency may consider addressing lightering operations in a separate source category." (59 CFR 25004 May 13, 1994, Subpart Y proposed rule). EPA should be reminded that lightering is occurring nationally at various levels in Boston, New York, and along the Gulf and West Coast, as well as in Delaware. The International Maritime Organization should be fully engaged in the global aspects of this concern in order to reduce ozone-related and air toxics emission in other highly polluted areas that have issues and provide much needed compatibility of lightering procedure, plans, equipment and control systems.

16-13 The U.S. Coast Guard, working with the spill response community, should develop comprehensive policy guidance and contingency plans for places of refuge in the United States. The plans should clearly delineate decision-making authorities and responsibilities and provide for a coordinated and timely assessment and response to vessels seeking a place of refuge.

The Port of Wilmington is a major port and distribution center for liquid bulk petroleum products which are carried up the Delaware River by tanker vessels. A petroleum spill from these vessels in the Delaware River or its adjacent waters could result in serious environmental and human health risks. Established plans to aid vessels in need of refuge could reduce the risks of an environmental disaster within Delaware's coastal waters.

CHAPTER 17: Preventing the Spread of Invasive Species

17-3 The National Ocean Council, working with the Aquatic Nuisance Species Task Force and the National Invasive Species Council, should coordinate public education and outreach efforts on aquatic invasive species, with the aim of increasing public awareness about the importance of prevention.

We strongly agree with this recommendation. Delaware has vast water-based resources which are enjoyed by both residents and visitors to the State, as well as commercial fisherman. The introduction and spread of invasive species could result in great economic and environmental impacts for Delaware. Increasing public awareness would help control the spread of invasives as well as potentially aiding in the detection of species and notification of authorities.

The State of Delaware has concerns over the following two recommendations (17-4 & 17-7):

17-4 The National Invasive Species Council and the Aquatic Nuisance Species Task Force, working with other appropriate entities, should establish a national plan for early detection of invasive species and a system for prompt notification and rapid response. Congress should provide adequate funding to support the development and implementation of this national plan.

- 17-7** The National Ocean Council should coordinate the development and implementation of an interagency plan for research and monitoring to understand and prevent aquatic species invasions. Congress should increase funding in this area to improve management decisions and avoid future economic losses.

Increased funding for the research, monitoring, and early detection of invasive species is important for controlling the introduction and spread of invasive species. These two efforts should be funded jointly to maximize the efficiency of both aspects of the management of invasive species.

CHAPTER 18: Reducing Marine Debris

- 18-2** The National Ocean Council should re-establish an interagency marine debris committee, co-chaired by the U.S. Environmental Protection Agency and National Oceanic and Atmospheric Administration. The committee should work to expand and better coordinate national and international marine debris efforts, including: public outreach and education; partnerships with local government, community groups, and industry; monitoring and identification; and research.

We disagree with this recommendation. Marine debris management falls directly in line with NOAA's mission and management responsibilities. Creating an interagency marine debris committee may hinder the efforts of the agency with the primary responsibilities for management and implementation of marine debris control program.

CHAPTER 19: Achieving Sustainable Fisheries

We disagree with following recommendations (19-1 through 19-3 & 19-5 through 19-6):

- 19-1** Congress should amend the Magnuson–Stevens Fishery Conservation and Management Act and related statutes to require Regional Fishery Management Councils (RFMCs) and interstate fisheries commissions to rely on their Scientific and Statistical Committees (SSCs), incorporating SSC findings and advice into the decision-making process. In keeping with this stronger role, SSC members should meet more stringent scientific and conflict of interest requirements, and receive compensation.

The State of Delaware is a member of the Mid-Atlantic Fishery Management Council (MAFMC). Over the past decade, the MAFMC, as well as the New England Fishery Management Council have developed an effective system for managing fish stocks utilizing the best scientific data available. The two Councils depend on the stock assessment information provided by the National Marine Fisheries Service, Northeast Fisheries Science Center for the technical data needed to manage fish stocks. The Science Center's staff specializes in the collection and analysis of data directly used in analytical stock assessments and is, by far, the most qualified group in the Northeast to handle this task. In contrast, the SSCs are made up of a diverse group of state and federal scientists that cover a wide variety of disciplines including fisheries economics and

anthropology which provide socioeconomic background needed as part of the fishery management process. By combining the input on stock assessments provided by the Science Center staff with the socioeconomic expertise of the SSC, both Council's have developed a system that provides the broadest perspective of expertise available for fisheries management. The Mid-Atlantic Fisheries Management Council (MAFMC) has taken this process even further by establishing Species Monitoring Committees that combine expertise from federal and state scientists to focus on a single species. Currently, the most knowledgeable and experienced individuals for a given species meet annually to review stock assessment updates and develop recommendations to the MAFMC prior to all quota setting meetings.

As proposed in Recommendation 19-1, the sole use of a Regional Fisheries Management Council's (RFMC) Science and Statistical Committee (SSC) to generate data to manage fish stocks may not be the most effective approach for all the RFMCs. Any requirement that solely requires the use of the SSC as a data input source is ill-advised especially in those situations where a successful system has already been developed, such as the approach described above currently utilized by the MAFMC.

19-2 Scientific and Statistical Committees (SSCs) should be required to supply Regional Fishery Management Councils (RFMCs) with the scientific information necessary to make fishery management decisions. Such information could include reports on stock status and health, socioeconomic impacts of management measures, sustainability of fishing practices, and habitat status. In particular, the SSCs should determine allowable biological catch based on the best scientific information available to them.

The SSC should not have the responsibility for determining the allowable biological catch. The RFMCs should continue to be responsible for formulating the recommendation to NMFS for allowable catch. The RFMC members must follow the National Standards, as defined in the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), to guide them in deliberations that ultimately lead to a recommendation on allowable biological catch. Local knowledge and expertise of RFMC members are important aspects of this process and should continue to be utilized in establishing allowable biological catch.

19-3 Each Regional Fishery Management Council should be required to set harvest limits at or below the allowable biological catch determined by its Scientific and Statistical Committee. The councils should begin immediately to follow this practice, which need to be codified at the next opportunity in amendments to the Magnuson-Stevens Fishery Conservation and Management Act.

The Science and Statistical Committees should not have total responsibility for establishing allowable biological catch. This decision should continue to be the Regional Fishery Management Council's responsibility. Councils are required to follow the national standard mandates in MSFCMA in establishing allowable biological catch.

19-5 Each Regional Fishery Management Council should set a deadline for its Scientific and Statistical Committee (SSC) to determine allowable biological catch. If the SSC does not meet that deadline, the National Marine Fisheries Service Regional Science Director should set the allowable biological catch for that fishery.

Establishing biological catch recommendations should remain the responsibility of the Council and not be transferred to the SSC. If the Councils are unable to formulate a recommendation, in a timely manner, the Regional Administrator of NMFS will assume responsibility for the process. This is essentially how the current system operates and it should remain in place.

19-6 Once allowable biological catch is determined, whether by the Scientific and Statistical Committee or the National Marine Fisheries Service (NMFS) Regional Science Director, the Regional Fishery Management Council should propose a fishery management plan in time for adequate review and approval by NMFS. If the plan is not presented in a timely fashion, all fishing on that stock should be suspended until NMFS can review the adequacy of the management plan.

It is unreasonable to specify that all fishing should terminate on a species until a fishery management plan is approved by NMFS. In general, some level of fishing can occur on most fish stocks without causing any adverse impact. Therefore, it would be unfair to those individuals whose livelihood depends on a fishery to be denied access as a result of a delay in the bureaucratic process for developing an FMP. Interim measures can be formulated that will allow some level of fishing to occur until a final FMP is approved.

19-10 Congress should develop new statutory authority, similar to the Atlantic Coastal Fisheries Cooperative Management Act, to support and empower the Gulf States and Pacific States Fisheries Management Commissions. All interstate management plans should adhere to the national standards in the Magnuson-Stevens Fishery Conservation and Management Act and the federal guidelines implementing these standards. States should participate in guideline development to ensure they are relevant to interstate plans.

The concept of the Gulf States and Pacific States Fisheries Management Commissions being empowered with fisheries management authority similar to the authority granted the Atlantic States Marine Fisheries Commission (ASMFC) should be pursued. The second part of this recommendation, which suggests that all interstate management plans should adhere to the national standards under MSFCMA, is ill-advised and would remove the flexibility that the states currently have for developing regional fishery management plans (FMPs). Experience has shown that ASMFC can develop more flexible rebuilding and fishing rate reduction schedules than what is possible under the Federal National Standards requirements. Flexibility and timeliness are two important aspects of FMP development that need to remain available to fishery managers, especially for interstate management programs.

- 19–12** Congress should amend the Magnuson–Stevens Fishery Conservation and Management Act to require governors to submit a broad slate of candidates for each vacancy of an appointed Regional Fishery Management Council seat. The slate should include at least two representatives each from the commercial fishing industry, the recreational fishing sector, and the general public.

The State of Delaware has had difficulty in the past finding three applicants that are required for consideration under the current council candidate process. It is difficult to find qualified people that have the extensive time available to devote to fishery management issues. As such, under this recommendation each state would have to submit six names rather than three and experience has shown that this will be extremely difficult if not impossible.

- 19–16** Congress should repeal the Fisheries Finance Program (formerly the Fishing Vessel Obligation Guarantee Program), the Capital Construction Fund, and other programs that encourage overcapitalization in fisheries. The National Oceanic and Atmospheric Administration (NOAA) should implement programs to permanently reduce fishing capacity to sustainable levels.

The State of Delaware agrees that Congress should repeal the Fisheries Finance Program to reduce overcapitalization in fisheries. However, NOAA should not be involved in expensive vessel buy-back programs. The focus instead should be on rebuilding stocks by controlling harvest levels while allowing individual fishermen to decide on whether or not to remain in the fishery.

- 19–21** The National Marine Fisheries Service (NMFS) should change the designation of essential fish habitat from a species-by-species to a multispecies approach and, ultimately, to an ecosystem-based approach. The approach should draw upon existing efforts to identify important habitats and locate optimum-sized areas to protect vulnerable life-history stages of commercially important species. NMFS should work with other management entities to protect essential fish habitat when such areas fall outside their jurisdiction.

Before NMFS changes any designation of essential fish habitat, more data is needed to assist in determining which areas are essential for which species. Current data bases are inadequate for this decision making process. The Regional Fishery Management Councils should adopt an area or ecosystem based approach as soon as appropriate information is available.

- 19–22** The National Marine Fisheries Service (NMFS) and Regional Fishery Management Councils should develop regional bycatch reduction plans that address broad ecosystem impacts of bycatch. Implementation of these plans will require NMFS to expand current efforts to collect data on bycatch, not only of commercially important species, but on all species captured by commercial and recreational fishermen. The selective use of observers should remain an important component of these efforts.

The State of Delaware supports this recommendation since it specifies that NMFS will provide additional data on bycatch before the Councils are required to develop regional reduction plans. Currently, the data needed to develop these plans does not exist. Observer coverage is absolutely necessary for adequate data collection and is critical in any effort to reduce bycatch. Additionally, gear specifications to reduce bycatch should be required. Examples of this include requiring circle hooks for certain species when using natural bait and mandating that constantly tended drift nets be used rather than anchored gill nets.

CHAPTER 20: Protecting Marine Mammals and Endangered Marine Species

20-1 Congress should amend the Marine Mammal Protection Act to require the Marine Mammal Commission to coordinate with all the relevant federal agencies through the National Ocean Council (NOC) while remaining independent. The NOC should consider whether there is a need for similar oversight bodies for other marine animals whose populations are at risk.

Having an oversight body pertaining to federal agencies is an important recommendation. However, it would seem that the Marine Mammal Commission is already responsible for coordinating with all federal agencies pertaining to marine mammal policy. Requiring the independent MMC to function through an appointed government agency like the National Ocean Council may dilute the effectiveness of the MMC.

CHAPTER 21: Preserving Coral Reefs and Other Coral Communities

Since no coral reefs are found off our coasts, the State of Delaware did not comment on Chapter 21.

CHAPTER 22: Setting a Course for Sustainable Marine Aquaculture

22-2 The National Oceanic and Atmospheric Administration's new Office of Sustainable Marine Aquaculture should be responsible for developing a comprehensive, environmentally-sound permitting, leasing, and regulatory program for marine aquaculture.

A cautious approach should be taken in permitting off shore facilities due to the potential of introducing invasive species, potential impacts from waste, drugs, and chemicals, and possible introduction of genetically altered species. States should have major input in developing the regulatory program and States' objections and/or comments should weigh heavily in the permitting process. The marine aquaculture section identifies the need to be able to lease off-shore waters to provide "exclusive access" to private enterprise as a necessity to foster development of the industry thus excluding public use. Many Delaware citizens, especially recreational fishermen would criticize and oppose any movement to ban public access of marine waters.

- 22-4** The United States should work with the United Nations Food and Agriculture Organization to encourage and facilitate worldwide adherence to the aquaculture provisions of the Code of Conduct for Responsible Fisheries.

The continued growing US demand for high quality seafood products provides an ideal opportunity to facilitate adherence to international environmental standards. Encouraging countries to adopt environmentally sound practices most likely will prove ineffective without some appreciable incentive. For countries wanting to compete in the US market - one of the largest and most desired markets in the world - foreign product imported into the US should be subject to the same quality control guidelines and environmental policies as those required of domestic producers. That would provide a much stronger financial incentive for non complying countries to adhere to a responsible Code of Conduct than current policies.

CHAPTER 23: Connecting the Oceans and Human Health

- 23-2** The National Oceanic and Atmospheric Administration, National Science Foundation, National Institute of Environmental Health Sciences, and other appropriate entities should support expanded research efforts in marine microbiology and virology.

We strongly agree with this recommendation. The basis for protecting the health of an ecosystem as well as the local human populations is in understanding the conditions by which harmful organisms, including toxic algae, flourish. While nearly all microbes are beneficial to natural ecosystems and ultimately to our health, some marine microbes cause serious problems, including corrosion, fouling, and harmful algal blooms that produce toxins affecting people, fish, and other marine life. Blooms of both toxic and nontoxic algae may be increasing in our inland bays and coastal waters as more and more people move into the area and development continues. A more fundamental understanding of marine microbes is needed to predict the consequences of coastal development and to solve the serious environmental problems it causes.

CHAPTER 24: Managing Offshore Energy and Mineral Resources

We agree with the recommendations of this chapter. Although Delaware does not have oil or natural gas production facilities off its coastline, there is potential for new liquid and methane hydrate natural gas supplies from both shallow and deep water off the Delaware coast. Delaware is also engaged in preliminary discussions with companies proposing renewable energy projects including offshore windmills and tidal turbines.

The State plays an important role in fulfilling the Nation's energy needs as the Delaware River supports the second largest petrochemical industry in the nation. A 1995 estimate by the U.S. Coast Guard reported that approximately 70% of all crude oil entering the Eastern United States transits the Delaware Bay. Thus, the State must consistently deal with the cumulative and secondary impacts of this industry, including accidental releases from refineries, oil spills and shoreline erosion caused by ship traffic.

The existing cumulative and secondary impacts associated with energy development, coupled with emerging renewable energy technology make the recommendations of this chapter particularly important for Delaware, particularly recommendations 24-1 and 24-5, as explained further below.

24-1 Congress, with input from the National Ocean Council, should ensure that a portion of the revenues that the federal government receives from the leasing and extraction of outer Continental Shelf (OCS) oil and gas is invested in the conservation and sustainable development of renewable ocean and coastal resources through grants to all coastal states. States off whose coasts OCS oil and gas is produced should receive a larger share of such portion to compensate them for the costs of addressing the environmental and socioeconomic impacts of energy activity in adjacent federal waters.

Delaware strongly agrees that a portion of OCS revenues should be returned to States, but would like to suggest that revenue shares disbursed to States be based upon a calculation that takes into consideration the primary, secondary and cumulative effects of OCS development. OCS funding based solely upon a State's production status may put Delaware at a tremendous disadvantage. Delaware is clearly impacted by the movement and production of petroleum and any additional impacts from OCS exploration or production need to be equitably compensated.

The Delaware River supports the second largest petrochemical industry in the nation and must deal with the cumulative and secondary impacts of this industry, including accidental releases from refineries, oil spills and shoreline erosion caused by ship traffic. The US Coast Guard estimates that approximately 70% of all crude oil entering the Eastern United States transits the Delaware Bay. Over a ten-year period, the main shipping channel between Philadelphia and the Atlantic Ocean accommodated an average of 107 million tons per year involving over 150 different commodities. Crude petroleum and petroleum products represent more than 80% of the total tonnage of commodities moved. Volatile Organic Carbon (VOC) emissions from petroleum transport and production are a significant source of ozone precursors. Controlling VOC emissions from lightering activities in the Bay and off-shore has been targeted to help Delaware attain Air Quality Standards for Ozone. Additionally, maintenance dredging and potentially deepening the Delaware River Main Channel to accommodate this vessel traffic has wide reaching environmental impacts.

24-5 Congress, with input from the National Ocean Council, should enact legislation providing for the comprehensive management of offshore renewable energy development as part of a coordinated offshore management regime.

The State of Delaware has recently received two proposals for renewable energy development, one which proposed windmills off Delaware's Atlantic Ocean Shoreline, and one which proposes tidal turbines within the Indian River Inlet. Delaware's ability to coordinate and guide these proposals through Federal Consistency provisions and other

permitting mechanisms is hampered by the lack of a clear lead federal agency and transparent permitting process.

With increased emphasis on utilization of not only renewable energy resources such as electrical energy generated via wind turbines, but also on potential utilization of sand and gravel resources and emplacement of artificial reefs, competition exists for ocean-based resources offshore Delaware. Effective management of these competing uses is imperative so that as a nation we do not go down the same piecemeal “land use” path in the ocean as we have on land.

Additional comments regarding this chapter:

This chapter briefly discusses the role and importance of Federal Consistency provisions as they relate to offshore oil and gas development, including recent proposed rule changes that would address information needs and timing requirements, but contains no recommendations regarding the use or applicability of the Federal Consistency provisions. Because of its important role of ensuring adequate coordination between State and Federal agencies, Delaware feels that Federal Consistency provisions should remain strong to enable States to adequately address coastal zone effects resulting from OCS projects, whether non-renewable energy development, renewable energy development or mineral extraction. The Report of the U.S. Commission on Ocean Policy should reflect the importance of Federal Consistency to individual States by including a specific recommendation to strengthen Federal Consistency provisions as they relate to OCS development and to ensure that the Federal Consistency process can adequately address emerging OCS issues, including renewable energy development, by building adequate flexibility into the Federal Consistency rules.

CHAPTER 25: Creating a National Strategy for Increasing Scientific Knowledge

25–2 The National Ocean Council should develop a national ocean research strategy that reflects a long-term vision, promotes advances in basic and applied ocean science and technology, and guides relevant agencies in developing ten-year science plans and budgets.

We strongly agree with this recommendation. A long term vision is crucial in addressing coastal issues along with incorporating the science needs of local, state and regional managers into the vision. The promotion of the transition of basic research to applied uses is critical to coastal managers.

One example of this involves atmospheric deposition. Atmospheric deposition of nutrients and other contaminants is a major source of pollutants both to coastal areas and upland areas of the State of Delaware. A majority of the sources of these pollutants are outside the jurisdictional boundaries of the State, hence are not subject to regulation by the State. This is just one example of a regional concern, which the State of Delaware is liable to be federally penalized for, but has little or no legal control over. To properly address this and other regional problems that affect the State, a National Research

Strategy needs to be developed as proposed in the U.S. Ocean Commission's report. This strategy will help research cross-governmental boundaries and provide for the prompt release of data that will help the State of Delaware and other entities effectively manage the coast and provide support for multi-state/national policy decisions and actions.

25-5 The National Ocean Council (NOC) should coordinate federal resource assessment, mapping, and charting activities with the goal of creating standardized, easily accessible national maps that incorporate living and nonliving marine resource data along with bathymetry, topography, and other natural features.

We emphasize the need for standardized and easily accessible maps and data, along with the suggestion that other non-federal agencies be urged to follow the same standards.

CHAPTER 26: Achieving a Sustained, Integrated Ocean Observing System

Development of an Integrated Ocean Observing System that melds with terrestrial observing systems and supplies real-time information is critical to protect the welfare of the state.

26-1 The National Ocean Council should make development and implementation of a sustained, national Integrated Ocean Observing System a central focus of its leadership and coordination role.

We strongly agree with this recommendation. Development of an Integrated Ocean Observing System is needed for coastal protection, management and research. In addition this system must have real-time data availability to be of value in times emergencies, either natural events or accidents. This system should incorporate all aspects of monitoring from tributary headwaters to offshore stations to be truly effective.

26-4 Ocean.US should proactively seek input from coastal and ocean communities to build cross-sector support for the national Integrated Ocean Observing System (IOOS) and develop consensus about operational requirements.

To be successful, there is a strong need for local support for IOOS and for developing operation requirements that meet the needs of local coastal managers.

Development of an Integrated Ocean Observing System that melds with terrestrial observing systems and supplies real-time information is critical to protect the welfare of the state.

Finally, as mentioned in Governor Minner's cover letter, the following are examples of two situations where Delaware could benefit from an IOOS:

Oil Spill Response

The Delaware River and Bay has more tanker traffic than any other location on the east coast. Fortunately oil spill incidents have been few in recent history; however, there is the potential for tremendous environmental and economic harm from a major spill. If a spill should happen real-time environmental data would be crucial to emergency response efforts. Data provided from an IOOS would provide immediate information on winds and tides to ensure proper placement of control measures to minimize the damage. Currently due to lack of funding the NOAA supported Physical Oceanographic Real-Time System (PORTS) in the Delaware Bay has been discontinued, and the fledging State/University initiated Delaware Environmental Observing System (DEOS) does not have offshore capabilities as of yet. Support for an IOOS network that includes the Delaware River and Bay is imperative for the environmental and economic security of the State from oil spills or other accidental contaminate releases.

Coastal Storm Warning

Most damage along the Delaware coastline is due to offshore storms, either hurricanes or Nor'easters. While the current National Weather System network can give reliable predictions of major storm events progressing eastward across the country, there is limited data available to accurately predict the consequences of offshore storms. A strong Integrated Ocean Observing Network (IOOS) would provide critical data on winds, wave heights, barometric pressure and other storm factors, so that emergency planners can effectively alert the public and mobilize needed personnel and equipment. Early warnings from IOOS would allow adequate time for coastal evacuations, securing structures, and finding safe harbors to prevent the loss of life and minimize property damage. The State of Delaware feels that an Intergraded Ocean Observing System is a critical need to protect human life and property and the resources of the State.

CHAPTER 27: Enhancing Ocean Infrastructure and Technology Development

Streamlining the process and developing partnerships will promote technology transfer and better utilize resources.

CHAPTER 28: Modernizing Ocean Data and Information Resources

28-1 Congress should amend the National Oceanographic Partnership Act to establish and fund Ocean.IT as the lead federal interagency planning organization for ocean and coastal data and information management. Ocean.IT should consist of representatives from all federal agencies involved in ocean data and information management, be supported by a small office, and report to the National Ocean Council's Committee on Ocean Science, Education, Technology, and Operations.

We endorse this recommendation, but would like to stress the need for local public and private representation and the need for interagency cooperation and communication.

CHAPTER 29: Advancing International Ocean Science and Policy

The State of Delaware agrees with the recommendations in this chapter. We are impacted by decisions made outside our borders, including decisions made by other countries, particularly on issues that impact air quality and avian resources. We have and will continue to host visiting nations and share experiences in managing ocean and coastal resources.



JEB BUSH
GOVERNOR

STATE OF FLORIDA

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June 18, 2004

Admiral James D. Watkins (Ret.)
Chairman, U.S. Commission on Ocean Policy
1120 - 20 Street, N.W.
Suite 200 North
Washington, D.C. 20036

Dear Admiral Watkins:

I commend the U.S. Commission on Ocean Policy for their extensive review of national ocean policy.

Florida has a vested interest in protecting ocean water quality and marine life. Our economy and quality of life depend on a clean and healthy environment. Sandy white beaches, crystal clear ocean water and marine fisheries draw millions of visitors to Florida annually, creating jobs and generating billions of dollars in revenue for our state. The overwhelming majority of Florida's residents live along our coast.

Over the last five and a half years, Florida has made significant progress to protect critical resources in the Gulf of Mexico and Atlantic Ocean. In 2001, we worked with the federal government to reduce the size of Lease Sale 181 by 75 percent providing, for the first time, no new leasing anywhere in the eastern Gulf of Mexico off Florida or within 100 miles off the Alabama and northeastern Florida coast. That same year, Florida designated 151 nautical square miles to expand the boundaries of the Florida Keys National Marine Sanctuary, home to the only coral reef barrier system in North America, to create one of the largest underwater refuges in the world. Just last year, Florida designated gaps in the coral reef system to lay new fiber optic cable, protecting the productive marine habitat while providing a gateway for information networks to South America and the Caribbean.

Florida is using innovative techniques to expand environmental protection without new laws, litigation or regulation. In 2000, the 15 Member Lines of the Florida-Caribbean Cruise Association and the Florida Department of Environmental Protection, along with federal agencies like the U.S. Coast Guard, established a partnership to improve environmental management on passenger ships to protect ocean water and marine life. The Clean Boating Partnership works with marinas, boatyards and boaters to voluntarily implement common-sense environmental practices that prevent pollution and protect Florida's waterways.



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Admiral James D. Watkins (Ret.)
June 18, 2004
Page Two

There is much to learn from Florida's experiences and successes.

Environmental management must be based on sound science. Florida is using state-of-the-art coastal observation technologies to monitor water quality and marine habitat. A national network of coastal and ocean observing stations would provide comprehensive, real-time data, which would enable resource managers, researchers and fishermen to make more informed decisions to protect public safety, habitat and wildlife, and the economy.

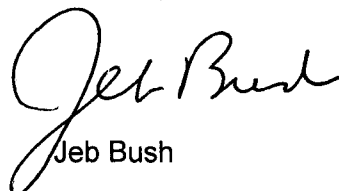
Neighboring states must work together to protect the oceans we share. Coordinating our efforts and financial resources is the most efficient and effective means to achieve maximum environmental results. Florida has already invited our fellow Gulf States to participate in a regional effort to establish solutions for the Gulf of Mexico without burdening taxpayers with additional layers of government.

Regional partnerships ensure coordinated and comprehensive protection for natural resources across political and jurisdictional boundaries. Restoration and protection of America's Everglades is an equal partnership between Florida and the federal government that can serve as a model for the nation.

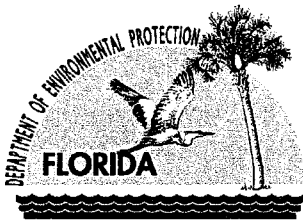
Finally, long-term stewardship requires participation from all those that use the ocean for their livelihood or recreation – individuals, businesses and communities across the nation. Educating the public as well as fostering the next generation of scientists in today's classrooms is the first step toward achieving that goal.

The Commission's preliminary report has identified compelling challenges. It is vital that our nation rise to meet them.

Sincerely,



Jeb Bush



Colleen Castille
Secretary

Department of Environmental Protection

Fish and Wildlife Conservation Commission



Ken Haddad
Executive Director

June 17, 2004

The Honorable Jeb Bush
Governor of Florida
Office of the Governor
The Capitol
Tallahassee, Florida 32399-0001

Dear Governor Bush:

Over the last six weeks, the Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission have made a thoughtful and thorough review of the Preliminary Report of the U.S. Commission on Ocean Policy. We reviewed comments from dozens of individuals and organizations, such as the Florida Ocean Alliance, The Nature Conservancy, and Boat US. On behalf of the State, we are enclosing the formal recommendations arrived at with input from a wide range of stakeholders. Key recommendations include:

Ocean Governance

To effectively manage the marine environment, federal, state and local agencies must coordinate efforts:

- Florida encourages streamlining federal agency roles and programs to better support the efforts of coastal states, including clarification of the mission of the National Oceanic and Atmospheric Administration.
- The Coastal Zone Management Act should be reauthorized and strengthened so that federal consistency authorities are not eroded.
- While Florida supports the Commission's ecosystem-based approach to coastal management, it cannot be implemented successfully through the proposed 'federal-centric,' top-down system. Ecosystems must be managed in the watersheds, along the coasts and on the water.
- Florida supports strengthening regional governance. To that end, Florida has initiated discussions with neighboring Gulf of Mexico states to manage shared waters through an existing framework. Efforts should reach beyond national waters to include Mexico, whose economy and quality of life also depend on the health of the Gulf.
- Rather than creating new structures of governance, Florida recommends assigning legal responsibilities and authorities within the Large Marine Ecosystems described in the Preliminary Report. If the federal government creates consistent and meaningful authorities nationwide, regions can determine the best structures and processes by which to manage marine ecosystems.

Ecosystem-Based Management

The comprehensive, integrated management of a geographic area is the most effective approach to conserving coastal and ocean resources:

- An ecosystem based approach to coastal management should include consideration of Marine Managed Areas (MMAs), which provide environmental benefits if sited and designed appropriately and administered at the local level.
- Florida is effectively managing marine resources through ecosystem-based approaches such as the Florida Keys National Marine Sanctuary and the National Estuarine Research Reserves.
- Together with NOAA, Florida established one of the largest marine reserves in the world. Initial scientific data indicate that the Tortugas Ecological Reserve is already enhancing the abundance and diversity of marine life.
- Florida has used MMAs for decades through its system of 41 Aquatic Preserves, which have largely maintained their biological and aesthetic values even with unprecedented growth in the state.

Science-Based Decision Making

Sound science should drive our management decisions. While we cannot always wait for scientific certainty before taking reasonable action, we need to invest in ocean science in order to make better management decisions.

- An Integrated Ocean Observing System is needed to better manage marine ecosystems, protect human health, facilitate safe and efficient marine transportation and better predict coastal hazards. Regional observation systems should be designed to meet the needs of the states as well -- Florida is already participating in the development of two such systems in the Gulf of Mexico and the Southeast Atlantic.
- Management and research goals, rather than dollar amounts, should drive budget decisions to ensure that the nation invests its resources towards our priorities.

Education and Stewardship

Education and coastal management should not be considered independently. Instead, educating our citizens and students should be a key part of coastal management science and management goals should be complimentary:

- While a national clearinghouse for ocean education may improve stronger coordination, it is more critical that we enhance our ability to deliver and incorporate curricula into classrooms and community centers. Improving the availability of the many existing education programs to our communities and schools will promote stewardship of our oceans. Education programs should incorporate lifelong learning such as those offered by the National Estuarine Research Reserves and Florida Seagrant.
- Achieving sustainable marine fisheries is one of the fundamental endpoints associated with an effective ocean protection strategy. The Commission offers sound recommendations to strengthen the science, explore the full range of fisheries management tools, and effectively coordinate the management of fisheries that cross jurisdictional boundaries.
- Greater legal clarity of the Marine Mammal Protection Act is needed. While marine mammals deserve significant attention, issues regarding endangered and threatened sea turtles also need to be addressed.

Preserving Coral Reefs

Coral reefs support the most biologically diverse ecosystems in the marine environment. The nation's focused attention can further protect these unique natural environments:

- Florida is encouraged by the leadership of the U.S. Coral Reef Task Force and implementation of locally developed strategies to address threats to coral reefs.
- With assistance from NOAA, Florida and the individual members of the All Islands Committee are working with local communities to develop and implement on the ground conservation strategies.
- While research remains important, Florida believes more funding should be directed to local projects that address threats to coral reefs. Just \$2.7 million in new funding will fully support implementation of the states, territories and commonwealths local action strategies for the first year.

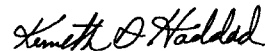
We have begun discussions with our counterparts in the Gulf States. Our coordination at the regional and local levels to protect the Gulf waters will effectively target resources for the greatest return. Comprehensive management of our marine environment will benefit our oceans as well as the nation's economy and quality of life. We are confident the work of this state along with our regional approach to ocean protection will provide a model for the nation.

Sincerely,



Colleen M. Castille
Secretary
Department of Environmental Protection

Sincerely,



Kenneth Haddad
Executive Director
Fish & Wildlife Conservation Commission

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STATE OF FLORIDA AGENCY COMMENTS
GOVERNORS' DRAFT REPORT OF THE U.S. COMMISSION ON OCEAN POLICY
June 4, 2004

INTRODUCTION

The breadth and depth of the report and the recommendations of the US Commission on Ocean Policy is impressive. A revised governmental framework to improve federal leadership and coordination would clarify policies, reduce redundancies, and expedite planning and decision-making. Strengthened science and modern information systems would improve decision-making at all levels. Improved science education would have a lasting impact on the capabilities of the next generation of professionals and the sensitivities of the general public.

The report appropriately stresses the need for additional coordination, particularly at the federal level and particularly on research and monitoring issues. However, the same need for improved coordination applies in the area of regulatory development, compliance, and enforcement. A strong and coordinated federal effort is essential to improving ocean policy, water quality, and habitat protection. The objectives of such coordination should be to improve knowledge and understanding, increase efficiency and eliminate duplication, increase accountability, and provide guidance, but not dictation, to help the states implement ocean policies that meet local as well as national needs.

The USCOP report proposes the development of regional ecosystem-based management plans that set clear, measurable goals and objectives and the development of regional ocean information programs to coordinate the preparation of regional ecosystem assessments. Regional plans and information programs would be beneficial and could serve to guide sub-regional programs and decisions. However, it would be important to develop voluntary and collaborative management options that do not impose regional requirements on states and local governments beyond their legal reach. States must retain individual authority and legal rights over matters for which they are responsible and that affect their interests.

In a recent letter to the Governors of the other Gulf states, Governor Bush encouraged a stronger regional effort to develop restoration goals and research priorities for the Gulf of Mexico and to plan for the Gulf components of the Integrated Ocean Observing System. Florida supports voluntary regional initiatives to provide improved ocean and coastal resource protection and management. However, it is not necessary to establish formal regional councils to achieve better interstate and regional collaboration. Also, the report contemplates that the councils might "facilitate" required governmental approvals or permitting processes that involve state, federal and local agencies. This must not devolve into imposing federal or regional requirements on state and local jurisdictions or preempting state and local requirements.

The report proposes a coordinated, ecosystem-based offshore management regime that sets forth guiding principles for the balanced coordination of all offshore uses and designates lead federal agencies for all current and foreseeable federal activities that

might take place in federal offshore waters. The current federal regulatory and management structure in federal offshore waters is very fragmented and riddled with gaps. Often, the state must bridge the gaps using the CZMA federal consistency process. Creating an integrated management and decision making scheme for federal waters would be an improvement over the *status quo* and has the potential to strengthen the state's consistency authorities. Beneficial aspects of the proposed offshore management regime include providing for a fair return on the use of ocean space or resources in the form of rents or royalties and the use of Marine Protected Areas as a key tool of ecosystem-based management. However, the report does not emphasize the need for the offshore management regime to be based on scientifically sound resource assessments and management strategies that give full consideration to state concerns.

Also, the report recognizes the need for "single-purpose ocean governance structures" to be integrated into the regime, but does not explain how to avoid defaulting to management via isolated, issue-specific decisions, such as occurs now. A management regime for federal offshore waters should include a decision process that addresses the impacts of a specific activity within the purview of a single-purpose agency decision, but also considers broader proprietary, public interest and cumulative factors, regardless of the specific activity. Regional management strategies should also take advantage of existing multi-state consortiums and other multi-agency cooperatives.

DETAILED AGENCY COMMENTS ON SPECIFIC CHAPTERS AND RECOMMENDATIONS

Chapter 5 - Advancing a Regional Approach

The report understates the need for an enhanced mapping effort, which will allow the development of more data visualization tools. Comprehensive, scientifically sound decision making will depend on more spatial information products that integrate multiple data sources.

Chapter 6 - Coordinating Management in Federal Waters

The need for a nationwide marine cadastre should be clearly stated. There currently is no way to visualize marine space from a property rights perspective.

Recommendation 6-3: Florida supports the concept of developing a uniform process for the effective design and implementation of marine protected areas, especially since the process ensures that a proposed area must be pre-evaluated to ensure it is appropriate for its intended purpose.

Chapter 9 – Managing Coasts and their Watersheds

Paragraph 3 on page 108 reads, as follows (emphasis added):

Polluted waters limit fishing, swimming, and other water-related recreational and economic activities. One of the most serious impacts on ocean and coastal areas is the increasing amount of polluted runoff from urban, suburban, and agricultural areas, which is exacerbated by increases in impervious surfaces, such as roads, parking lots, sidewalks,

and rooftops. *Evidence indicates that ecosystem health is seriously impaired when the impervious area in a watershed reaches 10 percent. If current coastal growth trends continue, many healthy watersheds will cross the 10 percent threshold over the next twenty-five years.*

There certainly are studies showing a decline in biological health at different levels of impervious surface but this conclusion certainly oversimplifies the issue. In one of the most comprehensive studies of the relationships between human factors, biological integrity, and urban stormwater best management practices, the conclusion is that factors such as the prevalence of 100-foot-wide riparian buffers along streams, the percentage of wetlands within a watershed, and the percentage of forest cover all factor into the biological integrity of the associated aquatic ecosystems. (WMI, 2004, Final Report to EPA, Office of Water.) Oversimplification threatens the credibility of the report and, in turn, may confound our ability to implement the many valuable recommendations therein.

Recommendation 9-1: Florida strongly endorses reauthorization and strengthening of the CZMA. Funding disincentives for failure to perform are troubling, however, in light of the states' experiences with the CZMA section 6217 coastal non-point source pollution program. This program placed unrealistic demands on states and ultimately penalized the very work that the program intended to accomplish. The objective of incentives should be to foster a close federal-state partnership with maximum flexibility for state implementation of shared goals.

Recommendation 9-3: Florida supports changing federal funding and infrastructure programs to discourage inappropriate growth in fragile, hazard-prone coastal areas.

Recommendation 9-4: The report should recognize that the upland watershed and its near-shore discharge zone are also impacted by groundwater discharge, both as seepage into streams and into the marine zone. The surface water / groundwater interaction should also be considered in environmental assessments – both in water budgets (quantity) and in chemistry (quality).

Chapter 10 - Guarding People and Property Against Natural Hazards

There is no disagreement with the recommendation to reduce incentives for development in high hazard areas, per se, but it is a gross oversimplification to state that, "Property owners within 500 feet of the shoreline face as large a risk from erosion as from flooding," as is stated in the text of this chapter. The coastal engineering community has expressed significant disagreement with the conclusions of the H. John Heinz III Center for Science, Economics and the Environment's "Evaluation of Erosion Hazards," cited as partial justification for Recommendation 10-3. Florida has monitored coastal erosion on the Atlantic and Gulf coasts for years and our regulatory and planning policies are based upon predicted erosion rates. The erosion issue is extremely complicated and warrants being addressed as such.

Chapter 11 - Conserving and Restoring Coastal Habitat

Recommendation 11-4: Florida certainly supports the principle of a “comprehensive wetlands protection program.” Florida has one of the most comprehensive wetlands protection programs in the country, which is linked to the coastal management program through the Environmental Resource Permitting Program. Recommendation 11-4 should focus on developing enhancements to the 404 program to make it more amenable to state differences and ensure that it does not confound state wetland protection efforts.

Chapter 12 - Managing Sediments and Shorelines

The chapter has a fair discussion of sediments in rivers and estuaries but could reflect a more in-depth understanding of open ocean coastal processes. We recommend the Commission review the National Research Council’s publication, “Beach Nourishment and Protection,” National Academy Press, 1995. The box on page 141 should be rewritten based upon this document rather than drawing on text from a report addressing contaminated sediments in ports. The science of determining acceptable material for placement and the design of longer lasting, more protective beach restoration and nourishment projects has improved vastly since the NRC’s 1995 report was issued; however, many of the same institutional recommendations are valid and would greatly improve the Commission’s report.

Shoreline erosion on the open coast is often directly attributable to the impact of improved navigational inlets, where sand has been removed from the coastal system. Management options (e.g., sand bypassing around channels and installation or modification of jetties) are rarely incorporated, resulting in an accreting shoreline updrift of the inlet and recession of the downdrift shoreline. The U.S. Army Corps of Engineers’ attempt at regional sediment management has inherent limitations as each inlet’s Congressional authorization and the annual appropriations process do not provide sufficient flexibility for the USACE to make management adjustments or plan long term strategies to replace (or bypass) sand. Florida has implemented a long-term open coast erosion strategy, where sediment budgets are calculated and inlet management plans developed to maintain the volumes of sand necessary to offset the erosion caused by each “improved inlet.” A long-term strategy for restoring and maintaining beaches already deprived of sand, including a financing plan, helps keep the public and decision-makers informed of the causes, solutions and costs of trying to replace and subsequently maintain, a natural beach.

Recommendation 12-2: The states, ports authority and other stakeholders have long taken issue with the USACE’s implementation of the “Federal Standard.” The standard calls for use of the “least-cost” option that is “environmentally acceptable” for dredged material placement. The state strongly supports revisions to the Federal Standard to ensure that environmental costs are given appropriate consideration. For example, when regional sediment management can be enhanced by a more costly alternative, the Federal Standard should be waived. Ultimately, the focus should be on assuring that the selected project alternative is “environmentally beneficial,” rather than merely acceptable. It is unlikely that Recommendation 12-2 will result in any improvement as written.

The effect of the Federal Standard is most clearly evident in determining where coastal dredged material will be disposed. Few alternatives can compete on a cost basis with hauling dredged material to the ocean. The Ocean Policy report barely alludes to the issue of ocean disposal, which discards tens of millions of cubic yards of terrestrial and estuarine sediments to over seventy sites in U.S. and territorial oceans each year. Despite budget constraints, EPA's site designation and management program is well-managed. However, the practice of ocean disposal is predicated on the assumption that coastal sediments are waste and that the infinite diluting capacity of the ocean can absorb it. Ocean disposal requires large areas of the marine seabed to be set aside for dumping, effectively eliminating them as viable natural habitats. The federal legal and budget structure should be modified so that ocean disposal of dredged material is a last resort, not the first choice, by ensuring that coastal sediments are conserved instead of making it easier and more cost-effective to discard them offshore.

In addition to the problem with the Federal Standard, there are important issues related to ocean disposal that should be addressed in the report, including: the need to develop markets for use of dredged material and re-use of material previously disposed in confined upland sites; the need to subsidize any additional transport or handling costs to enable beneficial use of dredged material; the role of ports in providing alternative disposal options; and adequate modeling and surveys of dredged material disposal sites to assess environmental impacts.

Recommendation 12-4: Florida strongly supports this recommendation. Local sponsors of beach restoration projects now must bear this monitoring and assessment responsibility, which is essential to improving the design life of projects, as well as improving their habitat value and minimizing adverse effects. A more comprehensive monitoring scheme is needed.

Chapter 13 - Supporting Marine Commerce and Transportation

The economic value of ports and navigable waterways is substantial. However, port and waterway expansion and maintenance often result in acute and chronic adverse environmental impacts. Florida provides a centralized permitting process for Florida's deep-water ports and works closely with the USACE on federal navigational improvements. Efforts to reduce the impacts of navigational improvements through improved planning (10-year port plans) and operational practices (long-term planning for upland dredged material disposal areas) have met with limited success. USACE projects face a cumbersome and slow design review process, they lack management flexibility to incorporate environmental components, have many constraints on how they are contracted, and have unreliable funding, resulting in inefficient and unreliable water depths, additional costs to both navigational and shore protection projects, and controversy.

The proposed governance changes in Chapter 13 do not seem to recognize the need for more environmentally conscious management of the marine transportation system. For example, the composition of the proposed Nonfederal Marine Transportation System

National Advisory Council has only one out of 30 member organizations that would be expected to represent environmental concerns. Additional recommendations should be included to emphasize the need for integration of navigation components into an ecosystem management context.

Chapter 14 - Addressing Coastal Water Pollution

Emergency closures of shellfish areas must be imposed when there are direct discharges of untreated or poorly treated human wastes. The Preliminary Report states: "EPA estimates that a least 40,000 sewers overflow every year, discharging wastewater directly into rivers, estuaries, and oceans. In addition to causing human health problems and closures of beaches and shellfish areas, human sewage may be a contributing factor in the decline of coral reefs." Therefore, the following recommendation be added under the subheading ‘Sewer System Overflows’.

* Recommendation 14.x. The U.S. Environmental Protection Agency (EPA), U.S. Department of Agriculture (USDA) and states should reduce the estimated annual 40,000 sewer system overflows which discharge wastewater directly into rivers, estuaries, and oceans which cause closures of beaches and shellfishing areas.

The reduction in pollution from the State of Florida's Total Maximum Daily Load Program has the potential to reclaim areas historically used to harvest shellfish. States may be applying inconsistent criteria to determine if a shellfish harvesting area should be identified as an impaired water. Therefore, the following recommendation should be considered under the subheading ‘The Total Maximum Daily Load Program’

* Recommendation 14.x. The U.S. Environmental Protection Agency (EPA) and states should establish a consistent and flexible approach by which to identify shellfish harvesting areas as “impaired waters” under the Total Maximum Daily Load program.

The chapter overview should note that nutrient pollution is a primary factor in seagrass loss. Also, the importance of groundwater discharge to coastal waters needs to be recognized.

Recommendation 14-1: The recommendation could be strengthened by encouraging regional and local approaches for determining nutrient impairment. Also, it should recognize that it is often more cost effective to treat nutrient enrichment at the source using best management practices rather than at the wastewater treatment plant.

Implementation of this recommendation would have no effect in Florida. First, “advanced nutrient removal” is not defined and could mean nothing more than so-called advanced secondary treatment, which many Florida wastewater facilities already are required to employ based on our water quality considerations. Florida already requires advanced nutrient reduction (to 3 milligrams/liter of total nitrogen and 1 milligram/liter of total phosphorus) of facilities in nutrient-impaired waters or prohibits surface water discharges altogether.

In order for this recommendation to be meaningful, a minimum or at least recommended level of advanced treatment should be identified. Florida's requirements are:

- 5 mg/liter of biochemical oxygen demand (CBOD₅);
- 5 mg/liter of total suspended solids;
- 3 mg/liter of total nitrogen (as N);
- 1 mg/liter of total phosphorus (as P);
- High-level disinfection and de-chlorination, where applicable (important consideration for coastal waters where bacteria are a significant issue).

Furthermore, the report should go further by explicitly promoting the elimination of ocean outfalls over time through a commitment to, and financial support of, water conservation and reuse of reclaimed water. The uncertainties associated with the impact of ocean discharges of wastewater on water quality and habitat, perhaps far afield of the discharge point, are such that we should err on the side of caution, requiring the highest levels of treatment and phasing them out altogether. Unfortunately, at least at this point, Florida has little leverage to deal with the few remaining—but high-volume—ocean outfalls along the Southeast coast. This report could help shift that balance.

Recommendation 14–2: There are three to four million onsite sewage disposal systems in Florida, including thousands in even the most sensitive areas of the Florida Keys, and 30-40,000 new systems are permitted every year. Recommendation 14-2 is useful, but the focus needs to be on eliminating all offsite impacts of onsite systems and promoting operation and maintenance entities to assure that remaining onsite systems are properly operated and maintained over time. Expensive nutrient removal systems, composting systems, and other newer technologies are only as good as their operation and maintenance—and most homeowners simply do not adequately maintain their systems.

Recommendation 14–3: Although this recommendation notes that states may need more stringent regulatory controls on Concentrated Animal Feeding Operations, it is important to note that command and control regulations are not the only way to achieve implementation of agricultural best management practices. Given the difficulty in securing authority for regulatory controls over these sources, that fact is comforting. In addition, requiring such implementation through a permit renders the farmer ineligible for funding sources such as those provided through the Farm Bill. States should have flexibility in how they address water quality problems arising from agricultural operations that are exempt from federal NPDES regulations; at the same time, Congress and EPA should bolster state efforts to modify or strengthen non-NPDES regulatory programs where states determine it is appropriate.

It is interesting to note that the federal government has no regulatory program addressing ground water regulation of these activities, while Florida has at least the possibility of applying such controls to systems on a case-by-case basis. Still, more effort should be directed at bringing federal support to the development and implementation of basin-wide partnerships to combine regulatory and non-regulatory programs with funding initiatives,

nutrient management plans, implementation of best management practices, water quality monitoring, and performance objectives and measurement.

Recommendation 14–4:

Florida supports the SRF program, which is the only significant program available to most states, including Florida, to fund water infrastructure, and which has, for more than a decade, been funded substantially below the levels envisioned when the original Clean Water Act SRF was created. Florida’s infrastructure needs over the next 20 years for wastewater, stormwater and drinking water facilities is conservatively estimated at \$14.5 billion and, although Florida has one of the largest Clean Water Act SRF programs in the country, with the authority to borrow money to enhance its capacity, the state cannot approach the demand.

Of equal importance to full funding for Clean Water Act SRF is the need to recalibrate the funding formula by which states are allotted funds, which has not been updated for 30 years. Florida is radically under-funded based on any rational distribution, and is particularly penalized because its growth and development over the last three decades are not accounted for in the formula. Given the magnitude and significance of Florida’s coastal systems, it is particularly important to maximize the ability of the SRF to address coastal water quality protection.

Florida is skeptical of developing a federally prioritized plan for funding aging and inadequate infrastructure. States differ in their environmental and financial circumstances; thus funding priorities need to be established at the state level, with appropriately minimal federal guidance, but strong federal support.

Recommendation 14–5: Florida’s Watershed Restoration Act of 1999 (s. 403.067, F.S.) specifically contemplates a pollutant trading program, one not limited to nutrients and sediments. However, under state law, Florida cannot begin such a program (at least in the context of watershed management) until it has been approved by the legislature. Florida DEP is forming a Pollutant Trading Advisory Committee with the objective of having recommendations ready for the next legislative session. There are many difficult issues that must be addressed with respect to pollutant trading, including limitations on the scope of trading (keeping trades within a watershed, basin, or other narrow area); promoting or creating and “managing,” as necessary, the trading market to produce adequate market forces and avoid unhealthy monopolies; mechanisms and institutions for trading; appropriate valuation of credits or other modes of exchange; tracking and accounting; contractual considerations; and measurements of success.

Recommendation 14–6: Florida has no objection to modernizing the NPDES information management system if it involves making the system flexible enough to accept the uploading of state information from the variety of systems the states employ. A one-size-fits-all approach rarely fits anyone.

The recommendation with respect to enforcement and monitoring is ideal in one sense, but also largely misses the mark. The focus should be on compliance, with enforcement

being one tool to achieve that end. Improved information systems help achieve these objectives, but they will not overcome inadequate resources and presence in the field.

Recommendation 14–7: Florida agrees that USDA should realign its conservation programs and funding with other programs aimed at reducing nonpoint source pollution. Unfortunately, the most recent Farm Bill eliminated the requirement that conservation funds be prioritized to address nonpoint source water quality problems in priority watersheds identified cooperatively by state water quality agencies and the USDA. This requirement should be reinstated to replace the current system that distributes funds on a geographical basis rather than based on water quality needs.

Recommendation 14–8: Establishing ecosystem based water quality standards is an excellent objective. However, the science is not adequately developed in this area. Much work remains to be done to link biological response at the population and community level to degraded water quality.

While Florida agrees with establishing a national goal of "significant reduction" of nonpoint source pollution, we do not agree that a federal entity should set the "specific measurable objectives" related to water quality standards or nonpoint source reduction goals. These objectives should be established at the local and state levels through ongoing programs, such as the TMDL program, with consultative assistance from EPA.

Recommendation 14–9: The Section 6217 Coastal NPS Control Program has been implemented using a top-down approach that does not recognize the differences among states. Including elements of the 6217 program, such as enforceable measures, in the Section 319 program is supportable only with greater flexibility to address variation among the states.

Recommendation 14–10: This recommendation could be supported only if there were consensus among the states on the equity of the disincentive system and its application. Such disincentives have rarely worked fairly, if at all. Furthermore, penalties only mean that the affected states can do less to address the problems their programs are intended to address. This fact makes a fair and equitable system, agreed upon by federal agencies and the states, a *sine qua non*.

Recommendation 14–11: The knowledge base and tools to advise states and local governments on land use decisions does not reside, or certainly has not resided, at the federal level. If EPA or any other agency can tap the expertise of states and local governments across the country and collate it into a meaningful information exchange, it would help arm local governments for the incredibly difficult battles associated with growth management.

Recommendation 14–12: Perhaps this recommendation will overcome the historical failure to implement section 402(p)(6) of the Clean Water Act, which required the development of federal guidance on minimum requirements for state stormwater management programs. The objective of the recommendation should be to provide

useful, comprehensive information while at the same time giving states the flexibility, within their existing legal and institutional frameworks, to implement effective stormwater management programs that rely primarily on nonstructural and structural best management practices.

Chapter 15 - Creating a National Water Quality Monitoring Network

There are enormous gaps in coastal water quality monitoring. For that reason, certainly, Florida agrees with the sentiments and most of the objectives expressed in the recommendations. However, we have some reservations.

Florida DEP and the Florida Marine Research Institute implement an estuarine monitoring network, which, while statistically sound, is not as robust as it should be for lack of resources. Bathing beach water quality monitoring, based exclusively on public health parameters, is conducted under state law by the Florida Department of Health. Various federal programs, identified in Chapter 15, carry out other monitoring activities in the Marine Sanctuaries, National Estuaries, and other federal enclaves. All of this information is valuable, but it is not comprehensive and it is largely cobbled together.

Additional monitoring requirements will require vastly more money for the monitoring stations, the sampling, and the analyses. Doing trend and status monitoring in coastal areas is notoriously difficult. “National monitoring network” has an appealing ring but it really means stitching together existing federal, state, and local coastal water quality monitoring efforts and filling in the gaps.

Beyond bringing together existing efforts and promoting coordination and efficiency, the bottom line is money: money to develop the programs and stations, money to do the sampling, money to pay for the sample analyses, money to pay for the data systems and data integration, money to implement quality assurance procedures, money to analyze the data to determine trends that can lead to better decisions—money. The states and their coastal communities clearly have an obligation to step up in this effort. But, once more, the nature of the nation’s coastal waters creates an obligation at the federal level to support the states, fill in the gaps, and balance the inequitable distribution of resources that pollution in our coastal waters refuses to accommodate.

Recommendations 15-1 & 15-2: A monitoring network should incorporate ambient aquifer (groundwater) geochemistry and rock lithology data to effectively tie-in the solid earth that water runs over and through. This should be coordinated with the USGS and State Geological Surveys.

Recommendation 15-2: Florida supports a robust Integrated Ocean Observing System both from the data generation and data repository standpoint. A strong geospatial component should be built in to this program to facilitate the use of the data by managers.

Recommendation 15-3: All core variables should be included in a long term monitoring program with appropriate scales and metadata standardized.

Chapter 16 – Limiting Vessel Pollution and Improving Vessel Safety

There are some inconsistencies in the dollar value of various commercial and recreational activities between the first paragraph of Chapter 16 and the second paragraph of the Executive Summary (\$12B as opposed to \$11B for annual cruise ship spending and \$30B as opposed to \$20B for recreational boating value).

Overall, the recommendations in Chapter 16 are good but focus largely on improving existing voluntary programs and funding the Coast Guard to inspect the vessels. To improve the existing program, which largely does not work, the following specific recommendations should be considered:

- Maritime ships that spend more than quarter of their port days in the U.S. should be registered here and should be required to adhere to local environmental requirements. Obviously, this is a diplomatic issue that suggests some sort of dual registration program and *quid pro quo*. The objective, however, needs to involve changing the current, largely free, environmental pass given to vessels now.
- For such ships, EPA should take the regulatory lead in issuing a national NPDES permit, not state-by-state permitting.
- EPA, with state assistance, should develop clear guidelines to enable compliance and assist inspectors (EPA or the Coast Guard).
- An economic assessment should be conducted of the costs associated with regulatory duties so that an appropriate regulatory fee system can be developed to support program implementation.
- EPA should establish a comprehensive, multi-media regulatory program for vessels above a certain tonnage. It should be administered jointly by the Coast Guard and EPA at the national level because vessels typically are not restricted geographically to one state.

Chapter 17 - Preventing the Spread of Invasive Species

The State of Florida, as a point-of-entry state, fully supports increased efforts to prevent, monitor and respond to introductions of invasive species. We spend millions of dollars every year to control or eradicate these very species that have been brought into this country through our state. Recommendations 17-1,2,3,5& 7 all suggest involving the National Ocean Council in invasive species. These recommendations advocate the National Ocean Council as a coordinator of federal agencies in efforts to control and prevent the spread of marine aquatic invasive organisms. Currently, the National Invasive Species Council provides this function for the Executive Office, coordinating invasive species activities of federal agencies through the Aquatic Nuisance Species Task Force. The proposed activities of the National Ocean Council duplicate those of the ANS Task Force. Expanding the capacity of the ANS Task force to address marine invasives would constitute an efficient use of existing resources. It would also avoid problems associated with coordinating agency activities related to those organisms existing in freshwater, brackish, and saltwater environments.

This chapter does not address Harmful Algal Bloom organisms that may be associated with ballast water discharges.

The report does a thorough job of describing the ballast problem but does not go far enough in its recommendations. The following should be considered:

- Support Coast Guard attempts to require ballast control practices for certain sized vessels.
- Require EPA to develop and implement an NPDES regulatory program for ballast, centrally permitted and enforced in conjunction with the Coast Guard.
- Examine the open ocean ballast exchange program as a practical alternative to treatment/disinfection. Examine the possible downside of disinfection in causing secondary toxic materials, i.e., chlorinated organics.

Chapter 18 - Reducing Marine Debris

Recommendation 18-3: Derelict fishing gear removal on a regional oceanic scale would enhance inshore gear removal efforts as well as potentially lessen incidental mortality to target and non-targeted species.

Chapter 19 - Achieving Sustainable Fisheries

Recommendations 19-1 thru 19-3: These recommendations address the functions of Regional Fisheries Management Councils' Scientific and Statistical Committees (SSCs). Florida advocates the strongest possible science for decision-making. Retooling the SSCs as a strong quantitative science arm would be an asset to the regional fisheries management process.

Recommendation 19-4: Standardizing the process of technical review will be an important aspect of stronger science based decision making. This process is largely in use through the Center for Independent Experts and the Southeast Data Assessment and Review Process.

Recommendation 19-8: Florida requires a marine recreational license with a few exemptions, most notably for shore-based fishing. It should be emphasized that licensure does not just generate revenue, but also enables the collection of critical catch and effort data for the recreational fishery.

Recommendation 19-9: Florida supports the proposed expansion of research partnerships between stakeholders and scientists to encourage collaborative management solutions.

Recommendation 19-10: Better integration of statutory authority for the Interstate Fisheries Commissions and requiring them to adhere to the FMC national standards and develop enforceable management plans would be a positive step.

Recommendation 19-11: Florida agrees that when a fish stock crosses administrative boundaries, one agency should be assigned fishery management jurisdiction and authority. Florida believes that several of its unique fisheries (stone crab, spiny lobster, yellowtail snapper, etc) could benefit from a unified state plan rather than split between councils and commissions.

Recommendation 19-15: Dedicated access privileges represent novel approaches to resolving some critical fishery issues involving effort and harvest allocation conflicts. Individual fishery quotas are one approach the FWC intends to continue exploring in the future. Florida currently has a similar effort management program for stone crab and lobster. Fish managers should also explore making individual fishery quotas transferable and not time-limited in order to create the appropriate stewardship incentives.

Recommendations 19-19 & 20: Vessel Monitoring Systems: Florida endorses the use of VMS technologies to improve knowledge of fishing effort for stock assessments as well as enforcement of fishery management plans.

Recommendation 19-21: Moving essential fish habitat from single species to multi-species and eventually to an ecosystem-based approach has substantial science implications. Florida supports the concept; however, the science is not adequately developed to accomplish this goal. An extensive research and development program to refine existing analytical methods is the only viable way to achieve ecosystem-based fishery management in the long run.

Chapter 20 - Protecting Marine Mammals and Endangered Species

Recommendation 20-2: Florida conceptually supports giving NOAA MMPA authority over all marine mammals with the understanding that authority under the Endangered Species Act for marine mammals would reside under NOAA as well. This is not a simple issue and the Florida manatee would be a good endangered marine mammal to consider in determining whether this approach would be successful.

Recommendation 20-4: Florida supports the clarification of definitions and listing of activities for which permits are required, not required, or that are prohibited. The lack of definitions currently delays permitting for scientific activities.

Recommendation 20-5: Florida supports clarification of activities that constitute “harassment” with an emphasis on activities that have the potential to significantly affect the survival and reproduction of marine mammals. In addition, we believe it is important to categorize and define both acute and chronic forms of harassment.

Recommendation 20-6: It would be desirable to develop a programmatic permitting system.

Recommendation 20-7: Florida stresses that salvage, stranding and rescue networks should be singled out in an expanded research technology and engineering program because of the extremely valuable data generated.

Recommendation 20-8: This recommendation should be expanded to other marine organisms as well. Noise is an ecosystem concern.

Chapter 21 - Preserving Coral Reefs and Other Coral Communities

Recommendation 21-1: Florida strongly the need for coral reef mapping in deeper water and research on impacts of coastal water quality degradation to reef systems.

Recommendation 21-4: Florida strongly supports regional ecosystem-based research plans designed to understand, protect and, as appropriate, restore coral reef systems. We are engaged in this type of program under the auspices of the Coral Reef Task Force in Southeast Florida.

Chapter 22 - Setting A Course For Sustainable Marine Aquaculture

The Report cites U.S. seafood consumption rates, the values of seafood harvests, and the \$7 billion annual seafood trade deficit as the basis of its support for expanding marine aquaculture and revising the regulatory framework for aquaculture in offshore areas. The State of Florida commends the Commission on acknowledging the growing significance of U. S. aquaculture. The nation's demand for seafood is linked to economic development and the total trade deficit. A coordinated and consistent aquaculture policy and regulatory and management framework is critically needed.

The following changes to the text of the section titled ‘ACKNOWLEDGING THE GROWING SIGNIFICANCE OF MARINE AQUACULTURE’ are recommended:

Along with fish farmers themselves, the aquaculture industry supports an economic engine that consists of an infrastructure of feed mills, processing plants, and equipment manufacturers and a technical innovation engine that consists of public and private research institutions, undergraduate and graduate degree programs at public and private universities, and national and global consulting companies. There is great potential for marine aquaculture to become an even more important component of the U.S. industrial base. Farm-raised species could become a critical source of seafood for the U.S. market and a way to help reduce the nation's seafood trade deficit of \$7 billion a year (Figure 22.1)." In many parts of the country, commercial fishers are reconsidering their opposition to marine aquaculture and applying their unique skills, knowledge and abilities to become successful aquaculturists that are injecting new money into rural, coastal communities that were suffering from fishery management decisions that reduced or eliminated opportunities to fish. Publicly funded research to yield technical and management innovations to profitably culture seafood and attain environmental sustainability has yielded the knowledge and equipment that has been shared globally to improve environmental conservation and protection.

MARINE AQUACULTURE IN OFFSHORE AREAS

The marine aquaculture industry is looking increasingly toward opportunities in federal and state offshore waters.

The report acknowledges the numerous environmental impacts associated with aquaculture and presents cases to illustrate adverse impacts, but makes no recommendations regarding impact avoidance, minimization and mitigation. The identified impacts associated with marine aquaculture should be thoroughly addressed through research, information sharing and adaptive management before endorsing a significant expansion of offshore aquaculture.

On pages 270-272, the current regulatory framework is characterized as an impediment to marine aquaculture operations in state and federal waters. “The jumble of authorities makes it difficult for those involved in aquaculture activities to know what permits are needed...” Florida agrees that the legal framework for offshore aquaculture projects needs to be improved. The report does not address how compliance with the National Environmental Policy Act or the Coastal Zone Management Act would be incorporated into the framework. To ensure appropriate review of marine aquaculture operations in federal waters, review of activities under both NEPA and the CZMA should be required in any proposed revisions to the regulatory framework for aquaculture projects.

The NOAA assertion that offshore marine aquaculture is a fishery rather than farming activity may also prevent farmer access to insurance, animal health, noninsured crop loss payments, technical assistance, loan guarantees and other traditional agricultural programs and services that are available to land-based aquaculture through the U.S. Department of Agriculture.

Recommendation 22-1: It is not clear that a new government office is the answer to assuring an economically viable, environmentally sustainable aquaculture industry. Like any activity in the marine environment, aquaculture can have an environmental impact if not managed properly. Therefore, marine aquaculture policy must be developed cooperatively by the appropriate federal and state agencies charged with managing and protecting ocean and coastal resources.

Recommendation 22-2: Florida agrees that consolidating all regulations for marine aquaculture is critical to not only protecting the environment, but to encouraging an economically viable industry. A reliable and consistent regulatory framework allows entrepreneurs to know what is expected of them and encourages sustainable development of the aquaculture industry.

Recommendation 22-3: Florida agrees with the recommendation, as it is essential to supporting a viable aquaculture industry in the United States.

Recommendation 22-4: Florida agrees with the recommendation. The Code is an appropriate guidance document for developing nations, but provides little information to guide intensive aquacultural operations in industrialized nations. Guidance appropriate to highly technical, intensive production must be developed.

Chapter 23 - Connecting the Oceans and Human Health

Recommendation 23-2: Research in marine microbiology and virology should be expanded to include harmful algal bloom species.

Recommendation 23-3: This recommendation should be expanded to include enhanced monitoring and modeling to better understand mercury behavior and food chain magnification and to develop possible strategies for consumption advisories.

Chapter 24 – Managing Offshore Energy and Other Mineral Resources

Recommendation 24-1: Florida strongly supports investing a portion of unallocated OCS oil and gas revenues in the conservation and sustainable development of renewable ocean and coastal resources.

Recommendation 24-2: Florida strongly supports the MMS Environmental Studies Program. The ESP should be strengthened to address not only activities moving into deeper waters, but also future renewable energy activities. This recommendation calls for MMS to systematically identify the nation’s offshore non-energy mineral resources and conduct environmental studies to ensure the best uses of those resources. Study costs could be reduced by coordinating with other studies performed for oil and gas leasing and development activities.

Recommendation 24-5: Florida supports enactment of legislation providing for the comprehensive management of offshore renewable energy development that considers state priorities and incorporates NEPA and CZMA section 307 requirements. The Minerals Management Service has an organized study program and leasing and rental system that could be adapted to renewable energy projects.

Chapter 25 - Creating a National Strategy for Increasing Scientific Knowledge

The state strongly supports the need for a national strategy but cautions against “reinventing the wheel” in our attempts to create optimal systems. A national strategy should take advantage of existing multi-state cooperative initiatives and develop more state partnerships to ensure a sufficient level of local knowledge.

Recommendation 25-5: Accurate charts and maps, especially of marine benthic features and dynamic shorelines are a critical research and management need that should be addressed in this recommendation..

Chapter 26 - Achieving a Sustained Integrated Ocean Observing System

This is possibly the most important element of the Commission’s report. The state strongly supports the development and expansion of the Integrated Ocean Observing

System to ensure that all decision makers have the best available and most timely information on ocean and coastal conditions and trends. Florida is working cooperatively with both the Gulf and Southeast Coastal and Ocean Observing System network and acknowledges the efficiencies to be gained by integrating physical, chemical and biological ocean observations across multiple platforms.

An Integrated Ocean Observing System should incorporate or use the recommendations of the NRC Ocean Studies Board Report titled: “*Enabling Ocean Research in the 21st Century: Implementation of a Network of Ocean Observatories*”. However, a sustained IOOS system should meet the need for timely scientific information in coastal and estuarine areas, not just the open ocean. States need to be full partners in the development of IOOS to define regional and local needs and to provide expertise and match funds.

Recommendation 26-1: The number of observation buoys should be sufficient to enhance the implementation of ecosystem-based management as well as offshore geological, biological, and oceanographic investigations

Recommendation 26-2: The US Navy should be a key partner in developing a sophisticated real-time environmental monitoring system.

Recommendation 26-5: The need for a standardized set of core variables collected by all IOOS components is critical for long-term system utility. As many of these variables are already in place, it is important to thoroughly examine the current system before determining what additional components are needed.

Chapter 27 - Enhancing Ocean Infrastructure and Technology Development

Recommendation 27-1: The availability of NASA, ONR, and NSF airborne platforms for offshore investigations needs to be increased.

Chapter 28 - Modernizing Ocean Data and Information Systems

The establishment of a new lead information systems agency (OCEAN.IT) should proceed carefully and cooperatively and examine the myriad approaches currently in use in order to assure a willing and smooth transition to a shared data and information system.

Additional Observations

Sea Turtles

There is a lack of treatment of sea turtles in the Commission’s despite ample science to justify a thorough description of their conservation needs. The State of Florida plays a key role in the recovery of four Endangered and one Threatened species of sea turtles, and hosts one of only two large nesting populations of loggerhead turtles in the world. With funding received through ESA Section 6 Agreements with USFWS and NMFS, the state conducts a broad scope of research and management activities concerning sea

turtles, including monitoring of population trends (reproduction and mortality), research on the effects of artificial lights and coastal armoring on sea turtle reproductive efforts, and review of permits involving potentially disruptive activities (e.g., construction, renourishment, dredging, lighting, etc.) on the nesting beach and in nearshore waters. These research and management efforts are essential to address the many threats that sea turtles face. Specific threats to sea turtles in Florida that we would like to see addressed in the report include the following:

- Mortality from fisheries
- Mortality from artificial lighting
- Habitat loss from coastal armoring and beach nourishment
- Mortality from disease, including fibropapillomatosis

In recent years, Florida has documented increasing sea turtle mortality, increasing degradation of nesting habitat from development and artificial lighting, and a worrisome decrease in loggerhead nesting. Many of the issues impacting Florida’s sea turtle populations have been identified but have not been adequately addressed at the federal level. An annotated table is currently being assembled by the USFWS and NMFS Loggerhead Recovery Team. (See summary table below.) The table is an excellent description of the magnitude of threats to the loggerhead turtle, the sea turtle species for which Florida is a primary steward, and it illustrates many overlapping problems facing other sea turtle species. An electronic version of the full series of tables will be provided. We believe the Commission’s report should address the major issues identified therein.

LIFE STAGE	ECOSYSTEM	Mortality Adjusted by Reproductive Equivalents							
		Fisheries Bycatch	Resource Use	Construction	Ecosystem Alterations	Pollution	Species Interactions	Exotic Species	Other Factors
Nesting female	Terrestrial Zone		303	3		3			>0
Egg	Terrestrial Zone		40	144	3716	>0	1265	336	14004
Hatchling stage	Terrestrial Zone		>0	12		1380	12	>0	>0
Swim frenzy, transitional stage	Neritic Zone	1		>0		252	2000		>0
Juvenile stage	Oceanic Zone	3859	2		>0	>0	11615		>0
Adult stage	Oceanic Zone	>0			>0	>0	>0		
Juvenile stage	Neritic Zone	14487	1023	8	>0	161	>0		8
Adult stage	Neritic Zone	3756	342	3	>0	55	>0		>0
Total		22103	1710	170	3716	1851	14892	336	14012
		Categories of Threats							

Artificial Reefs

The National Fishing Enhancement Act (P.L. 98-623) and artificial reef management are not discussed in the report. Artificial reefs are an accepted and traditional fishery and habitat management tool in the nation's marine ecosystems. The U.S. Navy and the Maritime Administration are considering disposing large numbers of ships (reported to be as many as 358 ships in Hess et al. 2001¹) by donation to states as artificial reef material. Federal coordination and guidance are needed to ensure that environmental problems do not result from these well-intentioned efforts. Potential problems with using ships as artificial reef material include: contamination of water and sediment by such chemicals as polychlorinated biphenols, hydrocarbons and heavy metals; damage to natural marine habitats by inappropriate placement of artificial reef materials; movement of ships and other materials during extreme weather events resulting in damage to nearby natural marine habitats; and the potential for the vessels to obstruct safe navigation.

¹Hess, Ronald W., Denis Rushworth, Michael Hynes, and John Peters. 2001. Disposal Options for Ships. Prepared for the United States Navy under contract MR-1377 by the National Defense Research Institute, RAND. 148 pp.



STATE OF GEORGIA
OFFICE OF THE GOVERNOR
ATLANTA 30334-0900

Sonny Perdue
GOVERNOR

June 4, 2004

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

Dear Admiral Watkins:

The State of Georgia applauds the U.S. Commission on Ocean Policy for your landmark Report on the state of our oceans. We commend the Commission's call to action to address the myriad of significant ocean policy challenges facing this nation. We endorse the overarching critical actions enumerated in the Report's Executive Summary, its broad findings, and many of the recommendations in the body of the Report. The guiding principles articulated in Chapter 3 are fundamental to meaningful implementation of the Commission's recommendations. Clearly, you have developed a much needed blueprint for an improved, coordinated, cross-cutting national ocean policy committed to protecting ecosystem, human, and economic health of our coasts and oceans, the foundation for which is sustainable use of ocean and estuarine resources.

Georgia is one of this nation's fastest growing states, ranking fifth in growth in the recent census. Not surprisingly, our coastal region is experiencing exponential growth, and the pressures on our coastal resource base continue to intensify. Home to the highest density of endangered and protected species in the state, one third of the remaining salt marsh of the East Coast, and the fifth busiest container port in the nation, Georgia's coast is environmentally and economically strategic. As such, it must be managed in a sustainable way. Yet, coastal Georgia's extraordinary growth presents a sustainable development challenge. With rapid coastal development pressures, we are witnessing dissolution of fishing communities and cultures and heritage. The most desired land is the most ecologically fragile. Maintaining the integrity of our coast's natural communities is one of our State's greatest challenges.

Georgia's coastal zone provides tremendous economic and societal benefits. Our ocean-based economy includes commercial fisheries impacts valued at \$44 million, and saltwater sport fishing expenditures conservatively estimated at \$300 million dollars. In fiscal year 2003, Georgia's deepwater ports accounted for \$35.4 billion in sales (7% of Georgia's total sales); \$17.1 billion in gross state product (6% of Georgia's total GSP); \$10.8 billion in income (4% of Georgia's total personal income); 275,968 full- and part-time jobs (7% of Georgia's total employment); \$3.2 billion in federal taxes; and \$1.4 billion in state and local taxes. Coastal Glynn County, site of next month's G-8 Summit, hosted an estimated 1.1 million visitors in 2002. Domestic travelers contributed \$239.4 million in direct expenditures, and generated more than \$17.6 million in tax

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revenues for state and local treasuries. The ability to ensure these benefits for current and future generations will depend on bold steps now to support sustainable development while conserving coastal and ocean ecosystems long recognized as vital areas of our state.

The USCOP Report's four guideposts for improved ocean policy-ecosystem-based management, science based decision-making; improved governance; and broad public education-support my goals for a New Georgia: a growing, educated, healthy, and safe Georgia. Just as my vision for a New Georgia is to be accomplished through redefining government, the Commission is proposing governance reform inclusive of federal agency reorganization, as well as programmatic reform. We applaud the call for an overarching National Ocean Council to provide much needed, top level policy coordination of coastal and ocean issues. The companion Regional Ocean Councils are a logical complement to bring together the collective resources and expertise to address significant state, local, and regional issues. We further endorse a substantially enhanced NOAA as lead to work with the other federal agencies and states in a broader conservation and management agenda. However, it is imperative that new governance structures encourage innovation at the regional and state level while avoiding additional bureaucracy.

As the site of the land/water interface, States are uniquely positioned to deliver effective coastal management. By our decentralized nature, the States are in many cases better suited and equipped to take on various management challenges. Coordinated state action is, in many cases, the most efficient and effective way of achieving our common national policy objectives. States have the authority and responsibility to deal with population growth, infrastructure, marine commerce, zoning, fishing, and all the major determinants of the quality of our marine environment. As such, we should have a leading role in the development and execution of ocean policies and programs, and the state-federal partnership should be a common thread across the Report's recommendations. There should be an emphasis on facilitation and support for implementing plans, strategies, and initiatives developed at the local, state, and regional level that are consistent with national goals.

The Report calls for strengthening coastal and ocean management and protection through a regional scale, ecosystem based management approach. Insomuch as water availability and its quality are among the most important environmental and economic development issues of the next decade in Georgia, there is a crucial need for integrating watershed management that reaches from the mountains to the sea and is capable of ecosystem scale solutions. Links between rivers, watersheds and estuaries is an increasing focus of research, education and outreach efforts in our state. A strong local-state-federal partnership is crucial to delineating these watershed-estuary relationships as well as to effective non-point source pollution controls, habitat conservation and restoration, natural hazards mitigation, communication and education, and expanded strategic scientific capacity.

Knowledge is the currency of future decision-making. As so eloquently stated in the Executive Summary, education is the key to an informed citizenry. We enthusiastically support the Commission's recommendations for education and for increased funding to support these important efforts. A strong national ocean policy can only be sustained through the development of a high-quality ocean education program that supports learning at all age levels and by all

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disciplines. The Report's recommendations complement the educational efforts currently directed at all age groups within Georgia. An example is the use of the oceans as a unifying thematic base in education to demystify science, view global issues, and to stimulate math and science achievement.

As technology propels the workplace toward globalization in the 21st century, there is an increasing demand for students with creative and multi-disciplinary training that is both theoretical and practical, particularly in science and engineering. Yet, economic resources for educational innovation and academic research remain very limited. One successful approach is the development of partnerships across the historically separate worlds of academia, research, government, and industry. Savannah State University (SSU) and the Skidaway Institute of Oceanography (SkIO) prepare well-trained students (many from underserved populations) for careers or further education while stimulating a lifelong interest in marine and environmental science.

Throughout the country, the challenge of balancing resource conservation with resource use demands new and different kinds of data, more accurate, comprehensive, and timely information, and creative problem solving. Georgia is proud of the academic and scientific efforts currently underway in our state to understand coastal and oceanic processes. The State works diligently to ensure the information provided from these investigations is translated and used by our policy and management officials. A recent example of improved scientific exchange between scientists and decision-makers is the Georgia Coastal Research Council's leadership in addressing the widespread salt marsh dieback occurring on Georgia's coast in recent years. Funded by Georgia Sea Grant and Georgia DNR, the Council is uniquely positioned to promote the incorporation of best-available scientific information into State and local resource management. The Georgia Sea Grant Program offers a cost effective and efficient mechanism for accomplishing many of the critical Actions recommended by the Commission in applied research, education, and outreach through the marine science and oceanographic expertise of its major partners, The University of Georgia, Skidaway Institute of Oceanography, Georgia Institute of Technology, and Savannah State University, in concert with its government and private sector partners.

The State of Georgia supports the Commission's call for the implementation of a national Integrated Ocean Observing System (IOOS), linked to global efforts. Georgia and the Southeastern U.S. region have already initiated a regional OOS, the Southeast Atlantic Coastal Ocean Observing System. With a strengthened research effort and a linked, national and international observing effort, the U.S. will be able to meet today's ocean and coastal information challenges of critical importance to Georgia's citizens, such as improved hurricane track prediction, resource management and maritime shipping safety and efficiency.

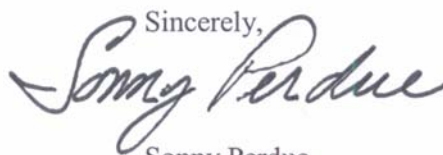
Funding needed to implement the Report is substantial, yet the long-term benefits clearly warrant the investment. Sustained and dedicated funding for this call to action is imperative and should be provided to address priority initiatives identified in the report for implementation at the regional, state, and local levels. The State wholeheartedly endorses new resources that augment, not supplant, the current fiscal support for ocean and coastal programs.

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In closing, the State of Georgia commends the U.S. Commission on Ocean Policy for this landmark Report, and we sincerely appreciate the opportunity to provide comments. Appended to this letter is a Technical Memorandum prepared by representatives from the University System of Georgia, Georgia Sea Grant, and Executive Branch agencies detailing more extensive comments regarding the Report's findings and recommendations. Please be assured Georgia's academic, government, and private sector partners stand poised to do our part to ensure the long term economic viability and ecological well-being of this nation's oceans and our State's coastal zone.

Sincerely,

Sonny Perdue

Attachment (Technical Memorandum included below)

June 4, 2004

TECHNICAL MEMORANDUM

TO: U.S. Commission on Ocean Policy
FROM: Governor Sonny Perdue
SUBJECT: Preliminary Report Comments

The Preliminary Report of the U.S. Commission on Ocean Policy (hereinafter referred to as "Report") has been reviewed by an interagency team of Executive Branch and University System experts. The following agencies, institutions, and organizations contributed to the comments synthesized in this Technical Memorandum:

Georgia State Government
University System of Georgia
Georgia Department of Agriculture
Georgia Coastal Research Council
Georgia Emergency Management Agency
Georgia Sea Grant College Program
Georgia Department of Natural Resources
Savannah State University Coastal Resources Division
Skidaway Institute of Oceanography, Environmental Protection Division
University of Georgia, Wildlife Resources Division
School of Marine Programs
Georgia Port Authority
Marine Extension Service
Georgia Department of Transportation

Other
Coastal Marine Educators Group

Questions regarding the following comments should be directed to Heidi Green, Director of Intergovernmental Affairs, Office of the Governor, 404-656-1776, Hgreen@gov.state.ga.us <<mailto:Hgreen@gov.state.ga.us>> Or Susan Shipman, Director, Coastal Resources Division, Georgia Department of Natural Resources, 912-264-7218, susan_shipman@dnr.state.ga.us <mailto:susan_shipman@dnr.state.ga.us>

State of Georgia Comments on Preliminary Report

We generally concur with the findings of the Report and the critical actions summarized in the Executive Summary Table on pp xvi-xvii. Government plays a pivotal role in protecting the public trust interests of navigation, commerce, fishing, recreation, environmental protection, and preservation of aesthetic values and cultural heritage, and we commend the Commission for the Report's breadth of focus. Part I, Chapters 1-3 and the Primer on Ocean Jurisdiction present invaluable background and provide an excellent foundation for the subsequent Action Agenda presented in Parts II through IX, Chapters 4 through 30. Please note we have no comments regarding Chapters 21 and 29.

Part II

Blueprint for Change: A New National Ocean Policy Framework

Chapter 4: Enhancing Ocean Leadership and Coordination

Making Improvements at the National Level

P 48, Recommendation 4-1. The State of Georgia strongly supports establishment of a National Ocean Council. The Executive Order should direct the federal agencies to coordinate regionally to support state, local, and regional efforts.

National Ocean Council

PP 48-49, Recommendation 4-2. We support this recommendation and the macro-scale functions identified for the National Ocean Council. With regard to the ninth bullet regarding functions, we question the mechanics of a voluntary process for the creation of regional ocean councils. Will formation/participation be incentivized? We agree with the application of a precautionary approach as described in Chapter 3, to decision-making.

P 49, Recommendation 4-3. We strongly support the principle of ecosystem-based management and the movement of federal agencies toward this strategy. This approach conforms to that underway by some of the regional fishery management councils (e.g., South Atlantic Council), the Comprehensive Wildlife Conservation Strategy through the state wildlife grants, and Georgia DNR's strategic planning efforts.

Assistant to the President

P 50, Recommendation 4-4. We recommend a clarification of the seventh bullet under this recommendation that the Assistant to the President should have a degree of budget oversight for federal agency funding priorities so as to elevate the emphasis of oceans within the Administration budget. It is important that agencies with statutory mandates have the resources to successfully address their core missions.

Committee on Ocean Resource Management; Ocean-related Advisory Councils or Commissions

PP 52-53, Recommendations 4-8 and 4-9. We agree with these recommendations, but would note that the proposed structure in Figure 4.2 is still a complicated, potentially labyrinthine structure. There is a need for less, not more bureaucracy.

Making Improvements at the Regional Level

PP 54-55, Recommendations 4-10 and 4-11. We strongly support the formation of Regional Ocean Councils inclusive of the broad base of state, local, and regional stakeholders. Issues of concern are most likely to have their genesis in the regions. In the absence of a statutory catalyst for their formation, we question whether voluntary regional ocean councils will materialize. The Regional Councils need the appropriate federal dedicated support infrastructure similar to that established for the regional fishery management councils. We agree that federal agencies with ocean and coastal related functions should enhance their regional coordination not only among themselves but also with state and local entities in the region. The states are the key drivers of issues, process, and solutions.

Chapter 5: Advancing a Regional Approach

General Comments:

We strongly endorse the concept of cross-cutting, ecosystem based regional coordination, and the formation of Regional Ocean Councils and Regional Ocean Information Programs. We reiterate our reservations regarding a voluntary approach and advocate for adequate resources to support the regional councils and associated research and information. We recommend a clearer statement on the purposes of the Regional Councils.

Research

P 60. We would submit that future ecosystem management will depend on ecosystem models and adequate continuing monitoring programs and be organized regionally into Large Marine Ecosystems (LME). The academic and resource management community in our Southeast U. S. LME has made substantial progress in developing collaborative programs that will create the scientific basis for ecosystem management. MARMAP and SEA COOS are two excellent examples of the regional approach to ecosystem science.

Outreach and Education for Decision Makers

P 60. We agree with the Report's findings regarding Sea Grant's capabilities to perform outreach and education for decision makers. An example is the Georgia Coastal Research Council (GCRC). Modeled after the National Research Council and funded in part by Georgia Sea Grant, the GCRC provides mechanisms for practical, working relationships between coastal researchers and managers in the State of Georgia. The Council works towards this goal by holding regular meetings with state natural resource managers to discuss their scientific needs, maintaining a web page as a clearinghouse for information on research activities (<http://www.marsci.uga.edu/coastalcouncil>), synthesizing information in technical reports, and coordinating research efforts on emerging coastal resource issues. The GCRC has organized scientific workshops and public information meetings, written white papers, and established a scientific monitoring program to address the widespread dieback of salt marsh grass that occurring along the Georgia coast over the past several years. This type of function is invaluable for improving scientific exchange between coastal scientists and decision makers and promoting the incorporation of best-available scientific information into State and local resource management.

Regional Ecosystem Assessments

P 61, Recommendation 5-3. The concept of having regional ocean information programs to coordinate the development of a regional ecosystem assessment necessitates federal involvement because the area of interest exceeds that of any other governmental body. To be effective, federal involvement needs to include management, with adequate funding, and predetermined goals and design. That said, the turn around of assessment information needs to be enhanced above where it is now (e.g., EPA's National Coastal Assessment).

Administration of the Regional Ocean Information Programs

P 62, Recommendation 5-5. We agree with the recommendation and the role of Sea Grant in the regional ocean information programs. The recommendation calls for Congress to establish regional boards to administer regional ocean information programs, with a grants process to carry out program priorities. To ensure success of this effort, there will need to be a mechanism to garner Congressional support for the regional boards and regional ocean information programs. The dollars available to conduct the ocean information programs need to be provided based on goals, objectives, and action items, and not on political considerations.

Chapter 6: Coordinating Management in Federal Waters

General Comments:

The current fragmented nature of ocean use governance doesn't work, as is well-demonstrated with the offshore aquaculture example. The National Ocean Policy Framework offers a viable alternative to the current situation.

Clarifying Offshore Responsibilities

P 64, Recommendation 6-1. We support the recommendation but suggest it be amended to clarify state public trust and economic interests in the EEZ. We further recommend that NOAA be established as the lead agency to work with the other federal agencies and states in coordinating management, research, assessment, and monitoring of current and future uses of federal waters (Ref. Recommendation 7-1). New governance structures should avoid additional bureaucracy and encourage innovation at the regional and state level. Any offshore management regime derived should include consultation with the states, including federal consistency review.

A Fair Return for the Use of Offshore Resources

P 66, Recommendation 6-2. We support the concept of applying "resource rent" to the extractive use of fisheries resources.

The Role of Marine Protected Areas

On page 67 the last sentence of the second paragraph under Marine Protected Areas (MPAs), should be modified to say, "Monitoring, periodic assessment, and modification are also essential to ensure the continuing effectiveness of marine protected areas, and to demonstrate accountability to affected stakeholders".

P 68, Recommendation 6-3. We recommend the addition of the word "evaluation" to strengthen 6-3, to read "...uniform process for the effective design, implementation, and evaluation of marine protected areas".

Regional and Local Stakeholders

P 69, Recommendation 6-4 should be revised, "... and lead the design, implementation, and evaluation of marine protected areas". These additions would help to alleviate the concerns of those who believe MPAs will be established and no one will do the necessary follow-up to see if they are meeting the goals. The South Atlantic Fishery Management Council (SAFMC) has heard this repeatedly in the context of the Oculina Bank. The success of MPA efforts depends on an engaged and active local constituency that supports MPAs (i.e., a bottom up effort) rather than efforts led by entities external to the region.

Chapter 7: Strengthening the Federal Agency Structure

General Comments:

Overall, we agree with the findings of this Chapter and strongly support Recommendations 7-1 through 7-5. We strongly support reorganization and consolidation. With regard to federal agency reform, the Homeland Security Agency experience indicates that political inertia can be overcome to consolidate federal agencies. Consolidation is needed to accomplish the cross-cutting needed to achieve ecosystem management. We recommend as abbreviated a timeline as possible to achieve the three phases of federal ocean management reorganization described on page 73. It is unclear what is meant by long-term. The long-term phase makes the ultimately unified federal agency structure more costly and lessens the likelihood of success.

Strengthening NOAA: Phase I

P 75, Recommendation 7-2 should be revised. The President should instruct the OMB to review the total ocean and coastal budget, across all federal agencies to better enable identification of multi-agency commitments and cross-cutting programs.

Managing All Natural Resources In An Ecosystem Based Management Approach: Phase III

P 78. Ecosystem-based management is a laudable goal and is the direction that we should be moving toward. Increased coastal and ocean policy coordination centered around effective implementation of the ecosystem-based management goal will benefit from state-federal partnerships reflecting shared public trust and economic interests. Yet, while we should be moving to ecosystem-based management, our understanding of coastal and ocean processes and watershed inputs to the ocean is inadequate to provide the sound scientific basis for ecosystem management. We must develop a basic understanding of the living and non-living processes and their interactions; integrate those processes through ecosystem models; and invest in comprehensive long term modeling. Understanding these basic processes has been the focus of Georgia Sea Grant (<http://www.gasg.org>) research conducted by scientists of The University of Georgia School of Marine Programs and Marine Institute, Skidaway Institute of Oceanography, and the Georgia Institute of Technology. Models allow a representation of the basic ecological processes in formats that create comprehensible visual presentations and are tools for predictive approximation of alternative management decisions. Georgia Sea Grant scientists are developing ecosystem models of several rivers and estuaries that incorporate physical and water quality models. The regional Southeast Atlantic Coastal Ocean Observation Systems (SEA COOS) also is developing oceanographic models that will encompass the South Atlantic Bight. Regarding long term monitoring, the Department of Natural Resources monitoring programs, including Multiscale Advanced Raster Map Analysis for Sustainable Environment and Development

(MARMAP), and the emerging SEA COOS regional observation network are essential data sources for creating effective ecosystem management.

Part III

Ocean Stewardship: The Importance of Education and Ocean Awareness

Chapter 8: Promoting Lifelong Ocean Education

General Comments:

That oceans are important to us as a nation is a matter of fact. How important they are to us, individually as citizens, is fundamentally a question of how well educated that citizenry is. The report boldly proposes to prepare a new generation of ocean leaders who will improve decision makers' understanding of the ocean and cultivate a broad public stewardship ethic. While many of the types of programs described in the Report exist, clearly there is a need to both strengthen and coordinate those programs, and the State of Georgia enthusiastically supports the Commission's recommendations for education and for increased funding to support these important efforts.

A strong national ocean policy can only be sustained through the development of a high-quality ocean education program that supports learning at all age levels and by all disciplines. Through such efforts we will be able to engage the entire nation in a science education process that uses the oceans to highlight the relevance and utility of science to everyday life, and the U.S. will be able to supply the diverse workforce that will be needed in coming decades, equipped and able to make informed decisions about the critical issues that we face. A greater understanding of the oceans and coastal ecosystems will instill in our populace a sense of stewardship for these important environments. Enhanced and improved instructional efforts should cut across all the traditional educational disciplines and should help to educate all citizens as to the value of the oceans and how the actions of individuals and communities affect marine environments. The recommendations contained within the Report will complement well the educational efforts to all age groups currently underway within the state of Georgia.

The recommendation to develop a national ocean education office responsible for leading this effort is a sound one, and one that will enhance current efforts underway in Georgia and around the nation. Of particular importance will be the strengthening of both the COSEE efforts and efforts aimed at increasing the participation of underrepresented populations in ocean activities. As technology propels the workplace toward globalization in the 21st century, there is an increasing demand for students with creative and multi-disciplinary training that is both theoretical and practical, particularly in science and engineering. Yet, economic resources for educational innovation and academic research remain very limited. One successful approach has been the development of partnerships across the historically separate worlds of academia, research, government, and industry.

The proposed structure for coordination of education programs and recommendations for action should help to better focus attention on coastal issues and bring needed resources for assessment, monitoring, and improvement of coastal environments, and improved understanding of the importance of these matters to the general citizenry. Georgia looks forward to providing leadership and participating as a partner in the development of a collaborative national ocean education network to achieve these goals.

A National Ocean Education Office

P 87, Recommendation 8-1. We support the creation of a national ocean education office. We recommend that the Ocean.ED vision and strategies be developed with State and local input.

The National Sea Grant College Program

PP 90-91. The National Sea Grant College Program and its academic, government and private sector partners offer a cost effective and efficient mechanism for accomplishing many of the Critical Actions recommended by the Commission on Ocean Policy in research, education and outreach. Sea Grant can play an important role in six of the 12 critical actions recommended by the Commission (p. xvii): Double the nation's investment in ocean research; Implement the national Integrated Ocean Observing System; Increase attention to ocean education through coordinated and effective formal and informal programs; Strengthen the link between coastal and watershed management; and Create measurable water pollution reduction goals, particularly for nonpoint sources, and strengthen incentives, technical assistance and other management tools to reach those goals. Georgia Sea Grant can be the vehicle to implement the Commission recommendations, but it cannot be done without the marine science and oceanographic expertise of the major partners, The University of Georgia, Skidaway Institute of Oceanography, the Georgia Institute of Technology and Savannah State University, and other participating institutions (Middle Georgia College and State University, Georgia Southern University and Clarke Atlanta University). In order to expand Sea Grant's role in research, education and outreach, expanded federal support and eventually state support will be needed.

With regard to the discussion of linking COSEE and Sea Grant, the Southeast COSEE is an integral part of the region's Sea Grant Programs (GA, SC, & NC). The Center Director is located with SC Sea Grant in Charleston, but a regional educator position is funded by COSEE/Sea Grant and the UGA Marine Extension Service in Savannah.

Using Ocean Based Examples to Meet Education Standards

P 93, Recommendation 8-6. Clarification is needed as to how Ocean.ED will build state and local capacities for informal education and outreach. The federal agencies should fund and support state and community-based education efforts. To the degree possible, the national vision should encompass state standards and the implementation strategy should contain clear goals, priorities, and milestones. Also, the recommendation should include working with university extension service and Sea Grant programs. Of particular importance is the UGA Marine Extension Service, its personnel and facilities which serve as the primary K-12 education and outreach arms of Georgia Sea Grant.

Engaging Underrepresented and Underserved Groups

P 96, Recommendation 8-8. We support the recommendation and suggest the identification of the Sea Grant program as a partner in this initiative. Georgia, a coastal state whose coastal resources and impacts will play an increasingly important role for the rest of the state and nation, is positioning itself for major contributions in this regard in some unique ways. Georgia Sea Grant funds a marine educator position and three marine education internships with the UGA Marine Extension Service and ship time for the R/V SAVANNAH for undergraduate and graduate educational programs at the Skidaway Institute of Oceanography. Breadth of public involvement and stewardship in the future can only be achieved if it is integral in our education system and includes the fastest growing demographic groups (in Georgia, African Americans and

Hispanic Americans) who are currently among the least represented in ocean affairs. Doing so in schools that enroll a significant percent of students from underrepresented groups, will build strong cultural bridges that will capitalize upon these diverse strengths, ensuring the flow of intellectual talent and energy into ocean-related fields.

Expanding Graduate Educational Opportunities

P 99, Recommendation 8-10. There is a need to prepare students for a broad range of careers in academia, government and industry, which is worth emphasizing. More (and better) programs are needed that produce trained professionals able to work to promote science-based decision making (particularly in applied science). In addition, cross-training in science and policy would allow more effective dialogue between scientists and managers, and would serve to improve the qualifications of the "ocean workforce."

Specific Federal Responsibilities

P 101, Recommendation 8-12. We support this recommendation. Great ideas and our future workforce will come from these repositories of untapped intellectual energy only if, as the report says, there are efforts '...to provide diverse educational opportunities at the undergraduate, graduate, and postdoctoral levels in a range of marine-related fields.' Georgia has some successful models of what works from within our ocean science and education communities, involving partnerships across the historically separate worlds of academia, research, government, and industry.

Part IV

Living on the Edge: Economic Growth and Conservation Along the Coast

Chapter 9: Managing Coasts and Their Watersheds

Implications of Growth

P 108, 2nd paragraph, last sentence. Add "beach and" to sentence, to read "....results in ever-increasing beach and wetlands losses."

P 108, 3rd paragraph, last sentence. "If current coastal growth trends continue, many healthy watersheds will cross the 10 percent threshold...." It is recommended that the word "healthy" be deleted because one should not assume that any watershed having less than 10 percent impervious surfaces is healthy. While usually the case, it would not be always the case. We suggest "If current coastal growth trends continue, many more watersheds will cross the 10 percent threshold....".

Multi-layered Decision Making

P 108, last paragraph. This paragraph is written with the assumption that all local governments have planning, zoning, and subdivision controls. That is not the case, and where there is none, the mechanisms for change are lacking or severely handicapped.

Coastal Zone Management Program

P 110, 4th full paragraph, second sentence. "A large portion of federal funding should be linked to program performance ...". While it is agreed that a portion of the federal funding should be linked to performance, it should not be a large portion or even the majority. These programs work hard to meet Federal and their own objectives. However, the program and its authorities, and political climate that may exist, will not allow progress in all states at the same rate. A base level of funding needs to be maintained for States to work toward meeting programmatic goals. Removal of a "large" portion of the funding will further lessen the ability of a state to meet program goals.

P 111, Recommendation 9-1. We strongly support the recommendation that Congress reauthorize the CZMA. The reauthorized CZMA needs to retain a strong emphasis on partnerships, the state role in working with communities, and the need to maintain states' flexibility to implement programs that meet federal goals in ways that best fit each state's ecological, geographical, and political landscape. With regard to the referenced resource assessments, states will only be able to deliver these assessments if adequate federal funding additional to the CZMA base funding (i.e., 306/306A/309) is available.

We have several comments regarding the proposed CZMA amendments:

Goals discussion. Because the CZM Program is a Federal- State partnership, add the mention of "state goals" to the discussion of measurable goals based on coastal resource assessments that are consistent with national and regional goals.

Evaluations discussion. Not only should a state's evaluation criteria be reviewed in a NOAA evaluation of a State's CZM Program, the State criteria should be used in that evaluation.

Incentives discussion. We do not favor this disincentive of cutting a substantial portion of the funding each state receives based on performance. As discussed above, a significant level of base funding must be assured to keep Programs engaged and dealing with issues. Additional funding bonuses should be awarded to states for performance above a base level.

Boundaries discussion. Define and limit the watershed. Many watersheds would encompass nearly all of a state, an area that would be politically inappropriate for a state to handle through CZM. Trying to encompass entire watersheds could spread CZM efforts too thin, so as to be ineffective. States have a legitimate concern about potentially stretching base funds over wider geographic regions. If the state boundary requirements are expanded, base program funds should be expanded to deal with the corresponding increase in size of program service area.

Other Relevant Federal Programs

P 113, Recommendation 9-3. To the end of the recommendation should be added "... and to develop mitigation programs to address existing inappropriate growth". This addition serves to acknowledge and support the need to address problems already existing.

Linking Coastal and Watershed Management

P 114. A spring 2004 survey of Georgia Sea Grant constituents further validates the Report's findings of a growing interest in watershed management. Top among the four highest priorities identified were the issues of describing how land-based activities (agricultural, industrial, residential, and recreational) affect the interaction of water, pollutants, and nutrients in the coastal watersheds; educating a changing and diverse populace about coastal resource issues (e.g. non-point-source pollution, impact of growth on coastal resources); providing long-range planning tools for coastal development (e.g. create Best Management Practices, explore waterfront zoning options); and investigating the link between water quality/quantity and fisheries health.

P 115, CZMA Federal Consistency. The definition, in general terms given in paragraph 3, is misleading. Federal consistency is much more than a limited waiver of federal authority in the area of offshore waters seaward of state submerged lands. The explanation should be expanded.

Chapter 10, Guarding People and Property Against Natural Hazards.

General Comments

As identified in the chapter, the increasing conflict between human and environmental interface provides the foundation for the levels of hazardousness, increasing levels of risk, and overall vulnerability. This interface creates the exposure of both people and property to natural hazards, and which will continue to cause very real problems for both emergency management and our coastal areas. As long as there are people, they will continue to want access to the ocean and the ability to have access to work, live and recreate in these fragile environments.

This Chapter contains several good and well-reasoned positions. The focus is primarily on Federal laws and regulations that help to shape the human and environmental interface. Overall, the discussion is too brief, and lacks adequate details.

Improving Federal Management of Hazards In Coastal Areas

P 118. 2nd paragraph. The statement that "The Coastal Barrier Resources Act (COBRA) administered by the U. S. Fish and Wildlife Service (Chapter 9) also has significant influence on natural hazards management." would be better supported with expanded text in this chapter. COBRA has more influence on construction controls and development, than on natural hazards management. We recommend definitions at the outset of the chapter to clarify confusing text. For example, what is "natural hazards management"? If there are limits and controls on human growth and development on the coast or coastal floodplains, those measures limit the level of exposure to a hazard event, but do not serve to manage the hazard.

Changing Inappropriate Federal Incentives; Improved Understanding; National Flood Insurance Program; Hazards Mitigation Planning

PP 120-123, Recommendations 10-1 through 10-4. Although a couple of these recommendations issue a call to action for potential agencies in terms of roles and responsibilities, we recommend a stronger emphasis on real action and real responsibility, and more emphasis on definable milestones that concretely address some of the issues identified in this chapter.

National Flood Insurance Program

PP 121-123. It is clear through the research literature, General Accounting Office reports, Federal Emergency Management Agency documentation and the positions stated in this chapter that there are some real problems with the National Flood Insurance Program (NFIP). That being said, the recommendations for the NFIP changes are very general. The overhaul of the NFIP program under the National Flood Insurance Reform Act of 1994 is not discussed, nor the overall effectiveness of the changes over the past decade. We refer the Commission to five additional excellent sources on this topic:

- * <http://www.colorado.edu/hazards/>
- * Natural Hazards and Disaster Series published by Joseph Henry Press, some of the titles include
 - * "Disasters by Design: A reassessment of natural hazards in the United States" Edited by Dennis Mileti,
 - * "American Hazardscapes: The regionalization of hazards and disasters" Edited by Susan Cutter,
 - * "Paying the Price: The status and role of Insurance against natural disasters in the United States" Edited by Howard Kunreuther and Richard Roth; and,
 - * "Cooperating with Nature: Confronting natural hazards with land-use planning for sustainable communities" Edited by Raymond Burby.

Chapter 11: Conserving and Restoring Coastal Habitat

Funding for Habitat Conservation

P 127, Recommendation 11-1. The State of Georgia strongly supports this call for a dedicated program for coastal and estuarine land conservation. This would be best implemented through a permanent authorization, with initial funding at a minimum level of \$60 million annually. While we support awarding a portion of the funds competitively according to approved priority plans, there should be a regional balance, and base funding should be established for all states with approved plans. Such a funding source would be a priority complement to the Georgia Governor's Land Conservation Partnership Program, a program that engages non-governmental and private sector partners in land conservation. The CZMA amendments should allow states the flexibility to work with non-profit conservation organizations and with less than fee simple ownership arrangements, such as conservation easements.

Enhancing Information and Understanding

P 131, Recommendation 11-3. We support this recommendation; however, supplemental funding will be needed to accomplish the desired monitoring, assessment, research and education.

Chapter 12: Managing Sediments and Shorelines

General Comments:

An additional consideration is recommended for inclusion in Chapter 12. Consistent analytical standards should be developed for sediment test results associated with dredging projects. There

does not seem to be a fair, consistent standard for reviewing sediment test results. For example, in the Savannah Harbor, different resource agencies use different lists to determine the environmental acceptability of sediments. Even within the U.S. Fish and Wildlife Service, the Charleston Office uses different standards than the Brunswick Office. Research into the idea of taking ambient sediment samples and comparing the ratios of found elements (heavy metals) with the aluminum content of the sample and comparing those ratios with the subject samples should be explored for acceptability.

Developing Regional Strategies for Sediment Management

P 139. A companion recommendation is needed to review and amend existing legal authorities to enable the national strategy for managing sediments stated in Recommendation 12-1, to be implemented on a regional basis. While the US Army Corps of Engineers may wish to operate under this concept, they are, for the most part, unable to implement the concept because their authorities are too confining and restrictive, and limit coordination.

Beach Nourishment: A Special Use of Sediments

P 141. Even though today there is a difference of opinion over this issue, government at all levels will soon have to grapple with how to mitigate the high levels of risk created by the consumer choice and economic benefits of beachside living. Beachside development will not retreat, except under very infrequent circumstances, and is not a practical alternative. Seaward extension of the beach, in conjunction with a hold the line posture by governmental decision-making bodies, will be the only means to lessen the impact of hazards on beachside development. A factual, objective, cost-benefit analysis considerate of all environmental and economic elements will be needed, as is discussed in Recommendation 12-2.

Techniques of Cost-Benefit Analysis

P 141, Recommendation 2-2. The State of Georgia wholeheartedly supports this recommendation. It speaks to our long-standing call for the Corps to incorporate environmental benefits (e.g. the benefits of beach nourishment to sea turtle nesting) into their requisite cost-benefit analysis for proposed dredge spoil disposal options.

National and Regional Dredging Teams

P 141. In the last line on this page, the Report lists several ports that have developed long-term plans for managing dredged materials, but Savannah is not listed. The Savannah District, USACE, has a long range plan in place called the "Long Term Management Strategy" or LTMS.

Chapter 13: Supporting Marine Commerce and Transportation

General Comments:

The State of Georgia finds that the Report fairly assesses the condition and management of the nation's marine transportation system (MTS), accurately accounts for and acknowledges the critical importance of the MTS, and develops sensible and constructive recommendations for improving the condition and management of the MTS.

Part V

Clear Waters Ahead: Coastal and Ocean Water Quality

Chapter 14: Addressing Coastal Water Pollution

General Comments:

Many of the major problems in the coastal zone are caused by things taking place well away from the coast. To correct them, more emphasis needs to be placed on managing all those factors that contribute to the quality (and quantity) of the water (and the dissolved or suspended material it transports) entering the coastal zone. Solutions exist absent new research efforts, and include enforcement of existing water quality and erosion and sedimentation regulations, elevating growth management in inland counties as a priority for the coastal states, and educating those who do not live on the coast that their actions affect the coastal zone. Despite the tremendous recent growth of the coastal zone population, the industries, agriculture, and urban sprawl and population centers located up watershed can have a profound effect on estuarine water quality.

Wastewater Treatment Plants

P 159, Recommendation 14-1. Pharmaceutical needs to be added to the list of pollutants in wastewater. The last line of recommendation should be revised to read "Additionally, EPA should support a vigorous effort to characterize the extent of the impact of pharmaceuticals, household, and industrial chemicals in wastewater."

Septic Systems

P 160. The discussion of Septic Systems is more appropriately placed in the nonpoint source section. Overall, the discussion of septic systems is deficient in failing to recognize the problem of ageing septic systems in coastal areas, many of which malfunction. A companion recommendation to 14-2 is needed to address the issue of failing septic systems.

P 160, Recommendation 14-2. The USEPA and states should increase technical and financial assistance to help communities with those elements mentioned. Enforcement needs to be added to the list of elements. Also, this recommendation needs to specify that performance standards should be established. Performance standards will preclude poorly sited systems and encourage maintenance, two frequent problems with septic systems today.

Animal Feeding Operations

P 161, Recommendation 14-3. It is recommended that the following be added as the second sentence to this recommendation. "EPA should support a vigorous effort to characterize the extent of the impact of pharmaceutical and other wastes from Animal Feeding Operations wastewater. Additionally,"

Coastal Zone Management Act

P 164. We are in agreement that the modest level of federal funding through CZMA has been insufficient for states to prepare and implement their 6217 coastal nonpoint source management plans. However, another problem that looms just as large as lack of funding is the lack of organizational support and backing by all Federal sponsors and partners. Rather than being

engaged to see that the Federally mandated program is progressing in the states, the Federal agencies have been distant in terms of supporting, buying into, and evaluating the State's efforts. The lack of Federal support has significantly slowed the State's ability to progress.

Improving the Control of Nonpoint Sources

P167-170, Recommendations 14-8, 14-9, 14-11, and 14-12. We support these recommendations but emphasize that local decision-making is the key to address the cumulative impacts of development on water quality.

Authorizing Federal Agencies to Impose Disincentives

P 169. 2nd Paragraph. Not all states have fully approved coastal nonpoint source pollution control program pursuant to CZARA Section 6217. Because we only entered the CZM program in 1998, the State of Georgia is in the program development stage and continues to need support. This discussion seems to be based on the belief that all programs have been submitted for final approval and implementation. In light of an overall lack of Federal support (see comment above), support should not be taken away for program development. Were that to occur, obtaining full program approval would go from extremely difficult to the impossible.

P 169, Recommendation 14-10. The recommendation should instead include the authority to provide incentives. Disincentives for nonpoint source programs are inappropriate because it is a relatively new management arena and there are yet too many questions. For instance, there is a lack of scientific credibility of a few key water quality standards. Disincentives will do little to improve water quality in the United States.

Thinking About Land Use

P 170, 1st full paragraph. This discussion of NEMO should include mention of the myriad of state and local governments and organizations who participate and have been instrumental in furthering the work and successes of NEMO. The University of Georgia through programs sponsored by Sea Grant, Space Grant and Land Grant Programs is conducting statewide programs that address this Critical Action. The Non-point-source Education for Municipal Officials (NEMO), also known in Georgia as NELO (Local Officials), and the EPA Smart Growth Program are providing the outreach programs for local decision makers who must address the daily planning decisions

P 170, Recommendation 14-11. This discussion needs to reflect the fact that some states and local governments do not have codes and ordinances to require land use planning and decision-making. Therefore "State and local governments should enact and/or revise their codes and ordinances Thus codes and ordinances should consider the individual and cumulative impacts of development on water quality...."

Collaboration at the Watershed Scale

P 171, 2nd Paragraph. In addition to the limited financial resources, institutional stability, and lack of technical expertise that hampers traditional water pollution control strategies, another of significant importance is that watersheds cross political boundaries and there are not equivalent authorities and programs throughout the watershed.

Chapter 15: Creating a National Water Quality Monitoring Network

Federal Programs

P 176, last paragraph. In this discussion regarding EPA's EMAP, the Report states that the program design is not well suited for trend analysis. We would submit it is well suited to trend analysis to the extent that trends are characterized for geographic areas, not individual sites. Trend analysis of a fixed site applies only to that one point.

Chapter 16: Limiting Vessel Pollution and Improving Vessel Safety

Waste Pumpout Facilities

P 190, Recommendation 16-8. This recommendation should be expanded to advocate that states and local governments should require pump outs as a marina permit condition.

Chapter 17: Preventing the Spread of Invasive Species

General Comments:

Unintentional introductions can be limited considerably by taking precautions with, for example ballast water. Intentional or semi-intentional introductions can only be curtailed through education, and possibly strict enforcement. The current spread of the green mussel in Georgia is a good example of probably a careless discard by a shellfish wholesaler or a restaurant or fish store or a consumer throwing out old (but not yet dead) product into tidal waters.

Chapter 18: Reducing Marine Debris

Working with Communities

P 215. Communities should undertake a campaign with the fast food industry to launch a litter abatement program.

P 217, Recommendation 18-5. A review should be undertaken of US Special Areas designation to determine if designation of additional ocean/coastal areas is warranted.

Part VI

Ocean Value and Vitality: Enhancing the Use and protection of Ocean Resources

Chapter 19: Achieving Sustainable Fisheries

The Value of Science for Wise Management

P 222, Recommendation 19-1. Reliance on SSC advice is practiced by the regional fishery management councils more than the recommendation suggests. Nonetheless, we support this

recommendation, with a suggestion that the requirement for managers to use scientific advice should be proportional to the status of a stock. The higher (healthier) the stock abundance, the more flexibility managers should have.

We also support the compensation component of the recommendation. However, compensation won't alleviate the situation that many state natural resource agencies are facing with regard to losing staff scientific positions, who are the individuals likely to be tapped to serve as SSC members. We recommend modifying this recommendation to say, "...and receive compensation commensurate with the increased duties and expectations". Also, in the third bullet under this recommendation, the language should give an example of "a credible, scientific organization" (e.g., AFS, NSF ?).

Separating Science and Management Decisions

P 222, Recommendation 19-2. While agreeing with this recommendation, implementation will mean considerable more time and work commitment by SSC members than is currently expected. This may cause difficulties for the smaller state agencies who may have few staff with the analytical qualifications. State agency SSC members are already fully committed trying to cover duties and expectations associated with the priorities of their agency.

Recommendation 19-3. We agree with this recommendation and note that this is already being practiced by the federal fishery management council.

The Need for Independent Review

P 223, Recommendation 19-4. While we agree with this recommendation, we note this is in the process of being done (e.g., the SEDAR process in place in the NMFS Southeast Region).

Using Default Measures to Ensure Progress

P 224, Recommendation 19-5. We agree with this recommendation; however, it is imperative that NMFS act in a timely manner pursuant to a suspense date if the default is enacted.

P 225, Recommendation 19-6. We partially disagree with this recommendation. If the stock is declared overfished, all fishing should be suspended until a fishery management plan for that stock is completed. Fishing at a reduced level should be allowed on a non-overfished stock while the plan is being developed and reviewed. Suspending all fishing can cause tremendous market disruptions.

RFMC Input on Research Priorities

P 225, Recommendation 19-7. We support this recommendation, which is already being executed by some regional fishery management councils (e.g., SAFMC) through their annual work plans, which are developed, presented, and negotiated with the NMFS regional office. Unfortunately, limited resources enable only a fraction of the information needs to be addressed in any annual period. A substantial boost in fiscal support to the NMFS regions and science centers is needed to fulfill this recommendation.

Data Needs for Recreational Fisheries

P 226, 2nd paragraph. We disagree with the suggestion of managing recreational fisheries by quota. This was tried unsuccessfully with king mackerel in the South Atlantic region in the 1980's. Fiscal resources needed for such in-season tracking would be better expended elsewhere, and conservative bag limits imposed so as to prevent over-harvest by the recreational sector.

P 226, Recommendation 19-8. We agree that more effort should be focused on collection of data from the marine recreational fishery; however, simply licensing saltwater anglers will not fix the data deficiencies. A coordinated evaluation of existing state saltwater licensing programs should be conducted to identify successful elements and to determine how best to license anglers so as to facilitate data collection and avoid creating a licensing system that is redundant, cumbersome at point of sale, administratively unwieldy, and politically unpalatable. We recommend inserting the following language into the recommendation after the first sentence, "Existing state saltwater angler licensing programs should be evaluated to determine which methods best facilitate the collection of data."

The Value of Cooperative Research

P 227, Recommendation 19-9. We enthusiastically support this recommendation. Failure to engage fishermen in cooperative research and surveys will perpetuate the current situation where managers lack timely and relevant information. We recommend modifying the second sentence, "NOAA should implement a process of external evaluation and ranking of all cooperative proposals by stakeholders to ensure..." so as to clearly communicate that all stakeholders would have a say in funding priorities.

Clarifying Fishery Management Authority and Jurisdiction

P 229-230, Recommendation 19-10. We generally agree with this recommendation. The Atlantic Coastal Fisheries Cooperative Management Act has compelled more effective conservation and management of shared coastal fisheries stocks among the 15 East Coast States. We disagree with requiring the application of the Magnuson-Stevens Act National Standards to the interstate fishery management process. The standards and procedures of the ASMFC's Interstate Fishery Management Program Charter are modeled after the Magnuson-Stevens Act standards. These standards recognize the political reality that the states have a sovereign interest and right to manage the marine areas adjacent to their coasts. They provide the Commission the flexibility to accommodate regional needs while successfully accomplishing broader conservation and restoration goals. National standards are appropriate for the Exclusive Economic Zone, since individual state interests merge into a greater coast-wide and national interest in the offshore region. This recommendation should be modified to state that "All interstate fishery management plans should be guided by the national standards in the Magnuson-Stevens Fishery Conservation and Management Act..."

Clarifying Lead Authorities for Joint Planning Purposes

P 230, Recommendation 19-11. This recommendation proposes a degree of fisheries micro-management that we do not believe is appropriate for Congress. Questions regarding management authority and responsibility for individual fish species are inherently

regional issues. These are best left to be resolved by the existing regional fishery management councils and the Commission where local interests can be considered, rather than by a national level body, i.e., the Congress. A more appropriate role for Congress would be to establish national guidelines to ensure the lead management entity for each stock is clearly identified. The guidelines should include standards for coordination between the lead entity and other affected agencies.

We further question the use of proportion of catch as the primary determinant of the lead agency. Stock identity as defined by genetics, migration, historic vs. present range of occurrence and other population attributes should be factored into the decision. Provisions should be made for shift in "lead" agency/jurisdiction, if changing circumstances warrant. With regard to the second bullet under this recommendation, a RFMC should be designated "true" lead, as versus "administrative" lead.

Broadening Council Membership

P231, Recommendations 19-12 and 19-13. We support these recommendations. The Magnuson-Stevens Act should retain an eligibility requirement that RFMC nominees possess some marine or coastal knowledge.

Dedicated Access Privileges

P 235, Recommendation 19-15. We agree with this recommendation. The "dedicated access privilege" concept is fundamental to addressing overcapitalization, overfishing, and excessive litigation. Dedicated access privilege programs must be developed in concert with the states for transboundary fisheries, in order to be successful.

Reducing Overcapitalization of Fishing Fleets

General Comment: An increasing and acute problem that is not addressed in this discussion is the problem of the aging and largely un-insured southeast shrimp trawler fleet. Regulatory costs and depressed market prices due to imports have diminished the profitability of the fishery such that federally documented vessels are being abandoned on state water bottoms. There is little assistance to the States from the federal agencies to deal with this problem.

P 236, Recommendation 19-16. Implementation of this recommendation is a requisite for the "dedicated access privilege" concept to succeed.

Cooperative Enforcement Programs

P 238, Recommendation 19-17. While we agree that the USCG should remain a player in federal fisheries enforcement, the USCG mission was irrevocably changed once incorporated into the Department of Homeland Security. The USCG will logically continue to bear the responsibility for high seas fisheries enforcement and will have some involvement in littoral zone depending on the region; however, the future of federal fisheries enforcement in the littoral zone is JEAs with state natural resource agencies.

Consistent and adequate funding for equipment, operational costs, and training will be necessary to ensure that JEAs really work and aren't just "paper" agreements.

Fisheries reform requires strong enforcement in the face of pressure from both commercial and recreational fishermen. The focus of JEAs should shift from just high profile commercial cases to include recreational fishing cases. We will continue to see growth in marine recreational angling, and it is important to demonstrate that violations of recreational regulations will be treated just as seriously as commercial violations.

Cooperative Federal Enforcement

P 238, Recommendation 19-18. We suggest expanding this recommendation to include participation by state law enforcement officers to capitalize on their valuable local knowledge and expertise. Additionally, the Gulf and Atlantic interstate marine fisheries commissions have active law enforcement committees which are effective forums for this recommended coordination. These committees incorporate the federal agencies as members.

Vessel Monitoring System; Integrating VMS into a Data Collection and Dissemination System

P 240, Recommendations 19-19 and 19-20. We support these recommendations. Everyone fishing in a permitted fishery should be required to use VMS, largely for safety reasons.

Linking Fisheries Management with Other Regional Concerns

P 241. The second paragraph of this section should acknowledge the initial efforts being made toward ecosystem management. Specifically, the Atlantic States Marine Fisheries Commission fishery management plan for horseshoe crabs has an ecosystem focus. Moreover the interstate plan for menhaden recognizes the forage role as an important conservation objective.

Essential Fish Habitat

P 243. A missing component of the essential fish habitat action plan is outreach and coordination with the development community, local zoning and permitting authorities, and state and local elected officials, etc. to inform and educate about the impacts of development practices on essential fish habitat.

P 243, Recommendation 19-21. We support this Recommendation but recommend revising the language to "...protect vulnerable life-history stages of commercially and recreationally important species".

Reducing Bycatch

P 244. 3rd paragraph. The comprehensive bycatch sampling module developed by East Coast state, federal and interstate partners as part of the Atlantic Coastal Cooperative Statistics Program, should be acknowledged.

P 244, Recommendation 19-22. We support the recommendation, but it is worth noting that the NMFS and the RFMCs are already proceeding to develop regional bycatch reduction plans.

Managing International Fisheries

PP 246-7. We agree with Recommendations 19-23 through 19-26.

Chapter 20: Protecting Marine Mammals and Endangered Marine Species

General Comments:

This chapter addresses issues regarding marine mammals very well, while not sufficiently addressing issues involving the conservation of marine turtles, an important mutual federal and state effort in the southeast.

The Marine Mammal Protection Act

P 253, Recommendation 20-1. We support this proposal.

Jurisdictional Confusion

P 254, Recommendation 20-2. It would be more effective to shift oversight of all marine mammals under the jurisdiction of USFWS rather than NMFS. This would alleviate most of the inherent conflict that arises within NMFS with different branches of the agency currently responsible for regulation of commercial fisheries and protection of most marine mammals.

Recommendation 20-3. This recommendation should be expanded to mandate improved coordination with the states. Federal agency jurisdiction of marine turtles can be confusing to state managers attempting to work within the federal authority framework, developing cooperative agreements, and pursuing funding under section VI of the Endangered Species Act (ESA). Systematic program support of state conservation programs through Section VI as intended under the ESA is needed to ensure fulfillment of the implementation of recovery plans for turtles and all endangered marine species. The National Marine Fisheries Service's recent direction has been away from line-item support of on-the-ground management activities at the state level, and promoting more research based projects through competitive applications through the National Fish and Wildlife Foundation. This makes state management activity under section VI cooperative agreements more difficult to achieve, and goes against the spirit of the ESA for the recovery of threatened and endangered species.

Unclear Permitting and Review Standards

P 254, Recommendation 20-4. Clarification of terms of "take" and harassment are needed, but permitting standards for research and management efforts toward the recovery of a species under the ESA need to be taken into consideration when permitting decisions are made.

The Meaning of Harassment

P 255, Recommendation 20-5. Clarification is needed as to the effect of these recommendations on the ESA. Would the definitions consider the severity of population status and trends for individual species? Will permits be issued regardless of the stock levels solely based on the definition of the terms "harassment" and "take?" The term "meaningfully disrupt" needs to be more specifically worded.

The Promise of Programmatic Permitting

P 256, Recommendation 20-6. Programmatic permitting should be used very judiciously. Blanket permits without individual review can lead to regulatory challenges and abuses. Reliance

on federal and state law enforcement agencies to expend a greater enforcement effort without additional funding is not an option for success.

It is not clear whether the Marine Mammal Commission is a member of the interagency team described in the second bullet under this recommendation.

Expanding Research and Education

P 257, Recommendation 20-7. We support the recommendation with the specification that the Marine Mammal Commission and species specific recovery teams should be directly involved with this program development.

Effects of Noise on Marine Mammals

P 257, Recommendation 20-8. We support this recommendation. It should be expanded to include acoustic and percussion effects of all protected marine animals, not just marine mammals. The term "operational activities" in the last line of the recommendation needs clarification.

Domestic Action

P 258. The characterization of the possible effect of ocean noise on marine mammals as a "high-profile, lower impact issue" in the second paragraph is contradictory to the preceding discussion on page 257 regarding the effects of noise on marine mammals.

Chapter 22: Setting a Course for Sustainable Marine Aquaculture

General Comments:

The discussion on marine aquaculture correctly points out the need for better coordination of regulation and research at the federal level, and continued and enhanced collaboration with state, business, and academic stakeholders. Creation of a new Office of Sustainable Marine Aquaculture within the National Oceanic and Atmospheric Administration to be responsible for federal marine aquaculture is a positive step toward this goal. We support this action.

The focus of this Chapter seems to be aquaculture for consumptive purposes. A deficiency is the lack of mention of the use of aquaculture for stock enhancement purposes, and the consideration of issues associated with that application of aquaculture. Caution should be exercised in any use of farm-raised fish to supplement wild stocks for purposes of stock assessments for Endangered Species Act determinations.

There is also no mention of the economic disruptions caused by aquaculture imports on the US domestic markets, such as the blue crab fishery in the 1990's, or the southeast shrimp fishery in the past two years.

Marine Aquaculture in Offshore Areas

P 271, 2nd paragraph, last line: add "or other marine uses, e.g., traditional fishing grounds" after "navigation".

Developing a New Marine Aquaculture Management Framework

Introductory paragraph on page 272 should be clarified to indicate that the federal and state agencies along with industry and academia should be involved in developing as well as implementing a new integrated, coordinated framework.

Coordinated Action

PP 272-3, Recommendation 22-1. We support this recommendation, as noted in our general comments.

Implementation

P 273, 3rd paragraph. It should be noted there is potential for coordination through the interstate marine fisheries commissions. The Atlantic States Marine Fisheries Commission has undertaken aquaculture coordination initiatives relative to certain species.

P 273, Recommendation 22-2. We support this recommendation. Recognizing that the states have jurisdiction for nearshore waters, we urge the close coordination by the new office within NOAA of all regulations, policies, and other programs with the states.

Increasing the Knowledge Base

P 274, Recommendation 22-3. The recommendation that the Office of Sustainable Marine Aquaculture should set priorities for the research and technology programs, in close collaboration with academic, business, and other stakeholders should specifically mention states as one of the stakeholders.

Chapter 23: Connecting the Oceans and Human Health

Managing Marine Bioproduct Discovery and Development

P 280. We recommend elevating the narrative in the last paragraph under this section regarding permitting and licensing bioprospecting of public resources in the federal zone, to a recommendation.

Marine Bacteria and Viruses

P 282. 2nd paragraph. The impacts to the local beach related tourism is understated. There is an urgent need for more accurate bacterial indicator standards, and for better source identification techniques. Federal fiscal resources need to be directed to this issue through the EPA grants with the states pursuant to the BEACH amendment of the Clear Water Act.

P 284. Recommendation 23-2. The Centers for Disease Control should be specifically listed in the targeted organizations to support expanded research efforts.

Chapter 24: Managing Offshore Energy and Other Mineral Resources

Enhancing the Federal-State Ocean and Coastal Partnership

P 294, Recommendation 24-1. We strongly concur with this recommendation, which is a companion to funding source recommendations in Chapter 30.

Environmental Issues Related to Offshore Oil and Gas Production

P 297, Recommendation 24-2. We recommend adequate support be directed to the Minerals Management Service's Environmental Studies Program. The first bulleted item should note monitoring inclusive of deepwater sites.

Ocean Thermal Energy Conversion (OTEC)

P 300. A recommendation should accompany this narrative. NOAA should re-establish an updated, regulatory structure for commercial OTEC so as to be proactive.

Part VII.

Science- Based Decisions: Advancing Our Understanding of the Oceans

Chapter 25. Creating a National Strategy for Increasing Scientific Knowledge

General Comments:

Georgia is proud of the academic and scientific efforts currently underway in our state to understand coastal and oceanic processes. The State of Georgia works diligently to ensure that the information provided from these efforts is translated and used by our policy and management officials. However, we share the Commission's concern with the declining overall health of our oceans and coasts, and with the decline in the federal research budget for oceans and related issues. Therefore, we strongly endorse the Preliminary Report's call for a significant increase in federal investments in ocean and coastal research, to levels at least double of current expenditures. These investments will lead to strengthened partnerships between scientists and managers. In addition, we strongly support the development of a Committee on Ocean Science, Education, Technology and Operations (COSETO), under the direction of the National Ocean Council (NOC), thus ensuring coordination and integration of federal and regional programs.

Establishing a National Strategy

P 306, 4th paragraph. Georgia is proud of the significant accomplishments of its Sea Grant Program, and supports the recommendation to enhance the national Sea Grant Program (pages 90-91), which will be able to target regional needs within the framework of national ocean science efforts. In addition, the development of a new, national ocean research strategy to focus national efforts will greatly improve the effectiveness of these increased research efforts by ensuring strong independent review of all science applications, by taking into account the needs of local, state and regional managers, and by working to ensure partnership between different organizations and disciplines within the broad area of ocean science.

Reviving the Federal Investment

P 307-308, Recommendation 25-1. We agree with the recommendation for a substantial increase in the coastal and ocean research budget in the near term, and the direction of a portion of those funds to enlarge Sea Grant. Sea Grant has over 30 years of experience in conducting open and competitive selection process and administering projects with multiple partners. Sea Grant also acts as a "pass through" for NOAA and other federal agencies.

Coordination and Prioritization

P 309, Recommendation 25-2. The recommendation states that the national strategy should, among other tenets, "reiterate the importance of balancing basic and applied research projects." Rather than further the divide between basic and applied science, the recommendation should underscore need for a translation function, such that the results of scientific research are made available in a way that allows them to be useful for decision-makers.

P 312, Recommendation 25-3. We strongly support this recommendation and advocate a companion emphasis in Chapter 8 recommendations (8-12 and 8-13) to promote the professional expertise needed to accomplish this action item.

Chapter 26. Achieving a Sustained, Integrated Ocean Observing System

General Comments:

Georgia strongly echoes the Commission's call for the implementation of a national Integrated Ocean Observing System (IOOS), linked to global efforts. We agree that the NOC should make development and implementation of a national IOOS a central focus of its efforts. Built to serve regional needs, the current IOOS models will greatly enhance our understanding of the coastal and global ocean. Georgia and the Southeastern U.S. region have already initiated a regional OOS, the Southeast Atlantic Coastal Ocean Observing System, and endorse the recommendations in the Preliminary Report. Georgia Sea Grant is a partner in the SEA COOS along with our Sea Grant counterparts in FL, SC and NC as the outreach and educational component of this regional COOS. With a strengthened research effort and a linked, national and international observing effort, the U.S. will be able to meet today's ocean and coastal information challenges of critical importance to Georgia's citizens, such as improved hurricane track prediction, resource management and maritime shipping safety and efficiency.

National Planning

P 322. Whereas it is crucial to implement the IOOS, it is equally important to continue the USGS stream gage monitoring network and revive the associated water quality monitoring program, with particular attention to the most downstream gage in each river. The USGS information is essential for quantifying land-derived run-off to the coastal zone, and is vital for interpreting almost all estuarine observations. The long-term record of streamflow is required for understanding past trends in freshwater inflow and for predicting how it might change in response to future management decisions or climate change. Coupled to that, the USGS water quality measurements allow an estimate of the loading of nutrients and pollutants to the coastal zone. This program has been allowed to lapse in many areas, and is believed by our State to be crucial for meeting many of the water protection goals laid out in the CZMA and CWA.

P 322, Recommendation 26-2. Ocean.US and NOAA, currently taking major roles in the preoperational IOOS work, are the logical entities to oversee and coordinate these activities.

Critical Environmental Variables

P 325, Table 26.2. Other protected marine species (e.g., threatened and endangered marine species other than mammals, should be specifically identified among the important biological variables to be measured by the national IOOS.

Chapter 27. Enhancing Ocean Infrastructure and Technology Development

General Comments:

The Report demonstrates that funding for infrastructure for ocean research and education has fallen well behind that necessary to keep pace with the passage of time and changing technology. In order to strengthen our knowledge base, improve capabilities for earth and ocean observations, and improve the science literacy of U.S. citizens, the State of Georgia strongly supports efforts to enhance this necessary infrastructure. By doing so, the nation can enhance the vitality of our ocean and maritime commerce, and help our coastal and ocean managers resolve the issues that they face with coastal development in a manner that allows both economic growth and the continuation of healthy coastal ecosystems.

We agree that the most effective way to maximize utility of such improvements is to encourage and fully support partnership efforts. For example, in Georgia, the Skidaway Institute of Oceanography campus houses a variety of academic, state and federal partners, who share common goals and collaborate to maximize the effectiveness and efficiency of their workforce, technology, and infrastructure.

A Federal Modernization Fund

P 344, Recommendation 27-4. We agree with the high priority areas for funding under this recommendation. The third and fourth dedicated fishery research vessels referenced in the second bullet, are long overdue for replacing retired and or obsolete vessels.

Chapter 28 - Modernizing Ocean Data and Information Systems

General Comments:

Progress is being made in this area (particularly through NSF requirements). It will be useful to have better access to monitoring information, but it is important to also think about quality control.

Interagency Planning

P 353, Recommendation 28-1. Regional, state, and local stakeholder users of the ocean and coastal data and information should be incorporated into the planning organization. A good model is the Atlantic Coast Cooperative Statistics Program comprised of 23 state, federal and interstate agency partners.

Future ecosystem management will depend on ecosystem models and adequate continuing monitoring programs and be organized regionally into Large Marine Ecosystems (LME). The academic and resource management community in our Southeast U. S. LME has made substantial progress in developing collaborative programs that will create the scientific basis for ecosystem management. MARMAP and SEA COOS are two excellent examples of the regional approach to ecosystem science.

Part IX

Moving Ahead: Implementing A New National Ocean Policy

Chapter 30-1: Funding Needs and Possible Sources

General Comments:

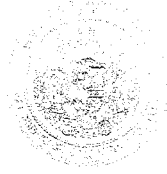
The State of Georgia strongly supports increasing the nation's investment in ocean research and education, as well as data collection, analysis and dissemination. The Administration and the Congress should at a minimum provide increased support in the FY 05 and FY 06 budgets currently or soon to be under consideration for key coastal and ocean management, research, monitoring, and science programs, to jump start this action agenda under current authorities. While the report recommends doubling the nation's investment in research and science and establishing an Integrated Ocean Observing System, it is essential that adequate support be provided for information and tools to assist communities their planning efforts, which will in turn collectively address broader ecosystem and regional objectives.

New Revenues for the Federal Ocean Family and State Government Partners: The Ocean Policy Trust Fund

P 377, Recommendation 30-1. We strongly support the establishment of the Ocean Policy Trust Fund. The fund should be dedicated, not subject to annual appropriation, and not supplant existing funding. The program should be developed to assure that any new uses comply with all federal requirements, including federal consistency. It would be important that such funds not be tied to burdensome requirements that could reduce efficiencies of current processes. We further support full funding of the Land and Water Conservation Trust Fund and the National Historic Preservation Act. Further, the trust Fund should support the full funding needs for current coastal and ocean management laws (e.g., CZMA, Magnuson-Stevens, NEP, etc.) Funding for these programs should be at least doubled consistent with recommendations for science.

Acknowledging the Cost of Taking Action

P 374, Table 30.1. There is a discrepancy in the start up cost identified for IOOS in this table as compared to the start up cost identified on page 330, Table 24.6. The information in the two tables needs to be reconciled.



EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

June 4, 2004

Admiral James D. Watkins
Chair, U.S. Commission on Ocean Policy
1120 20th Street NW
Suite 200 North
Washington, DC 20036

Dear Admiral Watkins:

On behalf of the State of Hawai`i, I am pleased to offer comments on the *Preliminary Report of the U.S. Commission on Ocean Policy*. These comments reflect the collective input of numerous state agencies, the academic community, and other interested parties.

Hawai`i is truly an ocean state, as no point on land is farther than 30 miles from our coast. The ocean affects every aspect of our lives. Ninety-eight percent of our goods are brought to and between our islands by ships. We are the world's most-isolated populated-place. All these factors, and many others, mean that recommendations in this Preliminary Report will significantly affect the 50th State.

I agree with the guiding principles that have been outlined in this report and that form the basis for many of the recommendations. The comprehensive and broad-based approach taken by the Ocean Policy Commission is commendable.

Hawai`i's comments, provided in the attached Appendix, are based on four concerns:

1. There should be greater participation by States in the final discussions surrounding ocean policies and their implementation. States should have a direct and substantial role in prioritizing the report's recommendations and in developing implementation strategies to ensure they are well tailored to states' needs and capabilities.
2. Adequate funding for federal and state program implementation is critical to success. Any new state responsibilities should be paired with adequate financial assistance to

carry them out. Without the money to do the job, a new federal mandate will create problems, not solve them.

3. The "Islands" should be considered a "region". Geographic proximity is less important than commonality of issues. Thus, we would recommend that Hawai`i, Guam and Puerto Rico be grouped and considered as an "Island Region" for possible pilot programs being proposed by the Commission.

4. Research should focus on supporting management issues and needs to ensure results-oriented success. The report is noteworthy in its focus on research. But research alone is not enough. A greater emphasis should be placed on the practical applications of the research and immediate ocean management needs.

In Hawai`i, we recognize that our ocean resources are as vital a component of our future as our seafaring past. Our host culture, the early Hawaiians, explored the entire Pacific. Our State's position in the middle of the Pacific gives us a unique vantage point from which to continue to explore the opportunities and challenges identified in the Commission's draft report.

Thank you for this opportunity to comment on the Commission's preliminary report. Please contact Peter Young, Chairman, Department of Land and Natural Resources (808) 587-0401, if you have any questions on these comments.

Sincerely,



LINDA LINGLE

Attachments

Cc: Peter Young
Congressional delegation
Agency Department Heads

Appendix A

Summary of Comments of Governor Linda Lingle

State of Hawaii

Our comments are organized into two sections: (1) overall comments on the report, and (2) specific comments on each chapter. Our overall comments are bulleted below and expanded upon in the subsequent text. This is followed by our chapter-by-chapter review.

Overall:

- The recommendations are too federally-oriented. We believe the overall ocean policy process should have more involvement at the state level.
- The role of each state in the national system of ocean governance should be more pronounced.
- The National Ocean Council (NOC) should be expanded to include at least one Governor from each of the proposed regional ocean councils to help coordinate federal, state, tribal, and local planning actions.
- We are concerned that the proposed administrative structure appears top-heavy and unwieldy for coordination.
- While the National Ocean Council coordinates funding across federal agencies and has the lead for facilitating state, local, and regional collaboration, ultimately, the federal and state agencies have the responsibility to implement programs. The implementing agencies should be provided the resources to successfully address the missions and statutory mandates of the NOC.
- The proposed subcommittees the Committee on Ocean Science, Education, Technology and Operations (COSETO) and the Committee on Ocean Resources Management (CORM)) should have stronger state representation. There needs to be a mechanism established for the subcommittees and the Presidential Council of Advisors on Ocean Policy to interact with one another.
- The Presidential Council of Advisors on Ocean Policy is too broad-based in its mandates and could easily become unwieldy and unproductive. It needs to have a clearly defined framework and structure to function as envisioned.
- Staffing from the Office of Ocean Policy should be broadened to include regional liaisons to assist in the creation of regional councils and to ensure that regional issues of critical importance are expressed to the NOC.

- We are opposed to the recommendation that a particular entity (e.g. a Sea Grant director) be included in the make up of the regional boards. There may be more appropriate region-specific entities.
- While we fully support the need to coordinate offshore management among federal agencies, there is a critical need to ensure that what is occurring outside the jurisdictions of the states and territories is fully coordinated with activities and management decisions occurring inside the states' jurisdictions or between islands within the Hawaiian Archipelago.
- The report is too focused on research and technical development. There needs to be more emphasis on management. Linkages are needed to translate the output from research and development into management. Support is needed for results-based management.
- As the report indicates, tourism and recreation constitute the fastest growing sectors of the ocean economy, yet there is no chapter in this report that discusses the management challenges associated with ever-growing tourism and recreation impacts on ocean resources.

Generally, our concerns regarding this report are not based on the recommendations in the subject matter chapters, but are based on the insufficient role for the states. While the report outlines many opportunities for states in ocean and coastal management, there is very little linkage between the states and the proposed NOC.

We understand that the objective of the NOC is to coordinate activities on the national and international level between federal agencies. In our experience, however, without the active involvement of the states, the most critical and by far the most productive zone of the ocean is overlooked. Without state involvement, it is unclear whether the states are going to be able to meet the mandates developed by the NOC. Our recommendation is that the NOC be expanded to include at least one Governor from each of the proposed regional ocean councils to help coordinate federal, state, tribal, and local planning actions.

We are concerned that the proposed administrative structure appears top-heavy and unwieldy for coordination. The report recommends a National Ocean Policy Council, regional councils and a variety of coordinating committees scattered among resource management agencies. Mechanisms for efficient implementation of these new policies should be more clearly defined.

Federal agencies need to be willing to pursue reorganization. This will simplify policy implementation and discussions with the Executive Branch. Effective coordination and a clear explanation of the means by which implementation can be driven at the national level are critical to successfully changing outdated policies across all regions of the U.S.

The proposed National Ocean Policy appears to mirror Hawaii's efforts incorporating an "ahupua'a" approach to resource management (e.g. a Hawaiian concept connecting the watersheds to the coast and offshore waters.) Many of the recommendations and proposed activities such as conserving and restoring coastal habitat, protecting wetlands and promoting

watershed efforts directly comport with the current objectives and efforts in Hawai'i, and thus are strongly supported.

It should be noted that many of the recommendations appear to be unfunded (at least at the state level). Thus implementation of these measures will be severely limited without appropriate funding for agencies that may be charged with carrying out these program measures.

We are concerned with the establishment of a NOC bureaucracy, particularly the uncertainty with the ability of the Council to affect change in existing agencies, programs and their budgets. It should be made clear that the NOC coordinates and facilitates state, local and regional implementation, and that the agencies have lead for implementing programs. While the NOC may be helpful in coordinating program funding across agencies to maximize efficiencies and impact, it is important that agencies with statutory mandates have resources to successfully address their missions.

Without a clear mandate to link the NOC and its actions and policy decisions to those of the states and territories, what is being proposed is another layer of federal government that may coordinate programs better at the federal level but falls short of meeting the guiding principles articulated in this Report.

The NOC and the proposed subcommittees Committee on Ocean Science, Education, Technology and Operations (COSETO) and the Committee on Ocean Resources Management (CORM)) should have strong state representation and participation. This can be justified because the purview of these councils/committees significantly overlaps state interests. Perhaps the focus could be on the subcommittees (COSETO and CORM, including expanded role for the Council on Environmental Quality) with NOC policy direction and oversight.

Education, technical assistance, research, and science priorities should not be isolated in the science subcommittee, COSETO. The structure should be amended to provide a balanced portfolio and include education, technical assistance and a research, science needs, survey and priorities functions that are in CORM and/or overlap the management and science groups. There should be some mechanism established for all the subcommittees and the Presidential Council of Advisors on Ocean Policy to interact with one another.

The Presidential Council of Advisors on Ocean Policy is too broad based in its mandates and could easily become very unwieldy and non-productive. There is not a specified number of members or a proposed framework with key issue areas identified that would assist this group in a focused approach to advising on ocean policy. This entire structure should be re-examined.

Due to our long and well-established record of coordination and collaboration across the region, the All Islands Region is willing to be a pilot project for addressing implementation of the functions outlined in the Preliminary Report. As this will require additional staff time and travel to address a new set of issues, it is anticipated that additional funding will be made available through grants to the states and territories to act as a pilot site.

Under recommendation 5-5, the composition of the regional board includes specifically naming that a Sea Grant director from at least one state in the region be included in the representation. In the Pacific, there is only one Sea Grant director and this program does not necessarily represent the interests throughout the region. We are opposed to the recommendation that a particular entity (e.g. Sea Grant) be included in the make up of the regional boards, as there may be more appropriate regional entities to represent the interests across a region.

In Chapter 6 on Coordinated Management in Federal Waters, there is no mention of the need to coordinate between federal waters and the territorial waters of each state. While we fully support the need to coordinate offshore management among federal agencies, there is a critical need to ensure that what is occurring outside the jurisdictions of the states and territories is fully coordinated with activities and management decisions occurring inside three miles or between islands within the Hawaiian Archipelago.

As stated throughout the report, an important part of moving towards an ecosystem-based management approach is to consider the cumulative impacts across boundaries. The report needs to include coordination between activities such as offshore aquaculture, fisheries management, enforcement. There is a need to ensure that coordinated offshore management is done in a manner that considers the impacts of these decisions on nearshore and coastal resources and the communities living adjacent to the area. In addition, it must be made clear that the appropriate state agency is consulted. It should be stressed that Hawai'i is interested in the Exclusive Economic Zone (EEZ) and offshore activities that may occur therein, and endorses an offshore management regime in EEZ that is geographically linked.

Throughout the report and in the organization of the NOC office and subcommittees, management is not given the needed focus when compared to research, education and integrated technical development. The report needs to focus resources on translating the output from these other sectors (research, education, and integrated technical development) into the management setting, and supporting results-based management and best management practices. Since two of the guiding principles in the report are an ecosystem approach and adaptive management, there is a need to make the linkages to ensure this happens.

As the report indicates, tourism and recreation constitute by far the fastest growing sectors of the ocean economy and yet there is no chapter in this report that discusses the management challenges associated with ever-growing tourism and recreation impacts on ocean resources. In Hawai'i, one out of every five visitors from the west participates in snorkeling or diving activities. About eighty-percent of all visitors participate in some form of ocean or coastal recreation ranging from sun bathing to swimming to jet skiing and diving. The intense use of some of our nearshore waters coupled with the crowding on our beaches, in our parks, and to our recreational facilities is a management challenge. We need to move beyond the traditional approaches to management to address this myriad of impacts. The report does very little to address this issue.

Chapter-by-Chapter Comments:

The following portion of our comments are designed to provide detailed edits on the various chapters and the recommendation made within these chapters. In the case where there are no comments on a chapter or a proposed recommendation, please assume that we are in general support of the content.

Chapter 1 – Recognizing Ocean Assets and Challenges

The basic point of this chapter is that ocean and coastal economies contribute significantly to the U.S. economy. To get this information, a special multi-year project was undertaken because none of the federal agencies with ocean and coastal responsibilities invest significantly in understanding their economic impact as a whole (compared to \$100 million spent annually by the Department of Agriculture). In this chapter, it is acknowledged that “[s]tandard government data are not designed to measure the complex ocean economy,” but unfortunately, the report does not stress the need for such standard measurements. It isn’t until Chapter 25: Creating a National Strategy for Increasing Scientific Knowledge, that recommendation 25-3 (p. 312) proposes a national program for social science and economic research that would create an interagency group to look at the ocean economy.

Even this recommendation seems to fall short of suggesting that standard economic data collection tools for the ocean economy should be integrated into all U.S. economic data collection efforts. In order to develop an effective, cohesive lobby for ocean and coastal issues, their economic impact, over time, must be understood and appreciated. It is important that our coastal communities and the general public “appreciate the economic importance of our oceans and coasts.” A healthy environment is good business. Any citizen or group should be able to access this information as easily as finding out how much the agriculture industry, or a subset such as wheat, contributes to the U.S. economy each year. In this regard, we recommend that an emphasis on economic valuation of our ocean and coastal resources be pursued to demonstrate the importance of healthy ecosystems to a state’s economy. This recommendation should be stronger and the need for it included in Chapter 1 where the issue is first discussed.

The need to quantify the economic data is particularly true of a visitor industry based economy such as Hawai‘i, which is reliant upon our unique environment and culture as its main attraction for first time and repeat visitors. In addition, the value of ‘a day at the beach’ also needs to be taken into account with respect to socio-economics.

Marine transportation and ports are vital elements for a stable economy. It provides economic infrastructure to global markets, goods, and products as well as employment opportunities. In the case of Hawai‘i, shipping accounts for about ninety-eight percent of imported goods. Although economically important, this use of marine waters must be tempered by the consideration of impacts to ocean and coastal resources as a result of the need to expand land-side maritime operations, dredging to increase harbor depths for larger vessels, and land-use implications due to increasing population demands and evolving maritime technologies.

On page 7 the value of coral reefs in Hawai‘i is estimated at \$800 million in gross revenues annually, the figure of \$360 million is the ‘added value’ per year. For the reference please go to the Hawai‘i Coral Reef Initiative Research Program web site at www.hawaii.edu/ssri/hcri and download the “Economic Value of Hawaii’s Nearshore Reefs” brochure.

On page 8 in the discussion on nonmarket values, please add in the cultural importance of coastal and ocean resources to the list discussed. For the islands and for all the indigenous cultures represented in the U.S., this is an important value to highlight.

On page 9 in the discussion on exploration, inspiration and education, it is important to note here that historic and cultural events are more than just shipwrecks and other submerged sites, that in the Pacific this was way of life, the early Polynesians and the other Pacific island cultures explored the oceans on a scale and at a time that centuries before similar activities were occurring in Europe. As we strive to inspire and educate the public about our oceans, we need to celebrate the historic uses and the scale of exploration that ties us to our roots and links our future to our past.

Education must not only be science-based it must be “place-based” and “multicultural-based” in the case of Hawai‘i and other island jurisdictions. In this way, education and outreach can be accomplished in a culturally sensitive and appropriate manner. The report also fails to address the possibilities for work force education through ocean related skills/studies at vocational or technical schools.

The impacts of global climate change are clearly more pronounced in island settings given limited land area and eroding coastal landscapes. International coordination is essential to addressing this problem as it clearly impacts the health of our ocean and coasts. The U.S. should pursue collaborative efforts around the world and take an international leadership role in global issues such as marine debris, global warming, sea level rise, fisheries management, coral reef health, etc.

On page 11, in the discussion on fisheries declines, there is no mention of the impacts to habitats from destructive fishing practices. Also on the same page, while we support the growing marine aquaculture industry.

With regard to gaining more data and information regarding climate change, the U.S. should strongly support the efforts already underway for the integrated ocean observation systems (IOOS). International relations to insure compatible technology and data sharing should be pursued.

Primer on Ocean Jurisdiction-

In the section on state seaward boundaries in the United States, we suggest language that recognizes that not all states are in agreement with the Territorial Sea being defined from zero to three miles. Texas, Florida and Puerto Rico are named as exceptions to this, but several other states do dispute the boundary. Hawai‘i claims archipelagic status around all waters in the main

Hawaiian Islands and feels that it has the historical documentation to substantiate this claim. In addition, the State of Hawai‘i Constitution reflects a greater than three-mile claim. While the State of Hawai‘i acknowledges that rights of innocent passage and military activity, for the purposes of resource management, enforcement, regulation of vessel traffic, and numerous other activities, we have systematically based our management decisions on this archipelagic claim.

Chapter 4: Enhancing Ocean Leadership and Coordination

Page 49, paragraph 1 reads: “ocean policies should promote an ecosystem-based management approach.” This approach is essential to maintaining a clear cause and effect relationship between the land, sea, and air and should be a driving factor in coordination and collaboration of efforts at all levels.

Page 49, paragraph 2 reads: “As part of the move toward an ecosystem-based management approach, a precautionary approach should be incorporated into decision-making processes and adopted by the NOC in developing national standards for ecosystem-based management.” A standards-based approach to management has much to recommend but should take into consideration the differences in each region. In terms of ecosystems, a mile of wetland buffer in Texas is not equal to a mile of wetland buffer in Hawai‘i.

Recommendation 4-1 and 4-2: Regarding the establishment of the NOC

A NOC composed only of executive branch appointed cabinet secretaries and directors raises issues of continuity between policies, mandates, and actions of council members due to outgoing and incoming administrations. Again, we must re-iterate the need to have the states at the table on the NOC, on the Advisory Council and the subcommittees.

To balance the representation on the NOC and the Presidential Council of Advisors on Ocean Policy, we recommend that both the President and Congress should select the council members for the Presidential Council of Advisors on Ocean Policy. This would help ensure the independence of the actions of this body as well as encourage the continuity of its policies.

Recommendation 4-5: Regarding a Presidential Council of Advisors on Ocean Policy

Presidential appointees for nongovernmental organizations should include the Director of the Coastal States Organization which would insure the voice of federally-approved coastal states and the All Island Affairs Committee.

Recommendation 4-10: Regarding the establishment of Regional Ocean Councils

Establishment of a Regional Ocean Council as described in this section within the Pacific for the islands will be challenging since we are separated by ocean from each other as well as the continental U.S. The current structure of regional divisions will need to be reexamined for island application.

Chapter 5: Advancing a Regional Approach

Although it is commendable that the commission recommended that regional ocean councils should be developed with a broad flexible approach, in practice this might prove difficult and time consuming. Just agreeing on the regional boundaries could be problematical and greatly delay the formation of the regional councils. Some thought should be given to which configuration makes the most sense for the regional ocean council. Sub-regions should be considered for management issues that differ because of the large ocean areas separating the islands of the Pacific, as well as our cultural, biological and social differences that could influence ecosystem-based management decisions.

Also, since existing bodies, such as the Regional Fishery Management Councils are to retain their scope and function, it will be more difficult to establish ecosystem-based management approaches. The three examples of existing regional management areas shown in Figure 4.3 are depicted to indicate the problems inherent in different regional boundaries. The recommendation is to improve communication. Perhaps a closer look should be given to consolidating existing regional efforts into the new ecosystem-based regional ocean councils. This would also facilitate the supporting efforts of the proposed regional ocean information programs. The vertical integration of these existing and proposed entities using common boundaries would greatly reduce the problems of duplication of effort and the potential for gaps in information.

On page 57, the U.S. Island States and Territories collaborate on more than just strategies to protect coral reefs. The collaboration on coral reefs grew out of their work on coastal zone management issues and it was due to the strong relationship that had already been established with other initiatives that the coral reef efforts are so successful.

Other comments on Chapter 5 are outlined in the overall comments section.

Chapter 6 – Coordinating Management in Federal Waters

The commission again neglects to recognize that there are actions in Hawai‘i that could provide insight or guidance for the nation. A case in point is the box on page 65 that describes the establishment of an offshore aquaculture facility. There is no mention that under the Hawai‘i Ocean Leasing Law, the State granted the first open ocean lease for offshore cage culture in the nation.

Recommendation 6-1: Regarding ensuring that current and foreseeable use of federal waters is administered by a lead federal agency.

We again must re-iterate that to ensure full consideration of the public interest, we recommend that coordination also include appropriate state agencies since increased uses and potential impacts in federal waters do not recognize boundary lines or jurisdiction.

The remainder of our comments on this section are on marine protected areas (MPAs). Our first question is; why is this management tool discussed in this chapter? MPAs are not just a tool used by federal agencies. Hawai‘i has had MPAs designated since 1967, for over 35 years. Our

first MPA was Hanauma Bay Marine Life Conservation District. We have learned a significant amount about the management and the designation process for MPAs since this first site. To date, there are over 45 types of MPAs in Hawai‘i, under varying levels of management and protection. We are currently in the process of re-evaluating our MPA program and developing a new framework and criteria in which to more effectively manage our current sites and to better define the selection process for future sites.

Our process has always been community-driven, and most sites have been requested by community groups. By law we are required to hold public hearings prior to the establishment of any MPA-related regulations. Our process to designate MPAs and to ensure that they are acceptable to the communities that are affected takes anywhere from three years to over a decade.

Hawai‘i has been involved in a federal/state partnership to manage MPAs for several years. The Hawaiian Islands Humpback Whale National Marine Sanctuary is a co-managed program, where eighty percent of the waters within the boundaries are State waters. Hawai‘i is in the process of designating State waters in the Northwestern Hawaiian Islands (NWHI) as a State Marine Refuge. Some of these same waters are administratively claimed as part of the Hawaiian Islands National Wildlife Refuge. We are also involved in the process to create a National Marine Sanctuary in the NWHI, which may or may not include State waters, and are currently working with both the U.S. Fish and Wildlife Service (USFWS) and the NWHI Coral Reef Ecosystem Reserve for cooperative management in adjacent waters. This is the largest MPA in the nation.

MPAs are effective tools for managing specific activities affecting coral reefs and other ocean habitats, with the understanding that it’s not benthic communities or other resident organisms that can be managed, but rather, it’s the human activities that are detrimentally affecting the ecosystem. Simply stated, “no take” does not mean “no impact”. While fishing pressure (actually over-harvesting, as there are more key species than fish involved) is one of the top activities impacting coral reef ecosystems worldwide, many reefs suffer far more from runoff, coastal pollution, sedimentation, eutrophication, and tourism-related damage (anchors, SCUBA divers, reef-walkers, collectors, jet skis, etc). Establishing an MPA without adequate management of adjacent land-use activities, upstream water quality, down stream substratum quality and non-fishing impacts, will do limited good in the long run. Most of the management measures for the adjacent land-use activities fall under the jurisdiction of the states. National policy needs to recognize not only flexibility in the type of MPA and the issue of time (rotational, seasonal, permanent), but also the activities adjacent to these areas.

Page 66, reads: “These areas MPAs have also been recognized for their scientific, recreational, and educational values.” It should also be emphasized that MPAs should also be recognized for their historic and cultural value.

Page 68, reads: “The design of MPAs should not unreasonably limit important national interests, such as international trade, national security, recreation, clean energy, economic development, and scientific research. For example, in most cases freedom of navigation through MPAs should not be restricted. However, where some infringement on such national interests is deemed essential to achieving the purposes of a [MPA], restrictions should be based on *sound science*,

with a plan for ongoing monitoring and modifications over time. The overall ecological and socioeconomic impacts of MPAs should also be evaluated at the national level.” It is recommended that “sound science” referenced in the paragraph be replaced with “best available science,” to be consistent with other references in the report.

Also, there is a danger of stalling precautionary measures until an administration’s definition of sound science is met. In addition, national interests such as freedom of navigation through MPAs should not be unrestricted given the report’s emphasis on ecosystem-based management. Instead of balancing economic and environmental interests, this paragraph gives importance to economic concerns. Economic growth is not a necessary precursor to environmental and public health protection. Finally, overall ecological and socioeconomic impacts of MPAs should also be evaluated based on state/local input.

Recommendation 6-3: Regarding the NOC developing national goals and guidelines for a uniform process for the effective design and implementation of MPAs.

We are opposed to this recommendation as it is currently written. It is our understanding that the MPA Center and the Federal Advisory Council that were created under Executive Order are doing more than an inventory of MPAs. We are interested in knowing how the work of the MPA Center and the Federal Advisory Council will be incorporated into the proposed goals and guidelines for effective design and implementation of MPAs that are being proposed in this recommendation. We are also concerned that this national process may conflict directly with the processes that have been ongoing for over 35 years and are currently being revised in Hawai‘i and other locations. MPAs are an excellent example of sites that need to be designed based on local and regional considerations, and we are very concerned about a federal approach that limits our abilities to consider the impacts to both the resources and the effected communities at the local level.

In Hawai‘i, 25% of our marine life is found nowhere else in the world. We are considered by many to be our own region, when it comes to biodiversity and other factors. Our waters are very different than the waters of American Samoa, Guam, or California. A uniform process developed from the top-down by the NOC may not consider any of these factors or the fact that in each state or territory cited above, there is a difference in culture, values and language. In addition, what is proposed for a national set of goals and guidelines may be applicable for new sites, however, it will be difficult to apply to all of the existing sites. .

Recommendation 6-4: Regarding regional councils, or other appropriate regional entities, should actively solicit stakeholder participation and lead the design and implementation of MPAs. The design should be conducted pursuant to the goals, guidelines, and uniform process developed by the NOC.

We support the concept of actively soliciting stakeholder participation in the design and implementation of MPAs. However, we do not support the concept that this initiative should be lead by a regional entity, but rather by the state (and its locally based community groups), with support from a regional group as needed. We are, as stated above, opposed to the design being conducted based on a national set of guidelines.

Chapter 7 – Strengthening the Federal Agency Structure

Recommendation 7-2. Regarding the Office of Management and Budget’s (OMB) review the National Oceanic and Atmospheric Administration ‘s (NOAA’s) budget within OMB’s Natural Resources Programs.

The commission recommends that Congress pass an organic act to codify the establishment and mission of NOAA, as well as recommending that OMB review NOAA’s budget separate from that of the Department of Commerce, and along with other natural resource programs. Making NOAA a separate agency would assist in meeting the goals of recommendations 7-1 and 7-2, giving NOAA more flexibility, prominence, and authority to coordinate coastal and marine activities and research with other federal agencies.

Recommendation 7-5: Regarding the consolidation of similar ocean and coastal programs.

The move towards structural reorganization is important for efficiency purposes within and among federal departments and agencies. The consolidation of various agencies and coastal-related functions within a single department would be appropriate. However, attention must be given to the potential inadvertent compromising of missions and related programs. There is a need to insure that these programs, which may provide necessary support and resources to end-user states and local governments, are not overlooked.

We have no additional comments on this chapter. Our goal is to ensure that the proposed restructure leads to better coordination at the national and local level and to better ocean governance that is more inclusive and considers the input from the states.

Chapter 8 – Promoting Lifelong Ocean Education

The report does a good job in detailing the need for K-12 curriculum and incentives for ocean-related degree work at the university levels, but fails to address the possibilities for work force education through ocean-related skills studies at vocational or technical schools. The addition of these venues could produce a work force that enters with a more than competent level of skill, and would serve to help provide the numbers of skilled workers that will be necessary as the resource recovery needs, the transportation needs, and the environmental management needs of the nation continue to grow.

We recognize the importance of ocean education and recommend that the Ocean.Ed vision and strategy be developed with State input. To the extent possible, the national vision should encompass state standards incorporate model ongoing programs from the states. The overall implementation strategy should include goals and priorities from the states, and clearly outline how the strategy will be implemented, including funding and training components

A critical component of gaining acceptance for the use of the ocean curriculum by teachers is to ensure that they are trained in the materials and have some comfort level with teaching the information. This is not recognized as a critical element of program success and implementation in this report.

Emphasis is placed on ocean education and growth of an ocean literate workforce. However, there is no guidance or recommendations that address the need for job creation in order for a newly skilled and trained workforce to move into.

The education office located under the NOC should become a repository/clearinghouse for ocean education and should function as a one-stop shop for teachers looking to incorporate ocean and coastal education into their curriculum.

A critical component of gaining acceptance for the use of the ocean curriculum by teachers is to ensure that they are trained in the materials and have some comfort level with teaching the information. This is not recognized as a critical element of program success and implementation in this report.

Crosscutting themes should also recognize the bridging of gaps between the research and resource managers and the decision and policymakers. Cross-cutting academic institutions should also include planning, resource management, and/or policy departments and programs for educational partnering. It is also important to emphasize the importance of culture and the role that Hawaii's seafaring traditions have had on these islands. Ocean education is about more than just math, science, and engineering, and there is a critical need to bridge the gap between the discoveries that are made in science and how this effects our every day lives. To do this we need to train the researchers how to explain the importance of what they are doing in terms that can be understood by the every day public and the media.

There is need to clarify the connection between Ocean.Ed and the regional science boards proposed in the report, particularly as it relates to technical assistance, training and professional development programs. Ocean.Ed needs to build on the state and local capacities for informal education and outreach. The federal agencies should be required to support state and community-based education efforts and not "recreate the wheel".

This chapter discusses the desirability and requirements for a deliberate enhancement of ocean education from "K-gray", including outreach to the general public. The University of Hawai'i (UH) already is working vigorously in this area, but resources are stretched as far as possible. New resources that might be made available through the implementation of the recommendations within this report could be put to good use immediately for the benefit of Hawai'i. Some examples are discussed below.

The School of Ocean Earth Science and Technology (SOEST) is a founding member of the Consortium for Ocean Research and Graduate Education (CORE), which has played a major role in advocating for ocean research and education at the national level. In addition to graduate degrees in oceanography, SOEST offers the Global Environmental Sciences undergraduate degree, with a heavy emphasis on basic science and mathematics education and applications to the ocean and other elements of the earth system. SOEST participates in the National Ocean Science Bowl organized by CORE, reaching out to high school students throughout Hawai'i. SOEST conducts a biennial open house, where more than a thousand K-12 students and many families tour our facilities and learn about our research. SOEST also runs a Speakers Bureau for educational outreach. National Science Foundation (NSF)-funds the Kumu-Ola (Source of

Knowledge) program, which seeks to attract minority students, particularly native Hawaiians, into careers in science, technology, engineering, and mathematics through the integration of cultural knowledge into curricula. SOEST has the potential to be a leading force in U.S. marine education and training needed to support the expansion of ocean professional employment, including observing system technology. Hawai'i students should have the opportunity to fill some of these positions that will be based in Hawai'i and elsewhere in the U.S.

In addition to SOEST, the UH colleges of both natural and social sciences have numerous programs that are ocean-related. The UH system has campuses across the State and many of these campuses provide both basis courses in marine sciences, and technical training for non-science majors. Similar programs exist at Hawai'i Pacific University and Chaminade University, both private institutions of higher learning. It is our recommendation that one of the first steps that should to be undertaken by Ocean.Ed is an inventory of existing programs, as well as an assessment of the courses and curriculum available. There are many good examples of ocean education and it is unlikely that much will need to be created, but instead adapted from places like Hawai'i and the other coastal states for use in areas where these programs do not exist.

Recommendation 8-2: Regarding funding of Ocean.ED.

Given the agency representation in the NOC, there are concerns about its ability to administer funding appropriately. Input from end-users at the state and local levels should be factored into the allocation of these funds. There is also a concern that by creating the OceanED, that what would be created is an unnecessary and inefficient level of bureaucracy that will be using its appropriated funding to support itself rather than on state and local education needs. A mechanism for the allocation of resources to the state and local level should be developed. The recommendation as currently written would provide a line item in NOAA's budget for Ocean.Ed that is overseen by the NOC and develops a streamlined process to distribute funds to other federal and nonfederal agencies. The financial burden of education for student for K-12 is primarily borne by the states, distribution of funds to mainly federal agencies will do little to increase ocean education on the ground in the schools.

Recommendations 8-4, 8-6 and 8-7: Regarding the effectiveness of ocean related education; working with state and local education authorities to meet education standards; and establishing stronger relationships between research and education communities.

While we support each of these recommendations, as already noted, the scope of ocean education needs to go beyond math and science. In addition, there is very little if any consideration given to the teacher in the classroom and the need to work with them in the design of the education materials and to ensure that they are adequately trained in the use of the curriculum materials developed.

Recommendation 8-5: Regarding the relocation and expansion of the Centers for Ocean Sciences.

It is important to indicate where these expanded regional centers would be located. For the islands, real-time assistance and access to information/resources provided by the center would be a critical factor as to whether or not a center would be located within the pacific and, if so, on what island.

Recommendation 8-9: NOAA, NSF and others should support colleges and universities in promoting introductory marine science courses to expose students, including non-science majors to these subjects.

This recommendation is supported with the caution that opportunities for experiential learning often provide a stronger basis for learning than a traditional college course. The Marine Option Program is a UH system-wide undergraduate certificate program that encourages hands-on involvement in marine science. The Marine Option Program has directly contributed to the development of Hawaii's next generation ocean-oriented workforce. The certificate program is intended to ensure that non-science majors that are interested in the oceans can be exposed to and learn about all facets of ocean careers. Again, this is the type of program that should be assessed for its applicability across the county

Under "Public Outreach" there should be a coordinated effort to develop key messages to target groups beyond the traditional education institutions, zoos and aquariums. While the U.S. has more coral reefs than tropical rainforests, most people know more about the latter than the former. In tourist-based economies such as Hawai'i, there is a need to train the tourism providers about our ocean resources, as they are often the best messengers about the resources to the visitor participating in some form of ocean recreation.

An equally important target group is civil engineers, as they are taught to divert runoff from roads and the land into the coastal ocean as quickly as possible. This is okay for temperate and upwelling systems, but using coastal coral reefs as the dumping ground for often-contaminated runoff is the worst possible scenario. Engineering has to focus on retention, percolation and filtration. In most island cases, storage for potable uses is even better.

The Waikiki Aquarium is an outstanding ocean education outreach program of UH Mānoa, touching many local residents and tourists alike. Likewise, a partnership with the Polynesian Voyaging Society, Honolulu Community College's Marine Education and Training Center, and other state and federal partners is involving students in both Hawaiian seafaring traditions and in learning about and protecting the islands and reefs that will be visited during voyages of the sailing canoe Hokule'a through the NWHI. The Polynesian Voyaging Society has worked with a long list of government, educational, scientific and cultural partners in developing its new educational mission, which includes a detailed teacher curriculum. This is the type of activity that would be expanded and built upon through the recommendations in this chapter of the report. Inspiring our island youth through their oceanic heritage is an important contribution to their education.

Chapter 9 – Managing Coasts and their Watersheds

Hawai'i is a good example of caring for watersheds, where forested watersheds both provide nearly all of the State's fresh water while protecting the islands' precious reefs from runoff and pollution. Landowners from federal, state, and county agencies and the private sector have formed island partnerships to cooperatively manage watersheds for the benefits their island's residents. Each partnership has a coordinator and a watershed-specific management plan that is guided by an overarching State Watershed Protection Master Plan.

The report finds that the sheer numbers of people being added to fixed coastal land areas, combined with the fragile nature of coastal resources, create disproportionate impacts. In many cases, these impacts are destroying the very qualities that draw people to the coast (page 108). Hawai'i, like many other coastal states, has experienced pressures on its coastal resources. Moreover, as indicated in the report, the Hawaiian Islands and many U.S. island territories are particularly dependent upon tourism for their economic health. Hawai'i attracts some 7 million tourists each year (page 107). There is a critical need to support enhanced capacity of state and local governments to manage activities that affect our coastal areas.

Planning at the watershed level is a high priority for Hawai'i. Culturally-based watershed management approaches provide a new approach that engages communities to become better stewards.

The Coastal States Organization submitted, on behalf of its coastal states membership, **a new recommendation to reauthorize and amend the Coastal Zone Management Act (CZMA) to create a Coastal Communities Program**, on October 25, 2002. We support this recommendation as this program would assist states to work directly with local governments to improve planning and management so that they balance growth and economic needs and protect critical resources. Funding for this program would begin at a minimum of \$30 million per year.

Recommendation 9-1: Regarding the reauthorization of the CZMA.

We strongly support the report's recommendations to reauthorize the CZMA as it has been an important tool in Hawai'i to balance the conservation of the coastal environment with the responsible development of economic and cultural interests. We would also suggest mandating coastal zone management programs to (1) reconsider landside boundaries of jurisdiction; and (2) apply concepts of carrying capacity and smart growth concepts to planning and permitting. In addition, other elements of CZMA need to be strengthened including, habitat restoration, community planning, ocean management, watershed management and support for special area management planning.

We recommend additional funding for the program particularly if additional mandates will be placed on the program. In addition, the strength of the program has been with federal/state partnerships and the fact that programs are based upon a federally approved state plan. The recommendation needs to incorporate greater consideration of state goals and state program needs.

The report recognizes that funding for CZMA implementation remains a significant concern, having been capped at \$2 million per coastal state since 1992. This hampers program implementation and should be considerably increased to effectively carry out important existing and planned program functions including the inclusion of coastal watersheds. Increased funding should be incorporated into Recommendation 9-1.

While we agree with the need for goals, performance measures and improved program evaluations for greater accountability, we emphasize that a long-standing strength of the CZMA has been the fact that the program is based on state plans. State needs and priorities should be

given utmost consideration in the development of state program goals and program performance measures. These goals need to be collaboratively developed to reflect Hawaii's unique island issues and needs. Federal money should be linked to individual program performance based incentives, and the federal government should work cooperatively with the state programs by providing the resources and technical assistance necessary to help the states achieve shared state/federal goals. The CZM programs should also be more involved with implementing federal incentives to reduce inappropriate land use and development in high hazard areas.

Recommendation 9-2: Relating to the consolidation of area-based coastal management programs.

We are very concerned that the solid foundations that each of these programs have built with their state partners could be easily eroded under this consolidation. Issues of maintaining resource levels and the integration of common, yet different missions, goals, and objectives need to be carefully examined. Also, how will resources be allocated at the state level since some states, such as Hawai'i, do not have a National Estuarine Research Reserve program, while Oregon and South Carolina have no National Marine Sanctuary Programs? Would more resources then be allocated to those states that have more coastal initiatives?

There is no indication if the consolidation is overseen by a specific agency, or whether all these programs are combined into one agency. More definition needs to be provided. The Environmental Protection Agency's (EPA's) Smart Growth Initiative should be looked at for a consolidation model if this recommendation is to be implemented. This link would provide incentives for appropriate development in coastal areas as well as showcase successes and encourage participation.

Recommendation 9-3: Regarding changes to federal funding and infrastructure programs to discourage growth in fragile and hazard prone coastal areas.

We support the recommendation that the NOC should recommend changes to federal funding and infrastructure programs to discourage inappropriate growth in fragile or hazard-prone coastal areas and ensure consistency with national, regional, and state goals aimed at achieving economically and environmentally sustainable development. Enhancing relationships between federal agencies, state coastal resource managers and all decision-makers will help to ensure compatibility among the many activities that affect ocean and coastal environments.

Recommendation 9-4: Regarding the reauthorization of the CZMA-Coastal Watersheds.

The Hawai'i Coastal Zone Management Program is taking a watershed or ahupua'a approach to viewing coastal resource management. CZM Hawaii's ongoing projects are very consistent with the report's recommendations to emphasize watersheds. There is concurrence with the overall theme and direction to incorporate a watershed approach to manage coastal and ocean resources while providing for flexibility for local variability. We agree that better financial, technical and institutional support is needed for watershed initiatives.

We generally support recommendation 9-4, which proposes to amend the CZMA and the Clean Water Act (CWA) to allow more opportunities for regional variability in management approaches. Hawaii's watersheds or ahupua'a are small; the longest stream is about 34 miles in length and streams drain directly to the coastal ocean in a matter of hours during heavy rainfall

events. This requires Hawai'i to consider watersheds as extending from stream headwaters to the coastal waters, not seaward from the upper reaches of tidal influence along coastlines, as provided for in NOAA's definition of a coastal watershed.

Chapter 10 – Guarding People and Property against Natural Hazards

Hawaii advocates that the Ocean Commission recommend the federal government adopt a consistent *National Coastal Hazards and Shoreline Management Policy* that (i) adopts a standard national definition of shorelines, (ii) establishes guidelines for making measurable improvements in protection of public health and safety from hazards, minimization of private damages; and preservation of natural shoreline features, and (iii) enhances recreational, economic and storm protective benefits of beaches and other natural features.

We further recommend that the federal government redirect government subsidies away from harmful development, including: reform the Corps to align projects with environmental as well as economic benefits; direct the Corps to focus on environmental restoration in partnership with natural resource agencies; and examine tax structures incentives for harmful development, and disincentives.

While the U.S. has had a system in place for several decades to respond to the needs of humans and their built community after a disaster, the one element that has been glaringly missing has been response to environmental impacts from natural disasters. The National Response Plan (NRP) which guided Federal Emergency Management Authority's (FEMA) lead in disaster response following a Presidential declared disaster was comprised of a series of Emergency Support Functions (ESF) which provided specific and directed responses to various aspects of disaster needs, and the lack of an ESF for natural environment response sometimes has had the affect of impeding response and thereby lengthening the time for a community's full recovery.

FEMA's role in natural hazard mitigation should be better defined now that the agency is within the Department of Homeland Security and coordinated with other federal agencies such as NOAA, U.S. Army Corps of Engineers (USACE), EPA, and others. In addition, mitigation should consider more environmentally appropriate measures such as beach and dune restoration, forestry, wetland and coral reef conservation and restoration, and beach nourishment.

Thorough attention must be directed in addressing the issue of sea level rise, global warming, and climate change especially for island settings where the impacts of these issues are more pronounced. Increased monitoring, data collection, public awareness and education, funding, and international coordination are required.

The U.S. Islands are prone to frequent and devastating natural disasters (hurricanes/typhoons, flooding, tsunami, earthquakes, volcanic eruptions, drought, etc). Recognized the shortcoming of the NRP, the U.S. All Islands Coral Reef Coordinating Committee introduced a resolution which was subsequently adopted by the U.S. Coral Reef Task Force (October 2003), calling for the Department of Homeland Security to add an ESF to the NRP (which is currently being

rewritten). That process has not been completed, and the response to the call is not yet clear. We recommend that the following be included in the report.

Recommendation 10-5: Department of Homeland Security should ensure that procedures guiding FEMA’s response to natural disasters include provisions (detailed ESF) that support regional, state and local efforts to respond to the impacts on natural environments as part of the immediate and overall recovery efforts. In coastal and marine areas, the lead federal agency for a natural resource recovery ESF should be NOAA.

Recommendation 10-6: In order to ensure that responses to impacts to the natural environment following a natural disaster are conducted in the most efficient, effective, and cooperative manner, FEMA should work with state and territorial jurisdictions to develop local action plans for responding to environment impacts from natural disasters, which would assist in guiding FEMA’s response capabilities.

We strongly agree that firm land use controls that discourage development near known high hazard areas should be promoted at all levels to mitigate impacts to human life, property, and the environment. Erosion mapping is needed in order to accurately identify those areas that are prone to erosion and better reduce vulnerability of development to hazards. FEMA’s efforts in sustainable redevelopment should be coordinated with the CZM program and EPA’s Smart Growth Initiative. The report needs also to encourage nonstructural solutions to hazard mitigation (e.g. protection and restoration of beaches, sand dunes, wetlands, and native forests).

On page 122, FEMA plays a strong role in coordinating the National Flood Insurance Program with the insurance industry. Economic market forces should be better evaluated in determining the decision to build in hazard areas.

Recommendation 10-2: Regarding the establishment of a task force to improve the collection and usability of hazards-related data.

FEMA should encourage and assist local governments in collecting and using demographic data in their hazard assessments along with actual hazard data. Information on the mobility of the population, for example, could help in developing hazard response plans while decreasing community risk.

NOAA’s Coastal Services Center is already carrying out workshops on creating and coordinating tasks forces to improve the collection and usability of hazard-data. This should be supported by the NOC.

Recommendation 10-3: Regarding the NOC recommending changes to the NFIP to reduce incentives to develop in high-hazard areas.

The NOC should also develop incentives for alternative measure such as buyouts and land transfers to reduce incentive to redevelop in high hazard areas. The states need federal support to carry out buyout programs.

Chapter 11 - Conserving and Restoring Coastal Habitat

There is some danger in expounding on the benefits or possibilities of environmental restoration too loudly. First; it may subconsciously permit a moderated reaction to environmental damage among the general public, as one might believe that a damaged system could actually be restored to the same system it was previously. This is not the case. Replacing corals, for instance, in an area damaged by ship grounding, may result in three species being placed where fifteen species had previously co-existed. That is a change to the environment, not a restoration. The best response to damaged environments, in many cases, will be two fold. Remove the insult to the environment (sedimentation, ship, poor fishing practices, etc.), and then work to *recreate the conditions for a healthy environment in order to support natural recovery*. This approach should be noted as a preferred approach, as it allows nature to recover *naturally*, and assigns stakeholders the task of management through human induced or human caused impacts.

Through the proposed NOC, the federal agencies need to take a serious look at what constitutes appropriate compensatory mitigation focusing specifically on the creation of new wetlands as compensation for loss elsewhere. The requirement of “no net loss” of wetland habitat should continue to be supported and strengthened.

Recommendation 11-1: Regarding CZMA’s authorization and funding for Coastal Estuarine Land Conservation Program (CELP)

We strongly support the authorization and providing sufficient funding for a dedicated CELP. Through the Coastal States Organization, the requested funding level is \$60 million.

Recommendation 11-2: Regarding the NOC to develop goals for conservation and restoration efforts and determine conservation and restoration needs to set regional goals and priorities that are consistent with national goals.

On the surface this appears to be a very worthwhile recommendation, however, as stated previously, prevention and other mitigation options should be given the priority. In addition, this recommendation seeks to have regional goals be consistent with national goals and this is very often in direct conflict with maintaining the local ecosystem. The best example of this was the call to restore estuaries under the nonpoint source pollution program by minimizing the removal of mangroves. In Hawai‘i, mangroves are an alien species and have dramatically altered the nearshore coastline on some islands. Hawai‘i had to request an exemption to this guideline to meet our needs. Again, as has been stated throughout this document, all of these national and regional goals and priorities should be set based on input from the local jurisdictions.

In developing national goals for ocean and coastal habitat conservation and restoration efforts, the NOC should build on available guidelines (Estuarine Habitat Restoration Act of 1998) to ensure coordination among all related federal activities. Existing state habitat conservation priority plans should be incorporated, where applicable, into regional plans. Likewise, the development of a National Habitat Restoration Strategy should be based on regional goals in a bottom up, rather than top-down approach.

Chapter 12 – Managing Sediments and Shorelines

The Federal government faces serious bureaucratic challenges in this arena with respect to dredging, beach fill and other types of projects. States are only a part of that process to the extent we need federal approvals for certain projects or we are sponsoring federal projects in state waters. The report states that some of these projects take 20 years to get going (page 140). This prohibitive time frame has lead some projects to get derailed, or lead others to be independently financed (e.g., Kuhio Beach in Waikiki, Hawai‘i).

The focus should be to eliminate projects that are ill defined at the on set and streamline projects that you know are critical to the jurisdiction. This requires a streamlined process. This is mentioned on page 140 as a something the USACE and EPA are working on. This is essential for local projects that are bogged down on regulatory permitting and eventually may not get completed.

Current EPA and CWA standards appear prohibitive to beach nourishment activities in Hawai‘i and reflect concerns on the placement of sediment for erosion control purposes. Better national coordination of standards need to be addressed with respect to beach nourishment activities.

A part of a national strategy for managing sediment land-based sediment sources for beach nourishment should be addressed. Many sediment-starved states like Hawai‘i utilize inland sediment sources exclusively because of the lack of equipment to efficiently dredge sand from offshore sources. In some states, sediment management might need to include the commercial needs of the construction industry and how this need often supersedes environmental concerns.

Recommendation 12-1: Regarding developing a national strategy for managing sediment. Managing sediment on a “regional basis” would not be allowable in the case of islands. Each U.S. island or island chain should have its own regional council, or access to a single regional council, as these islands are widely separated by open ocean waters. However, addressing strategic issues on a regional basis would be appropriate. In addition, defining regions among varying users must also consider the region’s geography. In Hawaii’s case, there are varying discussions regarding the definition of a littoral cell in order to better evaluate sand transport let alone trying to define a region. Hawai‘i is also unique given our shoreline fishponds, varying wave patterns and variable benthic topography.

Please add "urban development" to the list of adverse impacts on marine environments in the second sentence of recommendation 12-1, and, to be clear that new policies are needed in coastal watersheds as well as directly along coasts, add "watershed planners" after "coastal planners" in the middle of the second sentence

Ecosystem–based management principles should address the definition of a “littoral cell” for regulatory and management purposes. The extraction of sediment offshore to a separate and distinct littoral system is very controversial and can create severe problems.

Recommendation 12-2: The USACE should ensure that its selection of the least-cost disposal option for dredging project reflects a full range of economic and environmental costs and benefits.

We recommend that the commission strengthens this recommendation by requiring the USACE to consider the non-consumptive benefits of recreation, public access, and habitat as an equal use when evaluating the least-cost disposal option.

Recommendation 12-3: Regarding the National Dredging Team implementing more ecosystem approaches, streamlining permitting, and establish sediment management programs.

Hawai'i has recognized the need to streamline the regulatory process for small-scale beach nourishment and has initiated a streamlined regulatory program that unifies the EPA, USACE, CZM and state regulatory requirements through a blanket coordination agreement. This process has illustrated the often conflicting priorities of each agency and exemplifies the need for a federal coordinating council that could help unify the goals and missions of each agency to be less conflicting.

Recommendations 12-4 and 12-5 seem to be redundant.

Recommendation 12-5: Regarding EPA developing a coordinated strategy for assessment, monitoring and research.

The EPA is currently regulating the dredging and placement of sediment within it's jurisdiction, but needs better scientific and technical resources to evaluate and develop alternative treatments, prevention and transfer of contaminated sediment.

Chapter 13 – Supporting Marine Commerce and Transportation

This chapter focuses on shipping and port issues and we generally support most of the recommendations. However, one issue that is particularly important to Hawaii's economy is the Jones Act, p. 148. Designed to protect the domestic fleet from foreign competition, the burden of higher shipping costs is not equitably shared by all U.S. taxpayers, but is unfairly placed on a small population dependent on interstate shipping via the ocean. We support exemptions to the Jones Act for Island States or island regions

Chapter 14 – Addressing Coastal Water Pollution

The one aspect of environmental monitoring that receives perhaps more attention from the press and public than any other is water quality monitoring. From ground and surface drinking water, to near shore and, to a lesser extent, open ocean water quality is reported to the public on a regular basis. Polluted water supplies and beach closures are front-page stories that the public seems to understand. But the normal process is less than satisfying for ensuring healthy ecosystems.

One problem is that the most frequently used measure for determining whether a water body or water source is impaired is based on *maximum levels of pollutants allowed for human health*

reasons. That is certainly a major concern that should be tested for and publicized, but it does not present an accurate picture of the quality of the water being tested. Establishing standards for and conducting regular testing of the *maximum levels of pollutants allowed for the most fragile element of the ecosystem* is essential. In the case of coral reefs, that element would be the corals themselves.

If weekly public reports on water quality were issued to communities for both human-related levels of quality and for ecosystem-related levels of quality, communities may tend to become less complacent about reports that rate water quality good for human needs but poor for environmental health. It is more difficult to convince decision-makers or the general public that there is a crisis or problem in water quality when the only reporting that reaches them is based on the higher tolerances acceptable to immediate human health concerns.

A second aspect of water quality that needs to be addressed in the testing procedures is the practice of basing results on water samples taken from an undisturbed water column, when many pollutants are attached to the sediments and are either taken up through the food chain from the floor, or are released in times of more severe weather or sea conditions that disturb the sediments, when sampling is less likely to occur anyway. Non-point source pollution control efforts are based on Total Maximum Daily Load (TMDL) of pollutants allowable, which would be difficult enough to test for in point source flows, and are much more difficult to even identify in non-point source receiving areas. (See page 11, Sediment Contamination and 163, The TMDL Program).

These issues are both addressed in a general way in the report, but not clearly in the recommendations. The effort for testing for environmental health that *is* within the purview of various federal agencies has been reduced according to the report, and was too limited even in the best of times. The statement on page 180, “The national monitoring network should set clear, limited goals and objectives that reflect national, state, regional, territorial, tribal and local needs” must also be adhered to, as too often the federal approach has been to use *model* approaches to be used across the board. Too often one system (often an east coast, cold water system such as Chesapeake Bay) is used to develop the federal approach or federal perspective for all systems. We recommend the following be added to the report.

Recommendation 14-8: EPA should develop water quality testing procedures to identify maximum pollutant levels allowable to ensure ecosystem health based on the most fragile elements of the ecosystem, and promulgate rules ensuring regular testing of both fresh and near shore waters in both the water column and sediments, and reporting the results of such tests to the public.

Recommendation 14-9: Federal programs for water quality testing, and the standards established for maximum levels of pollutants or sedimentation, should be based on limits for the environmental health of the specific ecosystem, and not on national average standards.

On page 155, “Management that is ecosystem-based and that considers entire watersheds will help guide this daunting task.” This statement is strongly supported.

On page 159, the entire section under "*Wastewater Treatment Plants*" to Recommendation 14-1 would be clearer if the terms "existing treatment processes" and "conventional treatment plants" were clearly defined.

On page 160, under "*Septic Systems*," "and Hawai'i" should be inserted after "The threat can be severe in places like Florida". Hawai'i is estimated to have 180,000 on-site disposal systems (septic systems plus cesspools). In Hawai'i the ground is highly permeable or has lava tubes and is close to the coast

On page 161, the entire section and recommendation under "*Animal Feeding Operations*" should incorporate information regarding USDA's 2009 deadline for the development of Comprehensive Nutrient Management Plans.

On page 163, under "*The TMDL Program*" does not make clear that the TMDL program applies only to "Water Quality Limited Segments" defined as those water bodies which do not meet state water quality standards even when all point sources are removed. The second paragraph includes a slightly different worded definition; the lack of information in the first paragraph could be remedied by moving the second paragraph to the beginning of the first paragraph.

Again, on page 163, under the TMDL section should include the point that there is funding only for the TMDL studies from EPA, and no funding for follow-up pollutants reduction programs.

On page 165, the last line on the page ignores the fact that the 2002 Farm Bill did not provide funds to United States Department of Agriculture, National Resources Conservation Service for additional staff.

On page 168, with respect to "Creating Incentives to Reduce Agricultural Runoff", several forms of incentives are suggested to encourage farmers and ranchers to follow practices that would reduce nonpoint source pollution. These practices should be made into formal recommendations.

Recommendation 14-3: Regarding states issuing regulatory controls on concentrated animal feeding operations.

The U.S. Environmental Protection Agency and U.S. Department of Agriculture research regarding the removal of nutrients from animal wastes and development of improved best management practices that retain nutrients and pathogens on agricultural lands must come **before** the states' issuance of regulatory controls on CAFOs in addition to those required by the federal government

Recommendation 14-4: Regarding the development of a comprehensive plan for long-term funding of the nation's current aging and inadequate wastewater and drinking water infrastructure.

This recommendation should include both the Clean Water State Revolving Fund and the Drinking Water State Revolving Fund, which can be used for public water system infrastructure.

Recommendation 14-5: Regarding EPA and the states using tradable credits for nutrients and sediments as a water pollution management tool.

We are concerned about this recommendation as trading programs may be found to be counter-productive, if in the case where it is less expensive to buy credit than to improve the quality of the discharge.

Recommendation 14-6: Regarding the EPA and states should modernize the National Pollutant Discharge Elimination System.

This Recommendation should include the phrase "Congress should fund and"; otherwise it is an unfunded mandate.

The preceding description of Coastal Zone Act Reauthorization Amendments (CZARA) fails to note that CZARA has been incorporated in the federal CZMA as USC 1455(b).

Recommendation 14-8: Regarding the NOC establishing significant reduction in nonpoint source pollution as a national goal.

Coordination of federal non-point pollution programs is important; however, coordination would more likely occur if made mandatory. Additional federal technical and funding assistance to state and county governments is a priority.

Recommendation 14-9: Relating to merging Section 6217 into EPA's Section 319 program.

The thrust of the recommendation appears to be to provide for enforceable controls on all nonpoint source pollution. We agree that this would add an important tool to the CWA for reducing nonpoint source pollution. However, we feel this recommendation needs further clarification with regard to its intent regarding the extent of modification of the existing section 319, CWA, from a voluntary to a mandatory program. It also needs clarification regarding how the program would be managed. The CWA program can be delegated under the control of EPA. Is the intent that the existing NOAA Coastal Nonpoint Program is to become an EPA program that can be delegated? Perhaps the intent could be achieved by cross-referencing the programs in both the CWA and in the federal CZMA.

The CWA 319 program has always promoted voluntary pollution control, and the CZARA legal requirements appear to be stricter than those in CWA 319(h). The text for the recommendation says that both programs have positive attributes that, if combined, could more effectively address nonpoint sources of pollution. The text also states that incentives and enforcement techniques will be needed to insure progress. We would appreciate a clarification what the Commission has in mind. What are the positive attributes, and how might incentives be provided? We are still reviewing this particular recommendation and have not yet taken a position on this proposal. Hawai'i remains concerned about unfunded mandates.

Recommendation 14-10: Regarding providing authority under CWA and other applicable laws for federal agencies to impose financial disincentives and establish enforceable management measures.

This recommendation appears to be proposing that disincentives in the form of reduced federal funding to states is an appropriate compliance mechanism and ignores the fact that states often do not have control over private activities. An assessment of the economic impact of

encouraging farmers to reduce crop yields by reducing fertilizer applications must be carried out in addition to assessing environmental impacts.

The recommendation implies that all private activities that have the potential to produce nonpoint source pollution should be under state control. While it is doubtful that this is what was intended, we suggest that the following language be added to the recommendation: “This recommendation is not intended to imply that states are expected to control all private sources of nonpoint source pollution but rather that state laws and state programs, to the extent of available funding, are expected to take all possible measures to meet their water quality standards.”

The recommendation suggests authorizing federal agencies to impose disincentives as an appropriate course of action if states do not make meaningful progress in water quality standards attainment. While this is logical in the context of the report, Hawai‘i is concerned about any financial penalty and how it might be applied. Nonpoint sources have complained to us about having new duties without any new resources. We ask for more detail.

Recommendations 14-11, 14-12, and 14-13 are strongly supported. All three recommendations would greatly improve the possibilities of truly reducing nonpoint source pollution. Increasing federal technical assistance and information needed for state and county governments to make sound land use decisions to protect coastal water quality is important. Federal funding should also be made available.

Recommendation 14-14: Regarding the EPA, states and watershed groups explore approaches for managing atmospheric deposition, particularly when it affects water bodies far from the source.

This recommendation should be worded more assertively by specifically naming mercury as a major air pollutant of concern. The accompanying paragraph does mention that mercury deposition leads to fish tissue contamination, requiring urgent international action. We suggest rewording (new text is bolded) as follows: “The U.S. Environmental Protection Agency, states, and watershed groups should explore air pollution controls and regional approaches for managing toxic outcomes of atmospheric deposition, **such as airborne mercury contamination of fish tissues**, particularly when it affects water bodies in states far from the sources.”

Chapter 15 – Creating a National Water Quality Monitoring Network

We agree that a standardized, national water quality monitoring network would be very useful for understanding trends in water quality across regions in the continental U.S., but must point out again that geographically isolated islands, such as the Hawaiian Islands, must be explicitly accommodated in a national network by a statement that stresses differences in scale, climate, temperature regimes, and limited fresh water resources, compared to many mainland areas.

Chapter 16 – Limiting Vessel Pollution and Improving Vessel Safety

Recommendation 16-11 suggests that research and development of engines that are less polluting would be of great benefit to Hawai‘i. For example, on the west coast of the island of Hawai‘i we recently issued enforcement warnings against a cruise ship for unlawful engine emissions from its passenger shuttle boats.

We strongly support Recommendation 16-8, which promotes increased federal funding to finance pump-out facilities.

The Oil Pollution Act of 1990 should be amended to allow for flexible responses to remove abandoned/grounded vessels from coral reefs and to include among mitigation measures, off-site mitigation. The same for presently permitted activities of the USACE. If the reason a reef was damaged was due to a vessel running aground, putting up navigational aids makes more sense than trying to take fragments from a healthy area to place back into a damaged area. Many transplantation efforts to date have failed, and have resulted in damage to 2 sites instead of one. Coral cultivation (from larvae) provides an opportunity to have seed material of local genetic types without harming livestock.

Chapter 17 – Preventing the Spread of Invasive Species

The report did a good job in relaying the difficulty in dealing with invasive species. Stopping the transfer of invasive and alien species may be the easiest component in the process, while early detection of an alien species and its eradication or control will be much more difficult.

Hawaii has taken an ambitious step forward in dealing directly with local invasive species issues. The 2003 State of Hawaii Legislature authorized the creation of the Hawaii Invasive Species Council (HISC) and stated “the silent invasion of Hawaii by alien invasive species is the single greatest threat to Hawaii’s economy, natural environment, and the health and lifestyle of Hawaii’s people and visitors.” The continued support for implementation by myself as Governor provided the institutional framework for leadership and coordination in acting on a statewide invasive species prevention and control program. The HISC has active participation and support by several State cabinet level positions. In 2004, the State of Hawaii Legislature provided \$4 million in funding for administrative request to implement the Council’s programs.

The HISC has adopted a working document as a strategic plan, which incorporates four approaches to invasive species. These approaches are prevention, response and control, research and applied technology, and public outreach. Through these approaches, established workgroups actively provide direction for Hawaii’s invasive species issues.

This funding is a significant increase to invasive species funding within the state, although it will not be adequate to handle the continuing invasive species issues. Due to this fact, the HISC has requested that the \$4 million in state funds be matched 1:1 with federal and community funding. Hawai‘i has taken boldly stepped forward in dealing with invasive species both through the creation and funding of the HISC and the recent national approval of its Aquatic Invasive

Species Management Plan. The State will need continued assistance and support from the federal government to implement its plans.

The report discusses the six regional panels that were created by the Aquatic Nuisance Species (ANS) Task Force (ANSTF) to "limit the introduction, spread and impacts of aquatic nuisance species in their waters". There is a little picture of Hawai'i in the box with Alaska, in Figure 17-2, but Hawai'i is not listed as being in the western region.

The regions seem to overlap and are confusing to distinguish. There should be a Pacific region that includes Hawai'i and all the U.S. affiliated Pacific Islands. This is important to the way aquatic invasive species are dealt with in a coral reef environment.

Hawai'i is also an emerging as a leader in ANS. This past year, Hawaii's comprehensive management plan was approved by the ANSTF. Hawai'i is establishing a program and facility at the UH Hawai'i Institute of Marine Biology to focus on research on marine invasive species. Funding to develop the infrastructure for this facility has been allocated.

Even though a pathway may have a slightly lower risk, it only requires one organism to make its way to someplace before causing trouble. There should be more discussion on each pathway: navigational buoys, drilling platforms, marine debris, and other ship related activities.

The pathway of global trade in marine organisms should be discussed in greater detail. Although this is a major pathway, the components of this pathway are very different. For example, dealing with the trade in marine or freshwater animals for aquarium is a much different pathway than the mass culture of organisms in the costal environment. In addition, the sell of animals for food or bait are also different. This area is diverse enough, that these components should be broken down.

The report lists several pathways (shellfish importing, aquaculture, aquarium, horticulture, pet industry), but these are skipped right over and the focus becomes education in the development of recommendations. Education/outreach are very important, but there should also be some focus on these various pathways, and perhaps a discussion on how such pathways can be regulated. In the paragraph before recommendation 17-3, it says that "some industry representatives have expressed concern that efforts to ban unwanted species and otherwise prevent introductions of non-native species may interfere with the flow of free trade and the need to protect public health and ecosystems will have to be balanced against these individual interests".

Congress should recognize the contributions made by state participants and reauthorize the ANSTF. Both NOAA and USDA should be included in the ANSTF, and ANSTF efforts coordinated with the proposed NOC to address marine species rather than creating a duplicative role for the NOC in the regulation of ballast water and in the control of invasive species. This coordination should be noted throughout the recommendations.

The International Partnerships section, talks of ".key commercial sectors to develop voluntary codes of conduct and other self regulatory mechanisms". In our experiences, these types of

voluntary efforts don't seem to work, and if there is a serious concern regarding invasive species, these should be mandatory, not voluntary.

It appears that no one or even small number of answers will suffice in dealing with the spread and control of invasive species, but instead the problem will require a plethora of approaches simultaneously. One possible approach, at least for macro species, may be the enlistment of help that already exists within the user groups. Divers and fishermen are generally aware of their environment and are the first to recognize species that may not belong. Programs should be established which provides for educating these groups, to train them to look for the unusual, and a forum for reporting their findings. Hawai'i has already initiated with approach to deal with the spread of alien algae on the reefs. This one step could help to provide that *early warning* in some cases that will allow control actions to proceed.

Recommendation 17-4: Regarding establishing a national plan for early detection and rapid response.

We should strongly support this section and its recommendation. We are currently working on this type of system and increased funding is very important. We recommend that bullet 5 be amended to read: **Develop partnerships among government, industry and user groups to fund and implement response actions, to include; education and educational material development for groups which can provide consistent “eyes” for species or ecosystem change, and a reporting system that will allow that information to be gathered and compiled and analyzed science and resource managers familiar with that specific ecosystem.**

Recommendation 17-5: Regarding streamlining the proliferation of federal and regional programs and developing coordinated plans for controlling introductions.

We also strongly support this section and its recommendation. Hawai'i has had a long history of intentional and unintentional releases that have resulted in established species and not established species. Hawai'i could serve as a good site to investigate the effects of intentional introductions on a coral reef environment.

Recommendation 17-7: The NOC should develop an interagency plan for research and Congress should increase funding.

We also strongly support the recommendation for increased funding for research into invasive species and how its can apply to monitoring and prevention. One of the priority research goals should be related to recommendation 17-4 (detection and response). This includes the first bullet (gathering baseline taxonomic information and strengthening taxonomic skills.) as well as developing a system of early detection and notification of all appropriate agencies.

Chapter 18 – Reducing Marine Debris

Most international maritime laws are regulated by the International Marine Organization (IMO), of which the United States is a member organization (joined 1950). However, in the pacific, much of the derelict fishing gear can be attributed to non-member countries. This would suggest the pressing need for the federal government and marine debris responsible agencies to closely

partner with the Coast Guard to contact the IMO about these non-affiliated countries and to get them to join.

We strongly recommend that land generated litter be addressed separate from derelict fishing gear since they both are very distinct issues with specific causes and remedies.

Public education campaigns are mentioned under education and outreach, however targeted campaigns at the local level would be more effective. We suggest studies be conducted to determine who is the most likely to litter in order to direct resources and outreach campaigns to those groups while emphasizing penalties and enforcement of litter laws.

Recommendation 18-2: Regarding the re-establishment of an interagency marine debris committee.

Instead of establishing an interagency marine debris committee nationally, there needs to be some thought given to establishing bi-coastal regional committees (one already exists in Hawai‘i for the multi-agency marine debris cleanup for the NWHI. In Hawai‘i, EPA and the Navy do not participate in the multi-agency cleanup. However, NOAA and the Coast Guard are active participants.

As noted in the section on “Working with Communities” on page “people have not made the connection between actions taken far from the coast.” It harkens back to the theme of the opening chapters of this report, which spells out the lack of public awareness of the benefits of the oceans to the lives of all Americans, and reflects the larger problem of a lack of awareness of our connection to our environment, or our impacts on it. We recommend a bullet follow 18-2 as follows: **Public education efforts should clearly demonstrate the correlation between actions far inland with impacts on the coast and in marine waters.**

Recommendation 18-3: Relating to the development of a detailed plan of action to address derelict fishing gear.

Hawai‘i already has a coordinated, multi-agency effort to remove derelict fishing gear in the NWHI, which may be a potential model for elsewhere. This recommendation should emphasize the need to provide more resources to existing derelict fishing gear removal and marine debris clean-up efforts.

In terms of the problems of derelict fishing gear, one possible solution is not spelled out, and that is in a program to mandate net identification. Both at the national and international levels, requirements by law or treaty that require all nets bear ownership identifications that cannot be removed would help to identify parties that should be responsible for funding recovery, and may help to ensure that owners of nets are more prudent in net retrieval. In this regard, we suggest a bullet under Recommendation 18-3, as follows: **This should include development of a net identification system in order to identify the culpable party in funding derelict net retrieval and, in some cases, environmental restoration costs. We also recommend working with IMO to require tracking devices on fishing gear and have ships call in coordinates of abandoned gear.**

A recommendation to amend MARPOL Annex V which specifically refers to the prevention of pollution of garbage from ships to specifically include discarded fishing gear should be advocated. Discarding of fishing gear is a safety issue for ships at sea. In this regard, ships at a minimum should be required to report the coordinates of the location where nets are cut loose so that insurance companies and flag-countries involved in a coordinated effort can recover the nets before they become a hazard.

Recommendation 18-4: Regarding NOAA promoting a public-private partnership program and incentives to removal and disposal of derelict fishing gear.

Derelict fishing gear is comprised of both whole nets and large sections of net that are cut away when torn and discarded overboard when the net is patched. In addition, there is significant amount of line, plastic used in traps and attached to nets, etc. Incentives are needed to minimize the practice of throwing unwanted nets or net pieces overboard. This should include considerations of a deposit on the nets when the nets are purchased.

Chapter 19 – Achieving Sustainable Fisheries

We are surprised that the guiding principles that are so much a part of the rest of this document are generally overlooked or not considered in this chapter. There is no discussion of how the regional fisheries councils are to interact with or become a part of the regional ocean councils proposed in the beginning of this document, or how these bodies interact with locally driven community-based groups. The linkages between fisheries impacts and management plans and impacts from other sources are not made. Using an ecosystem-based approach to interconnect between fisheries management and other management initiatives is not discussed. Lastly, using recognized ecosystem-based approaches to managing resources, such as MPAs, is completely ignored.

Subsistence fisheries are also not mentioned at all in this chapter. NOAA has had difficulty in adequately defining or addressing the needs of subsistence fisheries, and in the Pacific, these are important sectors. There should be inclusion of discussion of how to manage subsistence fisheries in the Sustainable Fisheries chapter.

Recommendation 19-1: Regarding strengthening the scientific role of the Scientific and Statistical Committees (SSC).

This recommendation conflicts with the way that the Western Pacific Fisheries Management Council (WPRFMC) runs their plan teams. In the WPRFMC case, the plan teams are composed mainly (or entirely) of scientists or agency staff who prepare the status of stocks and fisheries reports for their covered fisheries. The SSC is composed of both non-agency scientists and agency representatives. The non-agency scientists do not have access to the raw fishery dependent data that would be necessary to perform the stock analyses and if they were required to do so, most non-agency SSC members would be hard pressed to do this because it is not part of their job. There are also issues of data confidentiality.

The non-agency SSC members are the "rocket scientists", the ones who are among the top fishery modelers in the Pacific region. If they were tasked with doing the stock assessments,

which are not a part of their current responsibilities, they would need to be funded to do so. Instead, the Report would be better off specifying the roles and composition of the plan teams and make the plan teams responsible for scientific analyses and stock assessments, and have the SSC provide strict review and oversight of the process. The plan team members are usually the biologists from their federal/state/local agencies who collect and analyze the data within their region and their fisheries. If only the SSC were tasked with the assessment, who would review their work?

Compensating all SSC members could be problematic. In Hawai‘i, many are NOAA scientists, and already are being compensated during their time spent at council meetings as part of their job. There is simply not the population base in the Pacific to have enough independent non-agency scientists to completely staff an SSC.

Specifying that the NOAA Administrator review the SSC member candidates would make this a very lengthy, cumbersome and potentially political process. The NOAA Administrator and/or the Secretary of Commerce already select Council members.

Recommendation 19-2: SSCs should be required to supply the councils with information necessary to make management decisions.

It would be burdensome and inefficient to expect that a single body (SSC) perform the stock assessments and provide harvest limits for all the fisheries under each council. The specialists for each fishery (as embodied on the plan teams) should be doing this work, while the SSC can review and monitor the science that goes into the assessments. What is lacking is accountability. Charging the SSC with making “allowable biological catch based on the best available science”, is a good goal, but may give this group an excuse because the best available science isn’t always sufficient to set harvest limits.

Recommendations from the SSC are incorporated into the decision-making process of the council, while the SSC recommendations are heard; they are simply given less weight in the entire decision-making process than other considerations (i.e. economics). This recommendation should consider making changes to the Fishery Management Plan development process, which requires the councils to explain why science-based recommendations were not considered as the primary rationale for allocation.

Recommendation 19-3: Councils should be required to set harvest limits at or below the allowable biological catch as determined by the SSC.

We would word this recommendation to read "no higher than the allowable biological catch as determined by the plan teams and reviewed by the SSC."

Recommendation 19-4: National Marine Fisheries Service (NMFS) and councils should develop a process for independent review of data generated by SSC.

We support the concept of independent review of the plan teams/SSC work, but how would this be implemented in a timely fashion so management decisions are not fraught with delays? The council usually meets within a couple of weeks after the SSC meeting, and if the council members are to receive an independent review of the SSC's work, how are they going to get it in time?

This recommendation is somewhat reversed in its logic; it is not the SSC that generates scientific information, but rather the SSC receives it and then evaluates the data based on scientific merit. An independent peer-review process is a good idea. However in order for it to work, it needs to be truly independent it needs to be performed concurrent to the SSC process, or ideally beforehand so that the SSC receives the benefit of the information from the peer review process, and finally, the peer reviewers will need to be compensated independent of the council process.

Recommendation 19-5: Council should set a deadline for its SSC to determine allowable catch. Setting appropriate deadlines is fine, but to accomplish this task NOAA needs to ensure that the groups that are tasked with meeting the deadlines have adequate support, resources, and expertise to meet those deadlines. Usually allowable catch recommendations come from the plan team. The SSC then validates (or invalidates) based on data and the arguments presented to them. They either support or refute the plan team recommendation. As such, all phases of the decision process should have a timeline. However, work to create the federal regulation often takes the most time, and is of no fault of either the plan team, or the SSC, or the council.

Recommendation 19-6: Once allowable catch is determined, the council should propose a management plan in time for adequate review and approval by NMFS.

The level of federal support for the councils has not provided adequate resources to meet set deadlines. In the case of the western Pacific, it is usually NOAA that has caused delays in implementation of fishery management plan amendments. This recommendation would penalize commercial fishers for lack of timely government action. Although this might provide incentives for commercial representatives on Regional Fishery Management Councils to push for timely action, the penalty should not be placed on all commercial fishers if the council does not respond.

If timely action is the goal, another method should be used, such as legal deadlines for production of management plans, with penalties placed on the managers, not the public. This recommendation is not realistic. As stated above, sometimes it is the government that delays review and implementation. To stop fishing while they perform an evaluation of a management plan would put most fisheries out of business.

Recommendation 19-7: Councils and their SSCs should develop annual prioritized list of management information needs

NMFS has not usually been able to meet all data needs that the council has requested. How is this annual list to be funded? It is easy to come up with the list but without adequate support, it becomes a just another exercise in list making.

Recommendation 19-8: Regarding the establishment of a saltwater recreational fishing license.

We oppose this recommendation; saltwater recreational fishing licensing would likely be very unpopular in Hawai'i. We are glad to see that the report is taking recreational fishery data collection more seriously. However, the licensing of saltwater fishers and the collection of data should not necessarily be tied together as suggested in recommendation 19-8. There are ways to get the recreational data that do not require licensing. If this is instead a tax to pay for management programs, then that should be clearly stated.

The State of Hawai'i has, in the past, tried to implement a recreational saltwater license with no success. Our evaluation of the costs associated with the implementation of a recreational fishing license, would mean that each license would need to be purchased for about \$20.00. There has been insufficient support from the community for this.

We agree that the marine recreational fisheries statistical survey protocol is good for long-term trends, however, it is not as suitable for real-time, detailed catch and effort data collection. For that, you need mandatory data collection, logbooks, or an army of port and shoreline surveyors/monitors.

Recommendation 19-9: Congress should increase support for an expanded research program that is regionally based.

We strongly support this recommendation.

Recommendation 19-12: Regarding the Governor selecting two council candidates each from the commercial, recreational and general public sectors.

We are uncertain about the advantage of requiring the Governor to appoint two council candidates each from the commercial, recreational, and general public sectors for each vacant council seat. No doubt noncommercial candidate-types lose opportunities to be selected, or are not as willing to give of their time as the stakes are not as high for them. Overall composition of the council should also be viewed in terms of proper weighting (by candidate-types), and candidate should be selected as the state's representative from the category that would achieve that balance.

Recommendation 19-13: Congress should give the NOAA Administrator responsibility for appointing council members.

On what just criteria is the Administrator supposed to rate the nominees? We are not clear if this is to be done with input from the state. The states need to be a part of the decision making process.

Recommendation 19-14: Regarding training for new council members.

We agree that council members should get some training. However, that training should be done with the convenience and logistics of the members in mind. Don't make the council members from Hawaii, Guam and CNMI fly all the way over to DC to get this training, again set the training up based on a regional approach.

Recommendation 19-15: Regarding Congress amending Magnuson-Stevens Fishery Conservation and Management Act to institute dedicated access privileges.

We do not believe that amendment of the Magnuson-Stevens Fishery Conservation and Management Act to authorize dedicated access systems is needed. Such authority already exists. Implementation of such rules should be limited to unusual circumstances related to isolated stocks with severe over-capitalization of fleets. An amendment could encourage inappropriate and unfair application of this approach with no benefit to the resource. Good science based management should provide greater opportunities for fair allocation of resources to the fishing public, not privatization by individuals for public resources that in the long-run could be self defeating.

Recommendation 19-18: NMFS and U.S. Coast Guard should strengthen cooperative enforcement efforts at the unified fisheries enforcement plan.

This recommendation should include the states and territories as well. Management and enforcement concerns of the states do not end at an arbitrary three-mile limit unrecognized by fish or other mobile species. In many cases, it is the states that collect the fisheries data and do the majority of the dockside enforcement in cooperation with the U.S. Coast Guard and the NMFS.

Recommendation 19-19: Increase enforcement by requiring the use of vessel monitoring systems (VMS).

While we do not disagree that increasing the use of VMS will likely increase enforcement capacity, there is still a need to staff and train people to monitor the system. There is also the need to provide the resources to the state fishery enforcement agencies to purchase and monitor the system. Currently all monitoring is done by the USCG. If the government requires the use of VMS, resources should be made available to the industry to buy these units.

Recommendation 19-22: NMFS and the councils should develop bycatch reduction plans based on an ecosystem approach.

NOAA should clarify the definition of bycatch so that live released fish are not considered bycatch and hence, subject to reduction. Instead, they should be encouraging live release, whether tagged or not, in both commercial and recreational fisheries.

Generally, we support the international recommendations.

Chapter 20 – Protecting Marine Mammals and Endangered Marine Species

Humpback whales, spinner dolphins, Hawaiian monk seals and other marine mammals are treasured by Hawaii's residents and visitors alike. In terms of economic value, Hawaii's whale-watching industry alone generates more than \$30 million per year in local revenues. From a cultural perspective, marine wildlife, such as spinner dolphins, are revered as *'aumāku* (ancestral deities) by Native Hawaiians.

The State of Hawai'i has a history of productive collaboration on marine mammal conservation with NOAA and other federal agencies. Probably the best example of such collaboration to date is the federal-state partnership that co-manages the Hawaiian Islands Humpback Whale National Marine Sanctuary. Through the sanctuary's issue-driven research projects and community-based education and outreach activities, Hawaii's ocean-users are learning to productively coexist with a growing population of humpback whales in Hawaii's nearshore waters.

We find the discussion and recommendations presented in Chapter 20 to be generally salient and useful, and we briefly review our comments on each recommendation below. Before proceeding, however, we would like to ask the commission to consider two additional recommendations. One recommendation is directed toward improved ocean conservation through public education. The second suggested recommendation is meant to clarify state authority to protect marine mammals.

Regarding improved public participation in marine mammal conservation, there appears to be no specific recommendation in Chapter 20 regarding education and outreach. We would like to point out that most instances of marine mammal harassment or injury are unintentional, and that collaborative efforts, such as those undertaken by the Hawaiian Islands Humpback Whale National Marine Sanctuary, show that most harassment can be avoided through enhanced public understanding of marine mammal vulnerabilities and improved knowledge of safe vessel operation in marine mammal habitat. We would therefore suggest that an additional recommendation be added to Chapter 20 stating that **NOAA should further enhance and expand its education and outreach efforts regarding marine mammal (and sea turtle) conservation.** The recommendation should specifically urge improved collaboration on education and outreach between the NMFS, the National Marine Sanctuaries Program, and state wildlife management agencies, all of which share jurisdiction and/or public trust interests in marine protected species conservation.

Regarding state authority, we believe that it is very important that the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA) be amended to clarify the authority of states to protect marine mammals. We request that a new recommendation be added to Chapter 20 to reflect this.

Our understanding at present is that the NMFS interprets section 109 (a) of the MMPA such that no state may enforce any regulation “relating to the taking,” of a marine mammal, even if the regulation is intended to protect, e.g., restrict take, of a marine mammal. For instance, the NMFS has advised us that, under the current MMPA interpretation, the State of Hawai‘i has no authority to restrict “swim-with” dolphin tour activities for the purposes of protecting spinner dolphins. We have been told that any local authority to protect these animals is pre-empted by federal law, i.e., the MMPA.

While we understand that the MMPA was meant to prohibit state governments from authorizing marine mammal take, we do not believe it was the original intent of Congress to limit state authority to protect marine mammals, i.e., to prohibit take, via the MMPA. We would therefore like to see the Act amended to give Hawai‘i and other states the option to pass state laws and regulations aimed at reducing take and otherwise protecting locally important marine mammals.

Additionally, we recommend that Section 17 of the ESA be amended to clearly state that a more restrictive provision regarding marine mammals, i.e., more protective or limiting on take, of either the ESA or the MMPA takes precedence over any less restrictive provision of either statute. Currently, Section 17 of the ESA states that any more restrictive provision of the MMPA takes precedence over any less restrictive provision of the ESA. We believe that this section should be revised to make clear that the reverse is also the case, i.e., any more restrictive provision in the ESA takes precedence over any less restrictive provision in the MMPA. (In Section 6 (f) (2) of the ESA, states are given authority to enact laws that are more protective of listed species than federal law, but in light of Section 17 of the ESA, there appears to be the possibility of more than one interpretation of state authority to enact stricter measures for ESA-listed species when these species also happen to be marine mammals.)

Recommendation 20-1: Regarding making Marine Mammal Commission work through the NOC

Hawai‘i has a history of productive collaboration with the Marine Mammal Commission. For example, in October 2002, the commission took the lead in holding a workshop on management of Hawaiian monk seals in the Main Hawaiian Islands. The workshop was very helpful in bringing various agencies and community groups together to discuss the opportunities and challenges of managing the growing monk seal population in the main islands. The recommendations that resulted from the workshop continue to guide our efforts to foster a peaceful coexistence between this endangered seal and Hawaii’s ocean-oriented residents and visitor industry. If recommendation 20-1 is carried out, we hope that there would be no adverse impact on the productive, direct collaboration that has developed between our state and the commission.

Recommendation 20-2: Regarding taking away USFWS authority over marine mammals

This recommendation would probably have little effect in Hawai‘i, since all marine mammals here are under the authority of NMFS. If recommendation 20-2 is enacted, we would only hope that the NMFS budget is increased accordingly to cover the added responsibilities.

Recommendation 20-3: Regarding how the NOC should improve coordination between NMFS and U.S. FWS on endangered species conservation, especially with anadromous fish and land-based activities.

Our state has worked effectively on sea turtle conservation with both NMFS and the USFWS. In the NWHI for example, where the USFWS manages the NWHI National Wildlife Refuge and the Hawai‘i Department of Land and Natural Resources manages the Kure Island State Wildlife Sanctuary, we have worked together effectively on sea turtle conservation across jurisdictional and geographic boundaries. In the main islands, on the other hand, our state agencies work extensively with NMFS in responding to injured and entangled turtles. Nevertheless, implementing recommendation 20-3 to further enhance inter-agency coordination via the council could be helpful, provided that the agencies would be compensated for any associated increases in human resource commitments or budgetary requirements.

Recommendation 20-4: Regarding requiring NMFS to more clearly specify MMPA permitting requirements.

We support this recommendation.

Recommendation 20-5: Regarding requiring NMFS to revise the meaning of harassment to cover only activities that “meaningfully” disrupt behaviors that are significant to survival.

We generally support both of these recommendations. While we wonder whether or not the necessary scientific information currently exists to determine what behaviors are “significant” to survival and reproduction, we support the general intent of these recommendations.

Recommendation 20-6: Regarding how NMFS and USFWS should implement programmatic permits for certain activities to save time and resources for case-by-case permit review of other activities that have more serious possible impacts.

Hawai‘i generally supports this recommendation. We have a long history of productive collaboration with the permitting divisions of NMFS and USFWS, but if their resources could be used more effectively via implementation of programmatic permits, we would support this

change, especially if this resulted in enhanced communications during the early phases of the permitting process.

Recommendation 20-7: Regarding how NMFS and Department of the Interior should expand research, technology and engineering to mitigate adverse human impacts.

We support this recommendation. Open ocean aquaculture and high speed ferry operations are examples of two new activities expected to increase in Hawaii’s waters, for which possible adverse impacts on marine mammals and sea turtles do not appear to be adequately understood. Federal assistance in better evaluating and mitigating these and other potential impacts would be quite helpful.

Recommendation 20-8: Regarding increased funding for ocean acoustics research.

We also generally support this recommendation. The role of humpback whale song, for instance, is not yet clearly understood. We believe it is important to better characterize Hawaii’s marine acoustic environment in order to evaluate possible impacts on humpbacks and other marine mammal species.

Recommendations concerning ocean acoustics and marine mammals (especially 20-8 and 20-5) could conflict and may affect ocean research in Hawai‘i. For example, a group of academic and government laboratory investigators has developed a proposal for an acoustic ocean observatory along the west coast of the island of Hawai‘i, for the purpose of studying marine mammals and large pelagic fish. This research is crucial to better understanding of these species, and constrains by regulation of ocean acoustics should be carefully weighed to ensure that impacts to the species are minimized and yet data that may be important to the understanding of the animals can be obtained.

Chapter 21 – Preserving Coral Reefs and Other Coral Communities

There is no federal law that explicitly states it is illegal to kill corals or damage coral reefs, except within federally protected areas. Activities that affect coral reefs can be regulated, but inefficiently. For example, the specific reading of the EPA regulations would allow a variety of individual water quality standards to be met, but the “soup” would still kill corals or prevent recovery. A unified federal policy that would respect the legal authority of the states and territories would be a big help: “It is unlawful to undertake activities that result in the death of corals and coral reefs except as permitted under local authority.” This would actually backstop local regulatory agencies.

Under Federal Roles and Responsibilities page 263, the Rivers and Harbors Appropriation Act (RHA) of 1899 Section 10 is not listed as a federal law used to manage and protect coral resources. Under this Act the USACE must authorize any excavation or fill of navigable waters. RHA Section 10 is broadly used to authorize removal of corals that obstruct navigation for purposes of expanding and deepening channels, turning basins, and harbors. At minimum, the RHA should be changed to require avoidance, minimization, and mitigation of impacts to corals, parallel to CWA Section 404, which regulates fill in waters of the U.S.

The U.S. bans collection of corals from reefs under federal jurisdiction for the aquarium trade, however, is the number one importer of corals from Indonesia and the Philippines. The technology presently exists for the cultivation of corals from eggs and sperm released during spawning events. The U.S. can take the lead in promoting coral cultivation for the aquarium trade and phasing out the importation that is damaging others' reefs. This is further discussed under Recommendation 12-3.

Recommendation 21-1: Regarding Congress passing, and providing sustained funding for a Coral **Reef** Protect and Management Act that covers research, protection, **management** and restoration of coral **reef** ecosystems.

Our first recommendation is to change recommendation 21-1 to read with the suggested edits that are **bolded** in the text above. The emphasis of a Coral Protection and Management Act (CRPA) as described is primarily on research and mapping, which does little to protect coral reefs from imminent threats. A CRPA must explicitly emphasize actual management, protection and restoration. It should provide sustained funding for local jurisdictions to manage and protect their reefs and encourage local protection initiatives. It should also assure funding for coral reef protection where the authority lies outside of NOAA (for example, authority for pollution control lies with EPA and Department of Agriculture; authority for dredging and fill lies with the USACE). CRPA should mandate protection of coral reefs and require improved compensatory mitigation where impacts are unavoidable.

Recommendation 21-1 calls for a *coral reef protection and **management** act*, but then does not follow up with any provisions for management and established funding for management. The purpose of the current U.S. Coral Reef Task Force is centered around science-based management, with management being the operative word. The current funding is subject to and annual (deliberate) inclusion in NOAAs budget, rather than from an established and permanent funding source. We recommend the following bullet be added to recommendation 21-1: ***Congress should provide funding and technical support for locally driven management of coral reef ecosystems in the U.S. coral reef States and Territories.***

We recommend that the some of the other bullets in recommendation 21-1 be changed as follows:

- *support for new research and assessment activities to fill critical information gaps, to be carried out in partnership with the academic research **community and with the resource trustee agencies in the states and territories***
- *support for outreach activities to educate the public about coral reef conservation, **ecosystem function**, and reducing human impacts.*
- *support for U.S involvement, particularly through the sharing of scientific and management expertise, in bilateral, regional, and international coral reef management **and education** programs.*

Recommendation 21-2: Regarding Congress codifying and strengthening the U.S. Coral Reef Task Force and place it under the oversight of the NOC.

In regard to the recommendation that the U.S. Coral Reef Task Force be codified, we do have concerns that the Task Force's role within the framework of the NOC may weaken the Task Force by allowing Task Force membership to be relegated to lower echelon persons within the

federal agencies. We support language, which would keep the federal agency representation to the Task Force at the Assistant Secretary level, and the co-chairs at the Secretarial level. Codification should include mention of the membership by the Governor's on the Task Force.

We also have serious concerns about the inclusion of deep-water corals within the framework of the Coral Reef Task Force. As its name implies, the U.S. Coral Reef Task Force focus was intended to be on reef-building corals, and while some deep-water corals may be associated indirectly with reef building corals in tropical areas, the broad inclusion would work to weaken the primary focus and goals of the Task Force. These benthic communities, the management challenges and the impacts are so diverse that the analogy would be the inclusion of a grassland ecosystem to a Task Force focused on tropical rainforests just because they are both examples of plant-based ecosystems.

We believe that deep-water corals are a concern and should be addressed, but great care must be taken in selecting the proper venue for their attention. Management of deep-water corals are first and foremost, a fisheries issue. Deep-water corals require different management regimes, different science, and are generally associated with completely different ecosystems than coral reef system (the possible exceptions being deep water corals in proximity with tropical reef systems). The following wording, as is being offered as an amendment to the bullets in recommendation 21-2. Delete bullet 1 and replace with: **The Task Force shall create a subgroup to address the issues of deep-water corals to determine the proper, existing venue for management attention.**

Hawai'i has had a long history of managing deep-water corals (or precious corals). Destructive harvesting techniques are not allowed, and the fishery is tightly controlled. The deepwater (Red, Pink, and Gold Coral) fishery is dormant; however, if this fishery is initiated again, it will be managed by both federal and state agencies. Currently, there is an active fishery for Black Coral in the State of Hawai'i. Black Coral lives on the deep coral reef also known as the coral reef twilight zone. This fishery has been successful for 40 years and is now undergoing some changes due to fishing pressure and an invasive species.

Hawai'i is extremely unique in that it allows the harvesting of these corals. The management of these fisheries is monitored closely and tightly regulated. Any national movement to protect deepwater corals should consider Hawaii's unique situation. These fisheries have been managed successful and the protection of these corals in Hawai'i was recognized many years ago.

We support the general protection of deep-water corals and their communities. We need to stress the information gap that exists on the benthic community that lies in between the environments of reef building corals and deep-water corals. The deep coral reef (or coral reef twilight zone) may play a critically important role on the health of the coral reefs around Hawai'i, in particular the Main Hawaiian Islands. We know very little from this environment even though it is only a few hundred feet deep (200 to 500 feet). This zone is the transition zone between warm water coral reefs and abyssal, cold waters.

Regarding the bullet that recommends the Task Force develop regional-ecosystem based plans; **we would recommend that the states and territories be included in this bullet.** The

development of regional plans should include both researchers and resource managers from the region. Each plan should encompass the range of coral reef ecosystems predominant within the region and should include standardized ecological components (i.e. trophic structures, symbiosis, nutrient and chemical cycles, keystone species, levels of endemism, phase shifts, etc.) where this data is available and applicable to the plans.

The bullet that states “NOAA, in consultation with Regional Fishery Management Councils, should implement any Task Force recommendations for reducing the effects of fishing on coral reef ecosystems,” must be changed to add in the role of the states and territories. The vast majority of coral reefs are in State waters and the majority of the fishing impacts to the reefs are from nearshore fishing activities.

Recommendation 12-3: Regarding NOAA developing national standards and promote international standards to ensure that coral reef resources are collected, imported and harvested in an **ecologically** sustainable manner.

The standards should include concerns regarding the transport, possession, culturing, sale or release of non-native species from one region to another where such species could cause an invasive species risk to the local reefs, and or where invasive species are already present and the goal is to stop the further spread between reef areas.

Recommendation 21-3 is of particular interest because it provides the opportunity for U.S. leadership in slowing unnecessary coral reef destruction in emerging countries, for developing new products and industries for the U.S., and for establishing fair and equitable trade rules for elements of an ecosystem without impacting the natural ecosystems.

The U.S. has been a world leader in developing techniques for coral cultivation that are simple, cheap and productive. In some areas many species of hard corals can be cultivated through fragmentation, which significantly reduces the number of live, wild corals needed for reproduction (and could result in no wild species required in a relatively short period of time). There has also been great success in developing cultivation techniques for sperm/egg reproduction which would require *no* harvesting of corals from natural reefs. This process, which has been successfully documented for more than a dozen species has several advantages, not the least of which is the fact that corals with identical genetic properties can be cultivated, which is of significance for laboratory work where comparisons of effects between two (or more) identical corals would produce more valid results.

These techniques are not only practical, the technology is immediately transferable to individuals or to communities to establish as businesses to replace their more destructive practices of wild coral harvest for the U.S. aquarium trade, the U.S. ornamental trade, or even for the international medicinal/pharmaceutical trade.

But simply providing the opportunity for cultivation over wild harvest will not be enough. It will also require new laws and treaties regarding the world trade in live and dead corals, live rock and other coral reef species. Through direction from the Coral Reef Task Force, the U.S. Agency for International Development (USAID) completed a study in March 2000, a report on the international trade in corals and coral reef species. That report details suggestions for improving

the international statutes to reduce destructive practices associated with coral reef trading. We suggest adding the following language to recommendation 21-3. **Based on the findings of the March 2000 USAID report on international trade in corals and coral reef species,** the National Oceanic and Atmospheric.....The U.S. Department of State should implement incentive programs **based on the findings of the report** to encourage....

Recommendation 21-4: Regarding the U.S. Coral Reef Task Force identifying critical research and data needs related to coral reef ecosystems.

As written, this recommendation is redundant with Recommendation 21-1. It makes sense to combine the two, as long as the emphasis on management and protection is expanded in 21-1.

Chapter 22 – Setting a Course for Sustaining Marine Aquaculture

Page. 271, paragraph 3 – The following sentence is not correct, “The nations first commercial open ocean aquaculture operation began in 2001, when ownership of a public project in Hawai‘i waters was transferred to a private firm.” It should be added that, **“The origin of the first U.S. commercial open ocean aquaculture project in Hawai‘i began in 2001 with the lease of 28 acres of state marine waters to a private company, following a 1999 legislative amendment to state statutes to allow commercial offshore aquaculture leasing.”**

Page 273, From our experience, and we recommend adding “sea surface” for a more complete statement: “the ocean leasing system should include the **sea surface**, water column and ocean bottom.”

Recommendations 22-1: Regarding designation of NOAA as the lead federal agency for marine aquaculture and creating an Office of Sustainable Marine Aquaculture.

If Congress is going to designate NOAA as lead federal agency for implementing a national policy for environmentally and economically sustainable marine aquaculture and create an Office of Sustainable Marine Aquaculture in NOAA, then we suggest the recommendation should be expanded to: 1) clarify the Department of Agriculture’s aquaculture authorities and responsibilities, in consideration of the lead agency authorities and responsibilities being assigned to NOAA, and 2) the Executive Director (Manager) of the Office of Sustainable Marine Aquaculture should be appointed a member of the Joint Subcommittee on Aquaculture.

Recommendation 22-2: Regarding the development of a permitting, leasing, and regulatory program

Under bullet 5, the statement should include opportunity for “other federal agencies including the Department of Defense” to comment. U.S. Navy comments will be very important in siting a facility near any of their activities.

Best management practices and careful siting in an exposed open ocean site will take care of most environmental problems in terms of dilution. However, the issue of use of exotics and the potential for introduction as invasive species remains. Even if native species are used, the lesser problem of genetic drift is one to watch for and should be addressed in this report. Congress should also direct enhanced coordination amongst the federal and state programs to control

aquatic animal diseases and attempt to develop unified standards for commerce in marine and coastal aquaculture-raised products between states and through foreign trade. **We would like to see a new recommendation written to address these issues, or that they be added to the bullets under Recommendation 22-2.**

We suggest a new recommendation in which the NOC focuses on the needs to target native species for domestication and development as marine aquaculture species, and recognizes that funding needs to be allocated to the U.S. Department of Agriculture and/or the National Sea Grant Program to accomplish this task.

Chapter 23 – Connecting the Oceans and Human Health

The report discusses the new and potentially beneficial discoveries that have been and are likely to continue to be made by the biotechnology for compounds and products derived from ocean organisms. Hawai‘i as a gateway to the Pacific has both the expertise and facilities to be a leader in this field and is already recognized as such through the creation of several research institutions and their ties to the pharmaceutical industry.

Recommendation 23-1: Regarding NOAA, NSF and others to encourage multidisciplinary studies of marine species to discover bioproducts, develop compounds, and the like through competitive grants and support of federally funded centers.

There have already been several incidents in Hawai‘i and the other Pacific Islands where research teams from more than one federally funded center descend on an Island all at once with no notice to the local resource management agencies, and with no coordination between groups. While studies of new bioproducts derived from the marine environment has numerous likely benefits, there needs to be coordination at the national level between the granting agencies and among the centers so as not to overwhelm or concentrate efforts in any one state. Likewise, similar coordination needs to occur between those collecting samples and the local resource management agencies

We especially support recommendation 23-3, requesting support for the development and implementation of efficient and cost-effective methods for identifying pathogens and toxins in coastal waters. At present, we are required by EPA to use enterococcus or *E. coli* bacteria as indicators of fecal pathogens in environmental waters. These bacterial groups have numerous non-human sources, and are not clear indicators of wastewater treatment and disposal system failures, absent an identified sewage spill. Other waterborne diseases of nonfecal origin, such as Leptospirosis in coastal watersheds, lack rapid monitoring methodologies. A nationally-supported search for better indicators of water quality from a public health point of view would be very useful to Hawai‘i.

Chapter 24 – Managing Offshore Energy and Other Mineral Resources

Most of this chapter address oil and gas issues not relevant to Hawai‘i. On pages 292 and 293, there is discussion of revenue sharing with coastal states that specifically excludes Hawai‘i,

probably because of our lack of oil and gas resources. What is not clear is what revenue sharing laws would pertain to Hawai‘i for other offshore energy or mineral resources. Later discussions of wind and wave energy, OTEC and marine minerals are not clear on this issue. There also is no mention of the growing use of deep cold water, from the ocean here in Hawai‘i and from the Great Lakes to provide low-cost air conditioning.

Chapter 25 – Creating a National Strategy for Increasing Scientific Knowledge

We are encouraged to see that this section focuses on not just traditional biological, oceanographic and engineering sciences but broadens the definition to include the need for more data and information on the social sciences.

As has been re-iterated throughout our comments, we request that the federal agencies work in consultation with regional, State and local governments to develop and address priority research and that their needs to be a mechanism built into this system that ensures an emphasis on dissemination of results to the managers and end users.

A concern is raised here in regard to the balance of research efforts in “coastal” waters versus the deep “blue” ocean; Hawai‘i, unlike most other coastal states, has a narrow coastal zone that is strongly affected by the surrounding deep ocean environment. Thus, Hawai‘i has a large stake in ensuring that a balance is struck between nearshore research and management needs and research in larger basin-scale environment in which the Hawaiian Archipelago is embedded. The report touches on this, but it needs emphasis from the Hawai‘i and/or island perspective.

This chapter calls for doubling of the investment in basic and applied ocean research over five years (Recommendation 25-1). The University of Hawai‘i could reasonably be expected to be a major player in competing for enhanced funding by building upon its nationally respected ocean-related expertise, but only if its capacity for conducting the additional research is clearly visible to federal research managers and to peer reviewers of grant proposals.

Recommendation 25-2: Regarding the NOC developing a national ocean research strategy.

The national ocean research strategy should be derived from a bottom-up process where the priorities and strategies are developed by the regional science information boards. The NOC should coordinate the federal agencies’ funding and technical assistance to support regionally set priorities and strategies. If the commission retains this recommendation as currently written, we recommend that the NOC be required *to consult and include in the national strategy* the science needs and priorities identified by local, state, regional, and national managers working through the regional ocean information programs.

Recommendation 25-5. Regarding the NOC coordinating federal resource assessment, mapping, and charting activities with the goal of creating standardized, easily accessible national maps that incorporate living and nonliving marine resource data along with bathymetry, topography, and other natural features.

Mapping and charting of near-shore areas is a fundamental need of coastal managers. A commitment to mapping and charting near-shore areas should be articulated in this

recommendation. When consolidating mapping and charting activities of the different federal agencies, the NOC should conduct outreach to user groups to determine which maps and charting tools are useful and should be maintained, and ensure that each state has the technical capacity to use these tools once developed.

Recommendation 25-4: Regarding Congress appropriating significant funding for an expanded national ocean exploration program. NOAA and NSF are designated as the lead agencies with involvement from USGS and the Navy's Office of Naval Research.

The report calls for NOAA to be the lead agency in many aspects of implementing the recommendations, and the NOAA Sea Grant College Program is highlighted in regards to research in a previous recommendation. We support the need for funding but again need to point out that there are numerous programs both within the UH system and elsewhere that should be consulted and considered in the allocation on management of these grant funds. Examples of institutions that receive NOAA funding include: the Sea Grant Program of the UH, the Joint Institute for Marine and Atmospheric Research (JIMAR), and the Hawai'i Undersea Research Laboratory (HURL, which all provide well-defined interfaces for UH researchers to tap into NOAA extramural funding. HURL is uniquely situated to benefit from investments in ocean exploration called for in the report.

UH Manoa already has substantial funding for ocean research from the NSF and the National Aeronautics and Space Administration (NASA), in addition to NOAA funding. The Hawai'i Ocean Time-series (HOT), now in its 16th year and funded by NSF and the State of Hawai'i. HOT is seen as a prototype of a new national network of ocean observatories under a major National Science Foundation initiative. The UH faculty have recently proposed three major Hawai'i-based ocean-related research centers. One was recently funded jointly by NSF and the National Institute of Environmental Health (Center for Ocean and Human Health); and two are pending. NASA and NOAA provide substantial funding to the International Pacific Research Center, in partnership with Japan, supporting Asia-Pacific ocean, atmospheric and climate research. Some of this funding is being used to develop a Hawai'i region ocean model to ultimately support such applications as search and rescue and pollution dispersal.

The ecosystem-based research and management philosophy espoused in the report meshes very well with efforts such as HURL in support of coral reef ecosystems in Hawai'i and other U.S. Pacific waters. Numerous UH scientists are working with NOAA to conduct research needed to manage the NWHI Coral Reef Ecosystem Reserve. The Hawai'i Coral Reef Initiative Research Program, jointly managed by the UH and the Department of Land and Natural Resources, supports monitoring and research activities aimed at building capacity to manage Hawaii's coral reef ecosystems. Watershed research is an important contribution to the integrated research and management philosophy recommended throughout the report.

Chapter 26 – Achieving a Sustained, Integrated Ocean Observing System

This chapter calls for a substantial national investment in building and sustaining an operational ocean observing system to provide the data needed to produce information for ocean policymakers, managers, and for other stakeholders. Faculty of the UH have played a strong

leadership role over the past decades in developing several prototype components of such an integrated operational observing system, such as the Pacific tide gauge network and the equatorial Pacific TAO array of buoys. Another example is the shoreline monitoring and vulnerability analyses. The State of Hawai‘i, through the UH, is willing to play the leading role in the development of the Hawai‘i-Pacific ocean observing system. The web site at <http://kela.soest.Hawai'i.edu/HI-POIS/> provides an inventory of the various Hawai‘i-Pacific coastal ocean observing efforts and plans.

Recommendation 26–2. Regarding Ocean.US, with NOC oversight, being responsible for planning the national IOOS with NOAA as the lead federal agency.

The commission should clarify the mechanisms which will be utilized to ensure coordination between Ocean.US, NOAA, and the regional science boards in managing the IOOS. In planning for the national IOOS, Ocean.US should facilitate substantive and significant representation of the user community and place an emphasis on transferring the IOOS information to coastal decision-makers in a useable and accessible form. Further, Ocean.US and NOAA should seek to build state and local user capacity by supporting necessary tools such as training courses, technology transfer, as well as software and hardware.

Chapter 27 – Enhancing Ocean Infrastructure and Technology Development

In the section on “Maximizing Resources through Collaboration”, the UH has several examples of regional collaboration and Hawai‘i stands poised on several fronts to be a center for collaboration. While we do not attempt to name all these programs, and recognize the examples given in this section are not exhaustive, it is important that a statement be made about the need to inventory existing collaborative efforts to ensure that all sites that have the infrastructure and technical expertise are considered equally in the allocation of funds and project focus.

The section on “Undersea Vehicles” in this chapter, the HURL and its assets was completely left out of the discussion. We have edited the paragraphs in bold to insert appropriate text to reflect these assets and their operating ranges.

“For missions of long duration, the United States relies on the Navy’s NR-1 nuclear research submarine, which can stay submerged for thirty days but has a maximum depth of only 3,000 feet. The NR-1 was constructed in 1969, and its service life will end in 2012” **Other federally funded intermediate-depth diving occupied submersibles include the Pisces IV and V capable of diving to 6,500 and 6280 feet, respectively.**

All submersibles in the federal fleet, including *Alvin* and *Jason II*, are currently housed at the National Deep Submergence Facility at the Woods Hole Oceanographic Institution. The facility is funded through a partnership among NSF, Office of Naval Research, and NOAA. This is not an accurate statement and as there are other assets at five other facilities including Hawai‘i: **The National Undersea Research Program within NOAA consists of six national centers, one of which, the NOAA Undersea Research Center for Hawai‘i and the Western Pacific established in 1980 at the UH Manoa (more commonly referred to as HURL) operates the HOV’s Pisces IV and Pisces V, the ROV RCV-150 with a maximum depth of 3000 feet, and**

R/V Ka'imikai-o-Kanaloa, a 220-foot dedicated support vessel with laboratory facilities and a multibeam bathymetric seafloor mapping sonar system to service the Hawai'i and Western Pacific Region.

The report supports a mix of vehicles to support current and future research needs. Recommendations include: (1) setting aside funds at the National Deep Submergence Facility to gain access to vehicles outside the federal fleet for specific missions; (2) acquiring a second ROV to join *Jason II* by 2005, at a cost of approximately \$5 million, **and strongly consider basing this new ROV system at a second location that would minimize the transit time for periodic overhaul and refit of both ROV systems** [Please note that this was added verbatim from the NRC report cited in this section]; and (3) initiating an engineering study to evaluate various options for replacing *Alvin*, with a goal of providing submergence capability up to 21,000 feet, at a cost of approximately \$20 million. The report noted that in time and with a higher level of funding, additional platforms with greater capabilities could be profitably added to the fleet.

Please add the following paragraph to this section: **The diving assets of NOAA's Undersea Research Center for Hawai'i and the Western Pacific (HURL) should be made available to the scientific community that requires intermediate-depth submergence based operations in the Pacific region. The average maximum depth for all *Alvin* dives is presently 2079 meters, which is just slightly beyond the range of HURL's *Pisces* submersibles. In addition, of nearly 500 *Alvin* dives carried out from 2000 to mid-2004, 70% took place in the Pacific with the remainder in the Gulf of Mexico and Atlantic where *Alvin* is based. Therefore, HURL should be considered as the host and operator for the new ROV from its strategic location in the middle of the Pacific Ocean in order to more efficiently satisfy the overwhelming trend for scientific missions in the Pacific region.**

Recommendation 27-4. Regarding Congress establishing a modernization fund for critical ocean infrastructure and technology needs. Spending priorities should be based on the NOC's ocean and coastal infrastructure and technology strategy.

We support this recommendation and recommend the following to the third bullet:

- The acquisition of vessels and infrastructure needed for an expanded national ocean exploration program **that are geographically distributed to match the current and projected scientific needs**

Chapter 28 – Modernizing Ocean Data and Information Systems

Recommendation 28-1: Regarding Congress amending the National Oceanographic Partnership Act to establish and fund Ocean.IT as the lead federal interagency planning organization for ocean and coastal data and information management.

We support this recommendation and note the importance that this is an interagency process. We recommend that Ocean.IT be required to establish an advisory board or other process for soliciting the input and involvement of state and local governments, marine labs, and university researchers.

Recommendation 28–2: Regarding NOAA and the U.S. Navy establishing a joint ocean and coastal information management and communications program to generate information products relevant to national, regional, state, and local needs.

Hawai‘i supports a joint information and communications program by NOAA and the U.S. Navy and other pertinent federal agencies. We recommend that the commission recognize the importance of state and locally derived data and add a requirement to this recommendation calling on NOAA and the U.S. Navy to develop an advisory board or other consultative process for soliciting state, local, and other end user input. NOAA and the U.S. Navy and other pertinent federal agencies should also fund research on the state and local scale.

Recommendation 28–6: Regarding the President convening an interagency task force to plan for modernizing the national environmental data archiving, assimilation, modeling, and distribution system with the goal of designing an integrated earth environmental data and information system.

Hawai‘i supports a joint information and communications program by NOAA and the U.S. Navy and other pertinent federal agencies. We recommend that the commission recognize the importance of state and locally derived data and add a requirement to this recommendation calling on NOAA and the U.S. Navy to develop an advisory board or other consultative process for soliciting state, local, and other end user input. NOAA and the U.S. Navy and other pertinent federal agencies should also fund research on the state and local scale.

Chapter 30 – Funding Needs and Possible Sources

Our concern with this chapter is that it fails to propose any mechanism to rank or select priorities among the myriad of recommendations proposed in this Report. There is a critical need to prioritize and assess these recommendations to determine which are able to be instituted within a relatively short time frame, which are crucial to the health and welfare of the citizens and our coastal and ocean resources, and which are essential to overall program implementation and coordination. Regardless of the mechanism proposed to initiate this prioritization process, the states need to have full and equal participation in this selection process and all ensuing discussions about implementation.

There are two critical points in this chapter:

- 1) The commission recognizes that the states must have a prominent role in developing a comprehensive national ocean policy; and
- 2) That the additional roles and responsibilities should not take the form of unfunded mandates.

While we support the reallocation of the Outer Continental Shelf revenues, this third point presents some concerns. The commission proposes to create the Ocean Policy Trust Fund to pay for the recommendations in this report. The funding would come from the approximately \$4 billion generated annually by the Outer Continental Shelf oil and gas revenues that are not already dedicated to existing programs. There is no discussion of how these “excess” funds are

currently distributed or how difficult it might be to get them reallocated to the Ocean Policy Trust Fund. It must be assumed that some group or groups of constituents are currently utilizing the funds through other federal programs.

In the chapters we reviewed, there was no mention about the need to organize the various ocean constituencies into a cohesive voice that could lobby for this allocation of funds. Finally, there was no discussion of alternative sources of funding.



OFFICE OF THE GOVERNOR

444 N. CAPITOL STREET NW, SUITE 400
WASHINGTON, D.C. 20001

ROD BLAGOJEVICH
GOVERNOR

June 4, 2004

U.S. Commission on Ocean Policy
1120-20th St. NW
Suite 200 North
Washington, DC 20036

Members of the U.S. Commission on Ocean Policy:

Thank you for the opportunity to comment on the Governor's draft of the *Preliminary Report of the U.S. Commission on Ocean Policy*. The report advances the important task of protecting our coastline and waters, and the State of Illinois stands ready to work with you and others to protect our oceans and freshwater resources. We provide the following comments, which in part reinforce those made by Governor Taft in his capacity as the Council of Great Lakes Governors Chair.

1. Provide Additional Guidance on Great Lakes Policy

There are many common challenges facing the oceans and the Great Lakes. Therefore, it is appropriate for the *Preliminary Report* to address both. However, the report appears to overlook the Great Lakes. The report also appears not to recognize the unique challenges facing our region. For example, unlike the oceans, the Great Lakes are a vast source of water for drinking, industry and for agriculture.

The Great Lakes also require priority attention. Despite improvements that have been made in the past forty years, problems remain that threaten recovery of the Great Lakes ecosystem. For example, beaches are closed due to bacteria, pollution has made some fish unsafe to eat, and 20 percent of the Great Lakes shoreline remains polluted with toxic sediments. Invasive species pose perhaps the most serious threat to the Great Lakes in a century. 140 invasive species threaten to decimate native plants and animals that are integral to the ecological and economic health of the Lakes, with more arriving each year. The Asian Carp, for example, is swimming toward Lake Michigan and, unless stopped, threatens to cripple the \$4 billion per year Great Lakes fishery.

For these reasons and more, the Great Lakes command a higher level of attention in the *Preliminary Report* and the Report must set forth more clearly to what degree the recommendations offered may apply to Great Lakes coastal areas.

2. Recommend Substantial Long-Term Funding for the Great Lakes

The Commission proposes a dedicated Ocean Policy Trust Fund that would be funded at \$1.2 billion and increasing over time to a sustained \$3.2 billion. The Outer Continental Shelf oil and gas leases are the identified source of revenue to capitalize the fund. We applaud this recommendation but urge the Commission to clarify that a significant portion of these funds should be available to activities within the Great Lakes.

Indeed, a recent report from the General Accounting Office demonstrates that states already expend more resources on Great Lakes restoration and protection than the federal government. Substantial new federal funding is needed to address “ready-to-go” projects as well as long-term planning and programs. For example, federal funding is needed to fund the construction and maintenance of a second permanent invasive species barrier on the Chicago Sanitary and Shipping Canal. The Army Corps of Engineers is planning to construct one permanent barrier, but a double barrier system is needed to block Asian Carp from entering Lake Michigan and to prevent the migration of other invasive species.

3. Comments on specific recommendations

Of the *Preliminary Report*'s many recommendations, some stand out as being especially commendable. These include recommendations that USEPA develop strategies to:

- Enhance sediment management
- Evaluate transport of contaminated sediments
- Require advanced nutrient removal from wastewater discharges,
- Help communities improve design, operation and maintenance of septic and other on-site disposal systems
- Reducing ag waste impacts
- Increase infrastructure funding
- Develop water quality trading
- Enhance land use planning to reduce water quality impacts

However, we are concerned about the recommendation to create “financial disincentives and enforceable measures” upon states that fall short of “meaningful progress” toward meeting water quality standards. There are limited regulatory tools to control non-point source pollution. Moreover, water quality often recovers at a slow pace. How will that be measured? What is reasonable progress? It is important that states are not held accountable for unachievable measures. We are also concerned with the recommendation that the Clean Water Act Section 319 non-point source grant program be merged with the Coastal Zone Act non-point source program.

4. Priorities and Principles

We join Governor Taft in urging the Commission to frame its recommendations in the context of the nine priorities for Great Lakes restoration and protection that have identified by the Council of Great Lakes Governors:

- Ensure the sustainable use of our water resources while confirming that the States retain authority over water use and diversions of Great Lakes waters.
- Promote programs to protect human health against adverse effects of pollution in the Great Lakes ecosystem.
- Control pollution from diffuse sources into water, land and air.
- Continue to reduce the introduction of persistent bioaccumulative toxics into the Great Lakes ecosystem.
- Stop the introduction and spread of non-native aquatic invasive species.
- Enhance fish and wildlife by restoring and protecting coastal wetlands, fish and wildlife habitats.
- Restore to environmental health the Areas of Concern identified by the International Joint Commission as needing remediation.
- Standardize and enhance the methods by which information is collected, recorded and shared within the region.
- Adopt sustainable use practices that protect environmental resources and may enhance the recreational and commercial value of our Great Lakes.

Moreover, we believe that your recommendations should be guided by the following principles:

- minimal bureaucracy, allowing efforts to be directed toward protection and restoration rather than toward process and paperwork;
- affordable non-federal match requirements, particularly in light of ongoing and significant State investments;
- coordination of the efforts of the many government and non-governmental entities involved in protection and restoration activities; and,
- recognition of the leadership role of the Great Lakes Governors in defining regional priorities.

Thank you again for your taking into consideration our comments.



Rod R. Blagojevich
Governor, State of Illinois

**OFFICE OF THE GOVERNOR**

INDIANAPOLIS, INDIANA 46204-2797

JOSEPH E. KERNAN
GOVERNOR

June 2, 2004

Admiral James D. Watkins, Ret.
Chairman, U.S. Commission on Ocean Policy
1120 20th, NW
Suite 200 North
Washington, DC 20036

Dear Admiral Watkins:

Indiana welcomes the opportunity to comment on the April 20, 2004 *Preliminary Report of the U. S. Commission on Ocean Policy (Preliminary Report)*. The economy of our nation and the quality of life of each individual citizen are dependent upon reasoned management and protection of our important coastal regions. The Great Lakes, in particular, are our nation's largest freshwater source. They are a valuable shared resource, vital to our economy and our environment.

Indiana supports the general policy recommendations set forth in the *Preliminary Report*. These elements offer a common-sense approach that can raise the profile of coastal issues and help apply improved coordination at the federal, state, and local levels. Your Commission's attention to the issues of integrated governance of federal agencies, better science for decision making, and education of governments and the public concerning the importance of coastal resources is well founded.

Careful reading of the *Preliminary Report* suggests that the Great Lakes are included within the ocean policy set forth by the Commission. I urge you to be explicit and unequivocal in your inclusion of the Great Lakes in your recommendations. This is necessary to properly address the needs of all of our coastal resources. Rather than a National Ocean Council, please consider the need for a Council that explicitly references the importance of Great Lakes protection. This expanded reference offers parity of treatment for the important coastal areas of the Great Lakes as well as the Oceans. Regional participation is essential and should be recognized as an element of governance.

A concern is that existing state and local programs, already directed to coastal needs, may not be adequately considered while implementing specific federal governance recommendations of the *Preliminary Report*. Reconfiguration of federal agency responsibilities should consider how programs are being implemented within the states. Where feasible, changes at the federal level should be implemented to support and foster existing programs on the state and local level.

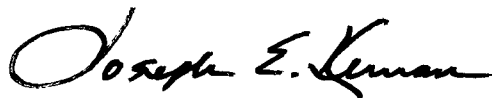
Admiral Watkins
Page Two
June 2, 2004

The application of "strong science for wise decisions" is a sound principle. The principle should not, however, become a mechanism for delay. Water contamination arises from a variety of sources and the effects of this pollution are experienced well beyond our immediate coastal areas. Similarly, invasive aquatic species are already impacting the aesthetic and economic qualities of the Great Lakes. In these examples and others, protective measures may be required while research is in progress. Ultimately, forms of protection may be modified as science advances.

We also support your recommendations for increased federal support of oceans and Great Lakes research. Given these bodies of water offer enormous untapped potential to sustain human life, such research deserves additional public investment, which we believe should be equitably distributed to advance the discovery and recovery of our Great Lakes.

Indiana looks forward to participation as a full partner in this important initiative. Coordinated management of our precious coastal resources is of vital interest to all of us.

Sincerely,

A handwritten signature in black ink that reads "Joseph E. Kernan". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Joseph E. Kernan

JEK/CD/nlm



THOMAS J. VILSACK
GOVERNOR

OFFICE OF THE GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

May 21, 2004

James D. Watkins, Admiral
U.S. Navy (Retired)
Chairman, U.S. Commission On Ocean Policy
1120 20th Street, NW, Suite 200 N
Washington, D.C. 20036

Dear Admiral Watkins:

The citizens of Iowa thank you for the opportunity to comment upon the Preliminary Report of the U.S. Commission on Ocean Policy, Governor's Draft, Washington, D.C., April, 2004. We who live in the heart of the country are tied to the oceans by trade and by the watersheds that drain to the oceans. Upon casual review, it might seem a bit strange for the Governor of a mid-continent state such as Iowa to view ocean policy as relevant. But many of these issues are clearly directly related to Iowa, especially non-point pollution, farm policy, nutrients, transportation and trade, and ecosystem-based management.

Let me begin by praising this process. We need to look broadly at our natural resources. They deserve our attention. These resources are vital to our economic system and a significant factor to our quality of life. Iowa is often called "The Land Between Two Rivers," with the Missouri River and the Mississippi River defining our borders and our state. Most of Iowa is a watershed for one or the other of these great rivers. More than twenty-eight other watershed states have contributed to the quality of the water by the time the Missouri joins the Mississippi south of St. Louis and then flows into the Gulf of Mexico.

We appreciate the Commission's efforts during the past two years to evaluate the status of our coastal and ocean environments. Problems common to us all were identified, including degraded conditions of wetlands, water quality, wildlife habitat and fishery resources. These problems require immediate attention, whether inland or coastal.

The report is comprehensive, thoughtful, insightful and well crafted. The Preliminary Ocean Policy reflects a balanced look at many issues, as it must. Last November, we convened the Iowa Water Summit to compile the ideas of experts, interested stakeholders and citizens regarding priorities and strategies for management and protection of our water resources. I am pleased that many of the themes that emerged from that process are echoed in this report. Let me highlight a few to add importance to some of the many recommendations from Iowa's perspective.



The vision endorsed in the report of managing our oceans with an ecosystem based management approach is appropriate. It requires a science based approach with appropriate, credible, coordinated monitoring and accessible databases. Iowa currently cooperates with the USGS stream gauging program and USGS and EPA water monitoring programs. In the past five years, we have greatly expanded our monitoring of inland stream and lake waters. We would welcome proposed monitoring changes, especially on the Mississippi and Missouri rivers, and Iowa would adjust its monitoring program to better coordinate with a national system.

The report endorses a watershed approach. This naturally falls out of a science-based ecosystem approach as it acknowledges that water quality and quantity issues are hydrologically connected between upstream and downstream areas. This approach recognizes that these issues have a cumulative impact from various landscapes and all activities. The functioning of the watershed is what binds Iowa to the water resource issues at the Gulf of Mexico. Recommendation 14-8 instructs the National Ocean Council to establish significant reduction of non-point source pollution in all impaired coastal watersheds as a national goal, and set specific, measurable objectives focused on meeting human health and ecosystem based water quality standards. The recommendation is focused only on watersheds directly tied to the coast, and there is no clear recommendation with regard to inland watersheds such as the Mississippi-Missouri Basin. Iowa delivers huge amounts of nutrients and sediment to the Gulf. Therefore, a similar recommendation should address the unique controls necessary for this watershed.

Nutrients were a major issue at our Iowa Water Summit. Nutrients come from a variety of sources including stormwater runoff, wastewater treatment facilities, manures, atmospheric deposition and row-cropped land. Recommendations regarding stormwater and wastewater treatment facilities and animal waste highlight real needs. The report recognizes the role of Cornbelt states in delivering nutrients to the Gulf. For Iowa, we have learned that there are many possible sources of nutrients, but development of a nutrient budget in Iowa indicates that the largest potential contributors are nutrients from the natural soil and from commercial fertilizers. This is probably true for much of the Cornbelt. The report should highlight a recommendation similar to 14-3 for management practices that protect waters from these nutrients through land and crop management techniques. This is most important for reducing nitrogen coming from the Upper Mississippi River Basin. We believe that a focused approach towards reducing the impacts of Midwest row-cropped lands would contribute significantly to a decrease in Gulf hypoxia. Our Water Summit recommendations also call for establishing nutrient standards as an important step towards identifying appropriate goals, and establishing goals in the Gulf would help us in this regard.

The ecosystem vision expressed in this report should also be applied to management of the rivers that flow to the oceans. While these may be out of the scope of this report, the river management of the Mississippi and Missouri rivers is certainly relevant to the delivery of nutrients to the Gulf. Similarly, water management of individual fields in relation to drainage systems has a geographically distant, but clearly close tie to Gulf management. These relationships were not drawn in the report, but could have been.

The issue of invasive species is also an overriding concern in Iowa. Two areas need addressing here: intentional and unintentional introductions. To handle intentional introductions support should be given to the National Aquatic Invasive Species Act (NAISA, S. 525 and H.R. 1080) currently before Congress. The most important component of this legislation is the establishment of a national screening process for approval before intentionally introducing nonindigenous species of aquatic flora and fauna into this country. This legislation is supported by the 28 - state Mississippi Interstate Cooperative Resource Association and the American Sportfishing Association, and is much needed to safeguard native species and habitats from invasives. Examples of nuisance aquatic species adversely impacting Iowa's aquatic communities are the silver carp and big head carp, both of which were legally and intentionally brought into this country by the catfish producers in the state of Arkansas.

Our biggest challenge with unintentional introductions is focused around ballast water in the Great Lakes. Again language on ballast water in the NAISA legislation mentioned above is a move in the right direction. Many challenges in the way of aquatic invasive species in the 28 - state Mississippi River basin is result of ballast water. Zebra mussels are the flagship ballast water derived species for the basin and certainly in Iowa. Here they are very much threatening survival of listed endangered mussel species, reducing populations of commercially valuable mussel species, clogging water intakes, and hampering recreational navigation by encrusting boat hulls and lower units of motors. Established invasives in the Mississippi River that will soon be impacting native fisheries include round goby, ruff, and spiny water flea. Recommendations 17-1 and 17-2 in the report are very much supported.

We support the move to sustainable marine fisheries. There has been a history of over-allocation of fish stocks, particularly to the commercial industry. Marine fisheries are vital to Iowa for two important reasons: they provide a healthy diet alternative and the \$20 billion sport fishing industry generates millions of dollars into the Federal Aid to Fish Restoration (Wallop-Breaux) program by way of excise tax on sport fishing equipment and boat fuel gas tax. Iowa annually receives over \$3.5 million in Federal Aid dollars through this program which are used to manage the state's fisheries and improve fishing opportunities for Iowans.

Iowa is committed to improving our water quality through comprehensive and coordinated efforts. We support science-based management and policy development. Sharing information and knowledge is imperative if we are to make a difference. This Preliminary Report of the U.S. Commission on Ocean Policy gives all of us an unprecedented opportunity to focus on the precious resource that binds us all.

Again, we appreciate this opportunity to record our opinions and recommendation in support of a better future for this country and this earth.

Sincerely,



Thomas J. Vilsack
Governor



KATHLEEN BABINEAUX BLANCO
GOVERNOR

State of Louisiana

OFFICE OF THE GOVERNOR

Baton Rouge

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June 3, 2004

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

Dear Admiral Watkins:

I commend you and the Commission for the fine work presented in the *Governors' Draft Preliminary Report of the U.S. Commission on Ocean Policy*. This draft report signals a much-needed revisiting of the national policies and programs that deal with our precious coastal and marine resources.

The state of Louisiana is dependent on the sustainable use of coastal and ocean resources and we welcome this opportunity to help shape a new era of improved management, learning and stewardship. We strongly endorse the key recommendations for a new governance system for ecosystem-level resource management - improved agency coordination; advanced monitoring of coastal and ocean conditions; and dramatic funding increases for science, research and education.

We do have several suggestions that may strengthen the report and enhance the prospects for improving the health of our oceans and our communities that depend on them. Our comments focus primarily on our perspectives on: (1) the implications to Louisiana of funding recommendations in the report; (2) Louisiana's unique coastal problems, which are not fully recognized or developed in the draft report; (3) the need for expanded emphasis on habitat restoration, urgent for Louisiana; (4) hypoxia along our Gulf coast; (5) enhanced science and education; (6) sediment issues; (7) governance and regional partnerships; (8) sustainable fisheries; and (9) issues related to natural resources.

Funding Issues

Congressional support and implementation of the recommendations in the draft report would mark a welcome turning point in our nation's ocean and coastal policy and we know that this will require significant funding. However, the report proposes funding its policy recommendations from OCS oil and gas leasing and royalty payments. Louisiana

Admiral Watkins
Page 2
June 3, 2004

has long envisioned a portion of these funds as the obvious primary source of Federal assistance for addressing Louisiana's coastal crises.

While we support in general the use of OCS revenues for the conservation and preservation of our oceans and coastal resources, we would insist that special consideration be given the coastal states that continue to bear the impacts of energy production for the nation, especially in the case of Louisiana.

The Louisiana Coastal Zone (LCZ) provides shore-based infrastructure that supports 80% of the production and drilling operations in the northern Gulf of Mexico; 30% of the nation's oil and gas production and distribution, both foreign and domestic; and the nation's only offshore oil terminal, the Louisiana Offshore Oil Port (LOOP). Most of this energy production, however, takes place on the Outer Continental Shelf (OCS), beyond the three-mile territorial limit of state waters. Though Louisiana sustains the entire onshore burden for these activities, it receives little to none of more than \$6 billion in Federal royalties and fees put in the Federal treasury each year from OCS energy production off its coast.

Louisiana is currently experiencing coastal land loss at the staggering rate of 24 square miles a year, the greatest rate of wetland loss in the nation. Since 1930, we have lost 1,900 square miles and according to the U.S. Geological Survey, we are predicted to lose another 700 square miles within the next 50 years. As these wetlands continue to disappear, critical energy infrastructure is put at risk. The urgency and scale of effort needed to address this land loss and the national benefits derived from this area are unparalleled.

Because of these extraordinary circumstances and the role this coastal landscape plays in the nation's energy and economic security and its ecological significance, Louisiana should be compensated in the form of dedicated, direct payments of OCS revenues to address the rehabilitation of this vital coastal ecosystem. The dedication of direct payments of OCS revenues to Louisiana and to other coastal producing states must be made before Congress considers any further use of OCS revenues.

We would also like to see more emphasis on habitat restoration, which implies increased funding. Existing resources are inadequate and demand is growing. **The Commission should call for increased funding for habitat conservation and restoration activities at a scale to meet the need.**

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Louisiana's Unique Coastal Problems

Louisiana occupies the active delta at the dynamic nexus between two critical eco-regions: the Mississippi River Basin and the northern Gulf Coast, the largest deltaic system in the US. Land use modifications throughout the basin and structural controls throughout the river system have inadvertently created dual threats: **(A)** ongoing subsidence and deterioration of our deltaic landscape, including coastal forests, marshes, barrier shorelines, shell reefs - and two million citizens who face ever-increasing threats from storm flooding; and **(B)** the world's largest hypoxic zone that forms each summer along our coast. Landscape deterioration basically stems from the separation of the Mississippi River from its delta and Gulf hypoxia is triggered by excess nitrogen in river water that bypasses the delta and flows directly into the Gulf. **Both habitat loss and hypoxia are largely the result of the unintended consequences of Federal policy decisions related to Mississippi River management.**

Ironically, our delta suffers from an overall sediment deficit, while two hundred million tons of vital mineral sediments flow past New Orleans each year to be lost in deep water. Meanwhile, our coastal swamps and marshes are dying from lack of these river-borne sediments (as well as the nutrients that lead to Gulf hypoxia).

Louisiana's deltaic complex surrounds and protects the world's largest port complex and an amazing array of platforms, pipelines, pumps and valves that serve as a vital conduit to the nation for about 30% of current US oil and gas consumption. In addition, about a third of US fishery production is dependant on this deteriorating deltaic complex.

Looming threats to these resources and infrastructure underscores the need to develop feasible, comprehensive and integrated restoration plans. Louisiana is uniquely vulnerable to sea level rise, wetland loss, potential collapse of a vital fishery, interruptions in US energy supply and catastrophic loss of life from ocean storms - all related to our deltaic setting. In most of the country, people are moving toward the coast. In Louisiana we are being forced to retreat from our coast.

With help from the US Army Corps of Engineers and other federal partners, our state is proceeding as quickly as possible to develop comprehensive plans to address these issues. Our efforts in this regard can serve as a model for other coastal states that will ultimately face similar challenges.

Estuarine Habitat Restoration

We believe that the final report should explicitly recognize the importance of conserving and restoring vital coastal estuarine and wetland habitats. The draft report notes some

Admiral Watkins

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specific restoration activities and programs but doesn't highlight habitat conservation and restoration as a clear priority. Degradation of coastal habitat is a major national concern but no other coastal state can match the losses experienced in and predicted for Louisiana.

Since 1989 we have been investing limited state resources to cope with these issues, which clearly exceed our means and justify significant additional federal assistance beyond Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) funds.

The draft report correctly identifies the importance of wetlands, watersheds and water quality to the health of our oceans but understates the critical role that estuaries and coastal wetlands play. We agree that addressing estuarine and ocean water quality problems must be based on an ecosystem level, watershed management approach and the enhancement of water quality should be an explicit rationale for an aggressive habitat restoration program.

Areas with tidal influence are vital nurseries, filters, and storm buffers for the habitats that supply much of the bounty of our oceans; Louisiana's coastal wetlands serve as the nursery ground for the Gulf of Mexico. These types of areas also support and protect our communities and traditional ways of life, most particularly in coastal Louisiana.

Louisiana Perspectives on Gulf Hypoxia

In reaction to vocal public concerns about Gulf hypoxia, the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force was organized in 1997. The Task Force brought together key federal agencies and states along the main channel of the Mississippi River, and Louisiana has been actively engaged in this program from the beginning. The task force approved the *Action Plan for Reducing, Mitigating, and Controlling Hypoxia in the Northern Gulf of Mexico, 2001*, but funding for the plan has never been appropriated. Louisiana has responded to this situation by organizing and chairing the Lower Mississippi River Sub-basin Committee on Hypoxia with its neighbor states Arkansas, Mississippi, Missouri, and Tennessee. Other Sub-basin Committees are planned for the Upper Mississippi and Ohio Rivers. **The Action Plan represents an important example of upstream states in a watershed reaching agreement on addressing a downstream problem in coastal waters, and should be fully implemented.**

Enhancing Our Knowledge Base for Ocean Stewardship

We strongly endorse the need to update, expand and standardize our knowledge base. This could and should serve to educate the public about the importance of improving the health of our

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oceans, estuaries and coastal wetlands. Far too many decisions are based on information inadequate to serve as a basis for good stewardship.

In our exceptionally dynamic coast we suffer from an obsolete knowledge base. Louisiana has only a single long-term water level gauge established to National Ocean Service standards, while our neighbor state of Texas has many such gauges. Our official depth charts are notoriously inaccurate, which endangers boaters and seriously limits the accuracy of models that predict hurricane surge levels. To increase hurricane surge prediction times we are investing in a system to measure the magnitudes of approaching storm waves (WAVCIS). We are supplementing a FEMA program to update flood risk maps for communities by pursuing the use of airborne laser technology (LIDAR) to measure the precise elevation of uninhabited coastal landforms - marshes and barrier islands. We support the concept of mitigation to reduce coastal damage risk – and we see the investment in coastal habitat restoration as a fundamental element of mitigation.

From the upstream perspective, watershed planning also reduces future riverine flood damage and we support the recommendation to incorporate such planning, as well as the related recommendation to urge Congressional support for financial and technical assistance for hazard mitigation planning.

We strongly support the recommended expansion and integration of coastal and ocean health monitoring, including the call for socioeconomic research on the impact of changes in ocean policy on coastal communities. Louisiana has a distinguished history of state-of-the-art coastal research and an expanding reputation for the emerging trans-disciplinary field of deltaic restoration science. Our scientists represent a veritable “coastal science brain trust,” and some in this group have enjoyed a long-standing partnership with the oil and gas industry. We urge the expansion of private/public coastal research initiatives.

We applaud the recommendation to establish systems for enhanced ocean monitoring, especially the International Ocean Observation System (IOOS) but we would urge that this system be expanded to include coastal monitoring needs (ICOOS).

Sediment issues

Our deltaic complex, which for seven thousand years experienced net growth, began to shrink after the levee system was built and after historic distributaries were closed off from the river during the War of 1812. These changes and others, including dams on the Missouri River, dramatically reduced the input of river-borne sediment. **Thus we support expanding the beneficial use of dredged sediments to help offset a huge sediment deficit.**

The maintenance-dredging budget for the New Orleans District of the US Army Corps of Engineers is the largest in the nation - again because of deltaic processes. Approximately fifty

million dollars per year are spent on continuous dredging of Southwest Pass, the principal channel approach to New Orleans. All of our ports and navigation waterways are at risk from the loss of protective landforms.

An important large deposit of high quality sand exists off of Louisiana in federal waters – the sunken remains of a six thousand year old delta lobe known as Ship Shoal. This resource will be an important source of nourishment for our barrier shoreline system and discussions are underway with the Minerals Management Service. **It is important to note that the millions of cubic yards of sand needed for nourishing our barrier shoreline is not for recreational enhancement but for protection of our estuarine ecosystem.**

Governance and Regional Partnerships

We support the concept of regional coordination and recognize that many of the really large issues facing coastal states and communities, such as Gulf hypoxia, can only be tackled on a regional basis. We emphasize the importance of having all interested stakeholders at the table as members of various committees and workgroups under the Regional Ocean Council umbrella.

The need for better regional alignment between federal agencies is critical and we strongly support including non-governmental organizations among those with an interest and role to play in how these entities are established and operate. However, states are the implementers of coastal zone management and have responsibility for managing marine resources. Regional councils could and should offer a forum for coordinating these management efforts across state lines, but only if they are integrated with an enhanced coastal management framework and are not simply an additional layer of bureaucracy.

The National Ocean Council and Regional Ocean Councils should be instruments through which issues of great national and regional importance, such as the loss of significant estuarine wetlands in Louisiana, receive priority for both action and resources.

We strongly support the Commission recommendation for reauthorization and adequate funding of the Coastal Zone Management Act (CZMA). An adequately funded CZMA can serve as an effective governance mechanism in delivering resources, and technical assistance to local communities for planning to support local involvement in coastal management.

Louisiana's Coastal Zone Management Program has demonstrated that effective implementation of the CZMA can serve as a framework for achieving both state and national objectives. Louisiana's program, which promotes cooperation among stakeholders, provides predictability for sustainable economic development while keeping a clear focus on the protection and enhancement of our state's renewable resources and quality of life.

Admiral Watkins

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June 3, 2004

Sustainable Fisheries and the Link to Sustainable Communities

Perhaps no part of the report is more challenging than the provisions dealing with the need to manage our fisheries for sustainability. Even with the best science and information, establishing better and more effective programs will be difficult. **We strongly support the concept of an ecosystem-based approach to fishery management.**

The prospect of a growing mariculture industry presents a number of opportunities and challenges as well. We support a balanced and coordinated national and regional mariculture policy.

While the draft report identifies many of these issues, it is largely silent on how new policies will address the communities and industries that currently depend on our natural fisheries. It is essential that we manage for sustainable fisheries but remember that real people and communities are affected by policy changes.

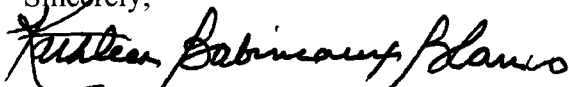
Renewable and Non-renewable Resources

The nation and the Congress need to include criteria other than economic development in prioritizing the use of public resources for public works projects in coastal areas. The ecological values of natural resources don't easily fit the kinds of resource allocation and valuation scenarios currently used to prioritize use of public resources.

Wise use of Louisiana's resources is of paramount importance to the future of her people and to all Americans. Our state has a huge stake in the wise stewardship of coastal, estuarine, and ocean resources and we are ready to take a leadership role. It is ironic and noteworthy that, while our deltaic coast is so uniquely productive and valuable to the nation, Louisiana is also unique in having no designated National Seashore; no National Estuarine Research Reserve site; no National Marine Sanctuaries Program; no USFWS Coastal Program site; and no coastal wetlands officially designated as "Wetlands of International Importance."

In closing, I again commend you on the work that went into the draft report and appreciate your consideration of the comments and suggestions we offer in response. We look forward to participating in future discussions leading to the final report.

Sincerely,



Kathleen Babineaux Blanco

Governor

State of Louisiana



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JOHN ELIAS BALDACCI
 GOVERNOR

May 20, 2004

Admiral James D. Watkins
 Chair, U.S. Commission on Ocean Policy
 1120 20th Street NW
 Suite 200 North
 Washington, DC 20036

Dear Admiral Watkins:

On behalf of the State of Maine, I am pleased to offer comments on the *Preliminary Report of the U.S. Commission on Ocean Policy*.

First and foremost, I extend my congratulations to you, the other members of the Commission and your staff for producing a high quality, well constructed, and thought provoking report. Reflecting in its scope and breadth a great deal of hard work and lengthy deliberations, the report makes a compelling case for immediate action to protect the health and productivity of the oceans. The guiding principles articulated in the report are high ideals that we also embrace in Maine – sustainability, stewardship, ecosystem management, preservation of biodiversity, healthy coastal communities, efficient and participatory government, land sea connectedness, use of best available science and accountability. The report contains many good ideas for Maine and the country as a whole to consider as means to put these ideals into action in ways that further protect and improve our coastal resources and economy.

In much the same way that the Commission outlined the principles on which its recommendations are based, I think it important for the Commission to consider Maine's comments in light of the following three main points on which they are based:

- **State – Federal Partnership: Need for shared authority and funding** – Successful, results-oriented ocean and coastal management requires an effective partnership between the federal government and the nation's 35 coastal states.
- **Conservation and Healthy Coastal Communities: An engine for state prosperity** – Thoughtful long term conservation and investment in coastal communities are fundamental prerequisites for a strong national economy. Research, ocean observing, education, land conservation, pollution prevention and marine infrastructure are among the key areas in which significantly increased investment is essential and urgently needed.
- **Oceans and Coasts Implementation Strategy: An urgent need to set priorities** – The Administration must, in close consultation with coastal states, set priorities and prepare an



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out-come oriented implementation strategy to carry the ambitious multi-year strategy to better manage our nation's ocean and coastal resources presented in the report.

General Comments

The following ten comments focus on key concepts and approaches suggested in the report that would not work well in Maine as well as those that offer the most promise. My attachment to this letter further details and supplements these comments.

1. The Gulf of Maine is an Ideal Pilot Region for Ecosystem Management

Maine concurs with the Commission's recommendations regarding development of a regional approach to respond to the many ocean and coastal issues that transcend the borders of individual states. For several reasons, the Gulf of Maine region is uniquely poised to become a pilot program for the type of regional ocean council the Commission has recommended (5-1). Accordingly, I propose that the Commission consider the Gulf of Maine as a site for a regional ecosystem management pilot project that includes Atlantic Canada within the regional framework in order to accurately represent the bioregion.

As the following facts attest, the Gulf of Maine has the supporting framework needed for effective regional ecosystem management:

- Maine, New Hampshire and Massachusetts already work closely together on fisheries management issues through the Regional Fisheries Management Councils (RFMCs) and the Atlantic States Marine Fisheries Commission (ASMFC);
- A regional agreement for cross-border improvement and protection of the Gulf of Maine has been in place for fifteen years, and the Gulf of Maine Council on the Marine Environment (GOMCME) has a strong track record of achievement on coastal issues;
- Regional information programs (5-2) are already in place in the Gulf of Maine Region through the GOMCME, the Regional Association for Research in the Gulf of Maine (RARGOM), the Gulf of Maine Ocean Observing System (GoMOOS), EPA's National Coastal Assessment, the Census for Marine Life and the Gulf of Maine Data Partnership;
- The Gulf of Maine was the focus of the Gulf of Maine Regional Research Board, a successful regional partnership created by the Regional Marine Research Act of 1991 (5-5);
- GoMOOS is already a model for the nation, as an ocean observing system driven by stakeholder needs. For example, a successful GoMOOS pilot project to examine the effect of environmental conditions on northern shrimp recruitment is providing new information to state and federal fisheries managers around the Gulf of Maine. Maine's Geological Survey has proposed bringing GoMOOS data "ashore" to assist in shoreline management;
- Additionally, Maine, New Hampshire, and Massachusetts have strong relationships within the research community and through the networks created by Sea Grant, Coastal Zone Management Act, Estuarine Research Reserves, the National Estuary Program and other programs.
- The governance framework created by Canada's Oceans Act provides additional opportunities for regional projects and the necessary international cooperation.

2. Ocean and Coastal Research, Ocean Observing and Ocean Education are Key Components of Maine's Economic Development Agenda

Maine recognizes that growth and expansion of its economy are directly tied to deepening scientific understanding of the state's marine environment. Yet despite significant and mounting needs to manage our seascape responsibly, we have only a scanty working knowledge of the 91,000 square kilometers we call the Gulf of Maine, and equally scanty funds to increase that knowledge through further scientific investigation and analysis. Funds for mapping the seafloor at a resolution that will allow a fundamental understanding of the ecosystem, for example, are so low that it will be decades before the Gulf of Maine alone is completed. At present, federal funding for ocean exploration is only at about 10% of the level recommended by the Commission.

In light of our state's need for improved scientific understanding of its marine environment, I enthusiastically support the report's recommendations to double the nation's coastal and ocean research budget to \$1.3 billion over 5 years (recommendation 25-1); to appropriate significant funding for an expanded national ocean exploration program, estimated at \$110 million (recommendation 25-4); and to integrate mapping and assessment efforts (recommendation 25-5).

The strong commitment to ocean and coastal scientific research that the Commission recommends would serve the important dual purpose of increasing understanding of our coastal oceans while building the economic development capacity of states like Maine. Maine's substantial and growing infrastructure for cold water marine science and its ability to develop valuable marine services and products can continue to anchor the state's marine economy and yield high returns on the research investment. In fact, Maine's current economic development strategy contains a strong emphasis on its leadership in these sectors in addition to support of our traditional marine-related coastal and ocean sectors.

Sound management depends on accurate and up-to-date information on the condition of the resource or activity managed. While the Commission properly acknowledges the need for scientific research, there is inadequate recognition in the report of the need for fundamental resource inventories and assessments. For example, most maps of Maine's intertidal zone (salt marshes and mud flats) are 40 years old and in need of an update. Although Maine's 2,800 square miles of submerged lands experience competing uses including dredged material disposal, fishing, and cable/pipeline areas, even less is known about these areas. As the report notes throughout on a variety of issues, including water quality, invasive species, fish stocks, or oil and gas reserves, baseline information at the scale, resolution, and frequency necessary to prioritize and manage is lacking. While there is recognition of the need for ten-year science plans and budgets for research, there needs also to be recognition of the need for monitoring on even a longer time scale. Funding opportunities should be made available for monitoring, separate from research. States are in the best position to conduct this work due to their continued presence and geographic coverage.

I suggest that shoreline and offshore mapping be accomplished in a state-federal partnership in order to physically characterize marine ecosystems for management¹. The Commission's recommendation for multibeam sonar mapping of the Exclusive Economic Zone seafloor in the Gulf of Maine should extend seamlessly into state waters for uniform ecosystem assessment. A strategy to complete this type of mapping already exists through the Gulf of Maine Mapping Initiative².

The Commissioners correctly point out the importance of building and maintaining a national ocean observing system. Maine is a leader in the IOOS with the Gulf of Maine Ocean Observing System (GoMOOS). GoMOOS serves as a model ocean observing system driven by stakeholder needs, i.e. input from coastal and ocean communities has been continually used to develop consensus about operational requirements (26-4). Sufficient funding must be allocated to maintain and support the expansion of GoMOOS to the coastal zone to address critical nearshore issues as well as larger scale issues such as global climate change.

We are pleased that the recommendations of the Ocean Commission mirror the implementation plans developed by Ocean US – the national coordinating office – for establishing the IOOS and fully support these recommendations. Our sole criticism is that the Commission needs to adopt a more grassroots approach to the creation of regional ocean observing programs. The Preliminary Report calls for Regional Ocean Information Programs to oversee the regional coastal observing programs and to conduct ecosystem assessments. This top-down, federal approach risks losing the vitality and responsiveness of the more bottom-up approach now being adopted by the ten Regional Associations now being formed as part of the IOOS (for the same regions identified by the Report).

The Regional Associations are already currently forming (without a federal mandate) to address issues specific to their regions. Any new regional organization should build from this grassroots effort in order to be responsive to the needs of the diverse regions.

3. States Need Financial and Technical Assistance to Meet Ocean and Coastal Management Goals

To its credit, the Commission has acknowledged the significant costs associated with making the recommended changes, and provided realistic estimates of the necessary investment, as well as a possible funding sources. In my view, it is critical that any federal directive to implement a recommendation in the report is accompanied by the necessary funding to do the job. States should not simply be asked to do more with existing resources.

I strongly support the creation of the Ocean Trust Fund as recommended by the Commission. An extremely diverse coalition of businesses, conservation organizations, and towns has

¹ We suggest an expanded Sea Grant program or other "coast map" program for competitive awards (analogous to the National Cooperative Geologic Mapping Program administered by the USGS that funds terrestrial geologic mapping in Maine.)

² http://www.gulfofmaine.org/knowledgebase/seafloor_mapping/

mobilized in Maine within the last five years to support this type of funding for coastal conservation and management activities through OCS revenues. The fund should be created in a way that minimizes incentives for additional OCS activities.

Dedicated funds for ocean and coastal programs from the Ocean Trust Fund should be in addition to current levels of support. The Commission should also consider a three tiered funding system for distribution of funds from the Trust, whereby oil and gas producing states would receive the greatest share of the funds, and states, such as Maine, whose ports handle significant volumes of oil and gas products, and thus are exposed to and must manage attendant risks, would receive a greater share than states in which such activities and related risks are less substantial.³

In coming years, while the Commission and others are working with Congress to establish the much-needed Ocean Trust Fund, federal budgets for fiscal year 2005, 2006 (and perhaps beyond) will be finalized. Contrary to the Commission's findings, the President's proposed FFY05 federal budget proposes cuts to important programs.⁴ These highly successful programs will play a key role in implementation of the Commission's recommendations and disruption in funding should be avoided in the current and subsequent fiscal years.

4. There Is A Need For Further Prioritization Of Ocean And Coastal Issues

As a comprehensive review of U.S. ocean policy, the report necessarily has a large number and a wide range of recommendations. It is difficult for the reader to identify the Commission's priorities within the report. It would be helpful to have a process lead by NOAA for further prioritization of issues and action items in which the coastal states could participate.

5. States Need Ongoing Communication About Implementation of the Commission Report

As the recommendations in the report move forward, it is critically important that the Administration and Congress create a formalized channel of communication to the Governors' offices to ensure that the coastal states are kept informed of initiatives underway, and of all opportunities to participate and comment. States must play a central role in advancing any new national ocean policy. As implementation of individual pieces of the report will take many different legislative, regulatory and administrative paths, timely, efficient and well-coordinated federal-state communication is essential to success.

6. Financial and Technical Assistance are Preferred Methods to Produce Results

In my view, a cooperative partnership between the states and the federal government to reach mutual goals through the provision of financial and technical assistance is preferred over the use of disincentives and penalties. By contrast, the Commission report, in several different sections calls for withholding funds from states not meeting national coastal management and

³ For example, the Port of Portland by tonnage is in the top 3 oil handling ports on the East Coast.

⁴ Key programs the President's budget proposes to cut are Coastal Zone Management Act's ("CZMA") grants to states, CZMA Section 6217 Coastal nonpoint pollution program, and the Clean Water Act's Section 319 nonpoint source pollution program.

environmental goals. Most regulatory programs already include provisions for penalizing states for nonperformance. I don't see much promise in further reliance on this approach.

Other sections of the report discuss potential new requirements for coastal communities in the areas of land use management and smart growth. Maine's natural resource agencies are committed to working with municipalities to improve local management of coastal resources.⁵ While we agree that local governments should be encouraged to improve local land use ordinances (14-11), we have learned that technical and financial assistance are the most effective methods to achieve those goals, rather than use of disincentives and new regulatory requirements.

7. Increase Federal Government Efficiency and Responsiveness While Avoiding Creation of New Bureaucracies

Although lead agencies and councils are necessary to coordinate the implementation of the recommendations, Congress and the Executive branch should avoid creating a new centralized bureaucracy. Available funding and related responsibilities should be distributed among the states, individually or collectively when acting through regional entities, to ensure that funds are used most efficiently. The proposed National Ocean Council should focus on core responsibilities associated with national policies and goals and coordination of federal efforts. Appropriate lead agencies should have statutory authority and resources necessary to implement their programs. While I support increased integration at the federal level, the primary objective of federal efforts is facilitation of, and support for coastal and ocean management plans, strategies and priorities developed at the local, state and regional level. The true measure of success of implementation of the Ocean Commission report will be on-the-ground results in the nation's coastal zone. Integration of federal coastal and ocean programs is not an end in itself and merits effort and funding only to the extent that reorganization will improve the efficiency of federal government and its responsiveness to public needs.

Regional Councils have obvious merit for parts of the country that are lacking such structure. The role of the Regional Ocean Councils ("ROC") should be to bring collective resources of federal agencies together with states and stakeholders to address significant issues identified at the state, local and regional level, rather than issues identified by federal agencies. The Gulf of Maine Council ("GOMC") on the Marine Environment has 15 years experience with regional management efforts and provides a useful model for designing an ROC. Given that the Gulf of Maine is a shared resource for Canada's Atlantic provinces and the New England states, the GOMC includes an international component. We would urge that this be the case wherever appropriate to ensure opportunities for effective ecosystem management and regionally appropriate economic development.

8. Acknowledge and Increase the Role of States and other Partners

⁵ Maine is one of the few states in the country that is promoting a statewide Nonpoint Education for Municipal Officials (NEMO) program. Additionally, Our *Beginning with Habitat* program provides technical assistance to municipalities on landscape-scale conservation planning.

Generally, the *Preliminary Report* focuses on federal activities, and inadequately considers the state role in ocean management. While there is some recognition of interstate work (e.g., interstate fisheries commissions), there is little attention paid to states' unique responsibilities. The coastal states are the primary managers of the nation's nearshore ocean resources. The Commission's recommendations should be amended to include a requirement that Governors be included as principals on the National and Regional Ocean Councils, not simply as members of advisory Committees to reflect the fact that the role of states is fundamentally different than that of a stakeholder, such as a business or other non-governmental organization ("NGO").

Activities such as establishment of priorities and goals discussed in the report also tend to be skewed towards top-down approaches. Rather, local goals and state goals should be consolidated and reconciled to formulate regional goals. This approach that will likely lead to more buy-in and ultimate success.

The role of stakeholders, such as universities, private research institutions, coastal businesses and industries, and NGOs, in improved ocean and coastal management is likewise under-represented throughout the report. In a rural state like Maine, we rely heavily on and benefit significantly from partnerships with such stakeholders to accomplish coastal and ocean management objectives. It is essential, for example, that the expertise of the higher education community be fully utilized in developing national management strategies. Universities must play a key role in the Presidential Council of Advisors on Ocean Policy and in the establishment of regional ocean councils. There needs to be a more deliberate intention to engage the nation's universities and non-profit marine institutions in conducting research, education and public service related to many of the implementation items in the report.

9. Recognize the Important Contributions of Existing Efforts, and Programs

Efforts to implement the report's recommendations should use and support existing programs and institutions to the extent practicable rather than create new programs⁶. In Maine alone, there are many institutions and programs, both governmental and non-governmental that can be enhanced and engaged in effective partnerships to accomplish many of the goals of the Commission, using innovative partnerships in a cost-effective manner. This includes the Coastal Zone Management program, the National Estuarine Research Reserve system, the National Sea Grant Program, the National Estuary Program and other similar organizations.

While the Report places an important emphasis on the need for additional science for coastal management, it underemphasizes the huge challenges associated with coastal community planning, watershed management, and habitat restoration. In my detailed comments (see

⁶ For example, the Atlantic States Marine Fisheries Commission (ASMFC) is advancing the concept of ecosystem management by employing multispecies planning in fisheries. ASMFC has been at the forefront in developing multispecies stock assessment models and a leader in discussions on how to utilize the results of these models in management of multiple stocks such as weakfish, bluefish and menhaden.

attached) I discuss how an enhanced Coastal Zone Management Act should be emphasized as an important vehicle for delivering on-the-ground environmental improvements.

I support the recommendation to significantly expand the National Sea Grant College Program, provided that there is an effort to expand funding for undersized programs such as Maine's. Sea Grant's extension and outreach capabilities are a vital bridge between researchers, marine resource harvesters, and communities.

10. Link Coastal Conservation and Healthy Coastal Communities

To its credit, the Commission documents the vital importance of the ocean and coastal economy to the states and to the nation and includes recommendations for ongoing analysis of the coastal economy. This type of information is crucial to our ability to make accurate investments in coastal and ocean programs at a level commensurate with benefits. The report does not, however, provide any meaningful discussion of the balancing of conservation and economic development needed to achieve both a healthily functioning ocean and coastal environment and economically vibrant coastal communities.

This dilemma is perhaps best illustrated in the section of the report on Sustainable Fisheries (Chapter 19.) The Commission recommends separating decisions on how many fish can be harvested (the scientific decisions) from decisions on how, when, where, and by whom they may be caught (the allocation decisions). Although critics of fisheries management may understandably feel that in setting harvest levels fisheries managers have in the past erred on the side of allowing greater harvests than were biologically defensible, it is imperative that fisheries managers retain some discretion to address effects of regulation on coastal communities in ways that allow fishing families to survive as stocks rebuild. It is also critical that as we examine the potential of relatively new management approaches such as dedicated access privileges, we keep in mind our objective of healthy communities. I urge the Commission to review its recommendations regarding fisheries management and other matters with an eye towards balancing environmental and community sustainability.

Conclusion

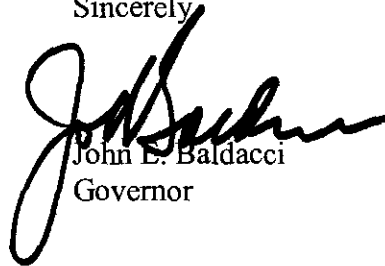
In Maine, we recognize that our ocean resources are as vital a component of our future as our seafaring past. Overall, there is much to commend in the Commission's report, which identifies the many challenges we face in preserving and protecting our ocean and coastal resources and related economies, communities, and heritage along with a number of meritorious options for addressing these challenges and taking appropriate advantage of existing and emerging opportunities for sustainable use of our oceans.

In my judgment, there are several prerequisites to meeting these many challenges effectively and realizing the benefits of available opportunities. Given their central role on many matters addressed in the report, states must have a direct and substantial role in developing implementation strategies to ensure they are well tailored to states' needs and capabilities. Any new state responsibilities must be paired with new financial assistance to carry them out. Without the money to do the job, a new federal mandate will create problems not solve them.

Ensuring open communications and timely opportunities for interaction among state and federal decision makers is an essential ingredient to making further progress toward the goals outlined in the Commission's report and further refinement and subsequent implementation of its final recommendations. We look forward to working with the Commission and others as work on the Commission's report unfolds.

Thank you for this opportunity to comment on the Commission's preliminary report. Please contact Kathleen Leyden at the Maine State Planning Office (207) 287-3144 if you have any questions on these comments.

Sincerely



John E. Baldacci
Governor

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
May 20, 2004

The following text is an attachment that supplements Maine Governor John Baldacci's May 20, 2004 letter to U.S. Commission on Ocean Policy Chair, Admiral Watkins. It contains detailed comments on selected sections of the *Preliminary Report of the US Commission on Ocean Policy*. This is not a stand-alone document – the reader should consult both the letter and this attachment for the complete text of the Governor's comments. Questions on these comments may be directed to kathleen.leyden@maine.gov

Chapter 4 -- National Ocean Council

As discussed in Governor Baldacci's cover letter, states should be represented on the National Ocean Council itself, rather than on its advisory committees.

The primary function of the National Ocean Council ("NOC") as proposed in the report is to coordinate and provide high-level attention to ocean policy. The Commission proposed the NOC in part to improve coordination and communication, but the report does not discuss problems arising from fundamental differences in the mandates of the various federal agencies with responsibilities that affect the oceans and from the lack of a collective vision. The NOC should be directed to address and reconcile the mandates of pertinent federal agencies. A critical element of this work will involve a comprehensive review of the statutory and regulatory framework affecting ocean management, with the goal of identifying conflicts and contradictions and necessary changes to reform the statutory framework in an efficient way.

Some of the NOC's proposed tasks (contained in various sections of the report) are inappropriate areas of focus for a high-level coordinating body and will result in additional bureaucracy rather than efficiency. One example is **Recommendation 9-4** which proposes that the NOC develop guidance for the purpose, structure, stakeholder composition and performance of watershed initiatives.

It should be made clear that NOC coordinates and facilitates state, local, and regional implementation, and that line agencies have the lead responsibility for implementing programs. While NOC may be helpful in coordination of program funding across agencies to maximize efficiencies and effectiveness, it is important that line agencies have the resources necessary to successfully address their statutory mandates.

Creation of a National Ocean Policy and implementation of key actions does not need to wait for establishment of a formal National Ocean Council. Executive Order, legislation or other direction to agencies to embrace the Ocean Commission's principles could jumpstart this process. The Executive Order should also include principles of ecosystem management and direction to federal agencies to coordinate regionally to support state and local regional and area-wide management efforts.

Chapter 5-- Advancing a Regional Approach

Maine supports the enhanced role for Sea Grant extension services articulated in "Outreach and Education for Decision-Makers" (p. 60), as an important mechanism for delivering and interpreting science information. Through other existing programs, Maine has many mechanisms for reaching intended audiences, and recommends that the Commission recognize and support other information

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delivery and training programs, such as National Estuary Programs, Nonpoint Education for Municipal Officials, Cooperative Extension, NFS COSEE Centers, and the NERRS Coastal Training Program, and private not for profit organizations, among others.

The Commission only appears to recognize the efficacy of federal agencies' science translation efforts. See Under "Information for Practical Applications" (p. 60). Maine recommends that the Commission also support state science translation efforts and note the importance of a federal-state-local partnership as a fundamental element of any science translation effort.

Recommendation 5-5. The activities of regional science boards should be balanced among scientific research, education, and outreach. The Commission should expand the membership on the regional science boards to include science translators and information exchange experts.

In addition to coastal managers, the regional science boards should invite the participation of state officials with expertise regarding water quality, fish and wildlife, transportation, and agriculture issues as each may have useful data and information.

The Commission should clarify how the information developed via the projects it supports relates to Ocean.ED and other education initiatives.

Chapter 6 -- Employing Marine Protected Areas ("MPAs") as a Management Tool

The discussion and recommendations in the section on Marine Managed Areas does little to illuminate or address the fundamental reasons why there has been only limited implementation of the Executive Order on MPAs. The Commission should consult *State Policies and Programs Related to Marine Managed Areas* (NOAA MPA Center and Coastal States Organization, 2/2004), which provides promising recommendations for state and federal actions regarding marine managed areas.

Recommendation 6-4, which directs regional councils or other entities to lead the design and implementation of MPAs with stakeholder input, is particularly troubling. In the Gulf of Maine region, outreach and education about basic MPA concepts is needed to encourage stakeholders to become interested in supporting MPAs as a management tool. Any successful MPA effort must be a grassroots one, built from the ground up, rather than a top down one "conducted pursuant to goals, guidelines and uniform processes developed by the NOC..." as the report suggests.

Chapter 8 – Promoting Lifelong Ocean Education

Prominence in ocean and coastal science is a central element of Maine's coastal stewardship and marine-related economic development strategies. We are encouraged by the Commission's focus on ocean education and recommendation that the Ocean.ED vision and strategy be developed with state and local government input. To the extent possible, the national vision should encompass state standards and the implementation strategy should include goals and priorities and clearly outline an implementation strategy.

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We ask that the Commission clarify two things:

- The connections between Ocean.ED and the regional science boards, particularly as it relates to technical assistance, training, and professional development programs; and
- How Ocean.ED will build state and local capacities for informal education and outreach. The federal agencies should be required to fund and support state and community-based education efforts.

Chapter 9 – Managing Coasts and their Watersheds

Recommendation 9.1. Reauthorization and strengthening of the Coastal Zone Management Act (“CZMA”) is a critical, high priority action for improved coastal and ocean management. The CZMA is an important vehicle for implementation of a wide range of OC recommendations through the unique federal-state-local partnership it established. While the Commission’s report addresses core issues associated with the CZMA, the recommendation needs to also recognize and strengthen other elements of the law, including those regarding habitat restoration, community planning and smart growth, ocean management, watershed management, and support for special area management planning. The Commission should reexamine the potential role of an enhanced CZMA to accomplish other recommendations in the report as a means to avoid creation of new or duplicative programs.

A reauthorized CZMA needs to retain its focus on collaborative efforts, the states’ central role in working with communities, and optimization of opportunities for timely input in decision-making. In addition, a reauthorized CZMA needs to maintain or expand states’ flexibility to meet federal goals through implementation efforts that best fit state-specific ecological, geographical and political conditions.

While laudable, several of the Commission’s recommendations regarding the CZMA (periodic resource assessments, development of performance-based management) will also greatly increase states’ coastal management costs. Increased funding, beyond base program funds, will be needed to support more sophisticated management of coastal resources. Maine is in a good position to receive additional funds based on the Commission’s suggestions for funding based on performance, but cautions that distribution of incentive funding needs to be made available to all states through equitable methods.

Maine staff have worked with Senator Olympia Snowe’s office on a CZMA reauthorization bill that proposes several components to help meet the local on-the-ground challenges presented in the Commission’s report, including the creation of a coastal communities program to assist states in planning and managing land uses to support sustainable coastal development, protection and restoration of coastal habitats and other resources, reduction of exposure to coastal hazards, and revitalization of urban waterfronts. Through a new Coastal Communities Program, technical and financial support should be provided to the states for:

- Resource and community assessments and plans;
- Planning-oriented research and technical assistance;
- Model and pilot projects that promote ecosystem-sensitive development or restoration; and
- Local land use plans and implementing ordinances that meet the goals of the CZMA.

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Chapter 10-- Natural Hazards

We favor a comprehensive mapping effort that identifies, integrates, and discloses coastal hazards. As flood maps have reduced property losses, so erosion hazard maps would help avoid public costs and private losses along the shore. Erosion hazard mapping would facilitate hazard mitigation planning through the identification of priority areas. Maine's state mapping and hazards identification expertise should be part of a federal-state partnership that builds on and expands beyond the FEMA map modernization effort for floodplains.

Recommendation 10-1. It is particularly important that the Army Corps of Engineers ("ACOE") be required to mitigate the impacts of their coastal projects. ACOE projects are the cause of the most critical erosion problems on Maine's coast.

Recommendation 10-2. Collecting hazards-related data is critical. The funding development task proposed in this recommendation should extend to all aspects of data outlined in the recommendation, not just map modernization.

Recommendation 10-3. This recommendation is critical to addressing Maine's coastal development issues and to strike the appropriate balance between private and public investment on the coast. Other recommendations that should be considered include:

- Effort to address repetitive losses. Suggestions include: establishing a pilot program for mitigation of severe repetitive loss properties; phase out coverage for repetitive loss properties; and deny coverage for new development in hazardous or environmentally sensitive areas;
- Better definition of "disincentives to building or rebuilding in coastal high-hazard zones"; and
- Reinstatement of the Upton-Jones provision. The Upton-Jones provision allowed proceeds from a flood insurance claim to be used to relocate or demolish a substantially damaged property.

Chapter 11 – Coastal Habitats

Notably absent in the Commission report's is any discussion of seabird habitat restoration. Maine partners with USFWS, local land trusts and others on a comprehensive and very successful seabird restoration program. While we acknowledge that it is not possible to discuss every aspect of coastal ecology in the report, seabird restoration is an important aspect of ecosystem management that should be highlighted.

The Commission's report showcases examples very large-scale restoration projects. There should be an acknowledgement of the variety of different, successful types of coastal habitat restoration projects, including community-based restoration occurring in the Gulf of Maine, funded by NOAA's Community Restoration Program.

The report briefly mentions the Estuary Habitat Restoration Act ("EHRA") and the coordinating structure established for its implementation, but quickly dismisses it as not being inclusive of all the types of coastal habitats in need of restoration. Implementation of the EHRA should be adequately funded and housed at an agency other than the ACOE.

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Maine is a national leader in river restoration through dam removal and other methods. A recent National Academy of Sciences report cited dams as the number one impediment to restoration of endangered Atlantic salmon. The Commission's report should acknowledge dams as a major threat to coastal habitat and emphasize dam modification (e.g., installation of effective fish passage) and removal as appropriate restoration options.

Recommendation 11-1. Maine strongly supports the Commission's recommendation to Congress to amend the CZMA to create a *Coastal Estuarine Land Conservation Program*. Additionally, we recommend that dedicated funding for CELCP be at a minimum level of \$60 million, although this is far short of current needs, estimated at \$120 million annually. Maine will have a completed Coastal and Estuarine Land Conservation Plan by December 2004. While we support awarding some funds competitively to states with approved CELCP priority plans as in the forest legacy program, establishment of base funding for states with plans should be considered.

The Ocean Commission's recommendation that states encourage participation of nongovernmental and private-sector partners in coastal land conservation should be reflected in updated guidance under Section 306A of the CZMA to afford states more flexibility. For example, non-profit conservation organizations should be allowed to assume less than fee-simple ownership (e.g., a conservation easements) of projects funded in whole or part with Section 306A funds.

While the CELCP might be an important funding source for habitat restoration, NOAA's guidelines for CELCP include a broad range of eligible conservation activities, including land acquisition for public access. Other, larger funding programs are needed to address habitat restoration.

Recommendation 11-2. In developing national goals for ocean and coastal habitat conservation and restoration efforts, the National Ocean Council should build on available statutes and guidelines, e.g., to ensure coordination among all related federal activities. Existing state habitat conservation priority plans should be consolidated and reconciled to help create regional plans. Likewise, the National Habitat Restoration Strategy should be based on regional goals in a grassroots, bottom up rather than top-down, command and control fashion. Any process for determining regional habitat conservation and restoration needs and setting regional goals and priorities should include state CZM programs.

The CZMA should be amended to support a national state restoration strategy plan, and to include funding for restoration grants modeled on the Great Lakes restoration grants program.

Recommendation 11-3. Congress should amend relevant legislation to give federal agencies greater discretion in using a portion of habitat conservation and restoration funds for related assessments, monitoring, research, and education. More funding for assessments, monitoring, research and education would allow recipients to be more precise in our efforts and help evaluate the success of projects.

Recommendation 11-4. Maine applauds the recommendation to develop a broader management approach to wetland protection. However, rather than integrating Clean Water Act Section 404 wetlands permitting into another management scheme, as the report suggests, the report should

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acknowledge that 404 is outdated, does not offer comprehensive protection to wetlands systems and is need of substantial amendment to provide a wetlands protection program that is designed to protect and regulate the nation's wetlands resources. Since wetlands protection issues are paramount nationwide, it is curious that the NOC would be charged with coordinating this effort, and we suggest that it might be overseen by another entity. Other recommendations that should be considered include:

- Funding to update National Wetland Inventory maps, and
- Increased funding for state implementation of wetland programs.

Chapter 12-- Managing Sediment and Shorelines

Maine informally takes a regional sediment management approach to both coastal dredging and beach management issues. As the report identified, federal funding and policies often prevents the ACOE from accomplishing the solution that the State of Maine finds optimal. To influence Congress and federal agencies, Maine needs more technical capacity to understand sediment flows, sources, and sinks. Better scientific understanding will lead to improved dredged material management, to minimization of future dredging expenditures (e.g, avoidance of redredging the same material every few years), and to streamlined project reviews. Regional sediment management will involve state-state (e.g., ME-NH) and possibly international (U.S.-Canada) teamwork along estuarine borders on a variety of issues, including selection of offshore disposal sites. Maine currently manages coastal beaches and dunes as an ecosystem of statewide importance, consistent with what the report recommends for the entire marine realm. Gaps remain in sediment mapping and process studies that underlie decisions on popular, but highly controversial, beach nourishment projects that will face Maine in the next few decades.

We concur that shoreline assessment and monitoring are imperative for preserving the coast and this should be accomplished through regional sediment management programs.

Erosion along Maine beaches and bluffs needs to be monitored systematically in order to effectively manage the shoreline with limited state resources. Successful beach nourishment and dune restoration depends on detailed knowledge of local sand budgets.

Recommendation 12-1. The USACE Regional Sediment Management (RSM) Program is a good model for comprehensive sediment management within a region that includes multiple USACE projects, but the program is currently limited in scope and funding to six demonstration projects. Maine recommends that the Commission call for an increase in funding for the RSM Program to develop this successful approach in other regions.

Recommendation 12-2. Maine recommends that the Commission strengthen this recommendation by requiring the ACOE to consider the non-consumptive benefits of recreation, public access, and habitat as an equal use when evaluating the least-cost disposal option. Also, the disposal site-selection process should involve state and local participants. The ACOE should be obligated to include in its calculation of the least cost option the cost of compliance with any state enforceable policy applicable under Section 307 of the CZMA, including any policy requiring mitigation of habitat effects.

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Recommendation 12-3. State and local participants should participate in the regional dredging teams. Regulatory streamlining should reinforce the role of states in the permitting process and not weaken federal consistency under the CZMA.

Recommendation 12-4. Monitoring the outcomes of coastal projects is essential but an aspect that has been largely lacking with Maine's projects. The ACOE should be obligated to monitor the effects of its projects and any related mitigation efforts in order to establish their effectiveness and help guide future efforts. Along with the federal participants, state agencies should be involved in developing strategies for improved monitoring and assessment practices.

Chapter 13 -- Marine Commerce and Transportation

Recommendation 13-1. We fully concur with this recommendation, as transferring responsibilities to the federal Department of Transportation ("DOT") will allow for a more streamlined management of the country's entire transportation network, a more fully integrated transportation network, and consistent criteria that will benefit all users in all modes.

Recommendation 13-2. This interagency group, as outlined in the report, will be capable of providing sound technical and economic advice on the impacts of policy and programs on the marine transportation network. The vast resources available through this group will allow decision makers to have clear, concise and supportable documentation on critical issues.

Recommendation 13-3. Maine has been working under this premise since 1998 when it developed its first Integrated Freight Plan and assisted the Federal Highway Administration in setting up its own Freight Office. We are prepared to work with the federal DOT in developing these ideas on a national level using the model developed in Maine. We firmly believe that this new national policy should look at areas where intermodal connections currently exist at smaller port facilities to identify future development potentials, under the ports of national significance. These smaller ports, which are not constrained by adjacent densely populated communities, may well be capable of serving the needs of inland metropolitan areas. The port of Searsport, for example, which is located in Maine's mid-coast area, has potential to become a port of national significance. Its intermodal connections to Montreal, Detroit, Chicago, and the American Midwest make it a prime venue for major development. Developing the port as a national and international facility will not only serve the needs of the major cities to and from which cargo is bound but will also ameliorate problems stemming from overcapacity at other major ports along the United States' eastern seaboard, congestion at rail yards, and truck traffic on highways. The necessary state-federal partnerships should be forged and resulting investments made to take advantage of opportunities such as this one.

Recommendation 13-4. There are promising, as yet unrealized opportunities to move cargo over the marine highways as opposed to the land highways. Ocean freight costs are considerably less than overland costs. Short sea shipping reduces the need for new highway development, increases the life expectancy of existing highways and bridges, improves highway safety due to lowered traffic volumes, and reduces transportation costs for businesses.

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Recommendation 13-5. Marine commerce is expected to grow by as much as 50% over the next ten years. The lack of a clear method of tracking freight flows, not just at the ports, but from points of origin to points of destination, continues to hamper development of a transportation network that addresses the needs of commerce. New intelligent transportation systems technologies, may usefully simplify the task of tracking freight, provided that information is guarded and shared only with appropriate agencies in order to protect proprietary business information.

Recommendation 13. The potential for shut down of port facilities due to labor disputes such as those in recent years on the West Coast or other causes is among the most significant threats to the national economy. . Maine has been keenly aware of this potential since the events of September 11, 2001. Since then, in cooperation with private port operators, Maine has conducted an assessment to determine how to deliver heating oil and other petroleum products should one of our major ports be incapacitated for any reason. The State developed an operational concept using the ports of Portsmouth, New Hampshire, Portland, Maine, and Searsport, Maine that would allow the demands for the entire region to be met should any one of these facilities be compromised.

Chapter 14 – Coastal Water Quality

Recommendation 14-1. Maine and other states presently list certain impaired waters (CWA Section 303(d)), partly or wholly, as a result of nutrient enrichment. Nutrient enrichment may be caused by a number of sources, both natural and human-caused. The effects of nutrient enrichment may vary in magnitude and by season, consequently, management becomes a complex issue that will require further study and investment by state and federal government to take appropriate corrective action. Under the current Total Maximum Daily Load analysis required by the USEPA for impaired waters, dischargers may be required to reduce nutrient loadings where they are shown to be a significant source contribution. However, other innovative means may be required to adequately reduce nutrient loads from all relevant sources.

Recommendation 14-4. Maine fully supports recommendation 14-4 which, in part, calls for funding the State Revolving Loan Program at or above historic levels. Increased and broadened financial support for the maintenance and improvement of Publicly Owned Treatment Works (“POTWs”) is critical to improvement and maintenance of marine water quality.

Maine has identified \$281 million in improvements over the next five years for Maine's POTWs. Half of this is for Combined Sewer Overflow (“CSO”) projects. While the State Revolving Loan Fund (“SRF”) program is a vitally important program for providing funding for these projects, the lack of supplemental grants to offset loans is leading to increasing financial hardship for Maine POTWs and could limit water quality improvements in the future. Although some POTWs have important upgrades that must be completed to maintain or improve water quality, they have met the limit on how much debt they can carry, and have met or exceeded average user rates of 2% of the median household income that is generally considered to be affordable.

As noted in the report, this is not just a problem in Maine. Several national studies over the last few years have shown that there is funding gap of between \$0.7 and \$1.0 billion for critical wastewater infrastructure that must be addressed to fully meet the goals of the Clean Water Act. A significant portion of this infrastructure supports improvements to marine water quality.

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In addition to supporting the SRF program, Maine believes it is vital that the federal government act to increase and broaden the financial assistance provided to POTWs as follows:

- Congress should modify the funding formula under the Wet Weather Water Quality Act of 2000 so that grant money can be made available to communities struggling to finance ongoing CSO projects; and
- Broaden opportunities for U.S. Environmental Protection Agency (“EPA”) to provide supplemental grants for POTWs, such as State and Tribal Assistance Grants. These supplemental grants will be needed for those communities that have or will soon reach their limit on borrowing to complete environmental projects.

Recommendation 14-7. We concur with the recommendation that the U.S. Department of Agriculture should align its conservation programs and funding with other programs aimed at reducing nonpoint source pollution, such as those of EPA and the National Oceanic and Atmospheric Administration (NOAA). While there has been improvement in recent years in communications between our state water quality program staff and the USDA Natural Resources Conservation Service concerning funding priorities, the need still exists for better coordination among agencies. Maine has relied upon support from the 319 Nonpoint Source Program to help address water quality issues with respect to nutrients and sediment in runoff from agricultural activity. Recent news on the proposed federal budget raises concern that the 319 Nonpoint Source Program funds may be cut under the auspices of increased Farm Bill funding underscores the need to improve coordination in these programs.

Recommendation 14-9. By investing resources in assessing the quality of its waters and in assisting local citizen groups in developing and implementing programs aimed at restoration or protection of water quality, Maine has optimized the value of funding through both the 6217 and 319 programs. The current proposal to eliminate 6217 funding in the proposed budget and to cut 319 funding threatens to bring much of this activity to a halt. Much of the problem with 6217 stems from the dual oversight of the program by two federal agencies, EPA and NOAA that are ill equipped to work together. Another problem is the 6217 program’s over-reliance on enforceable policies. The nature of non point source pollution requires primarily strategies focused on landowner education and development of and training regarding best management practices. While adequate funding for nonpoint source programs is our major concern in Maine, a shift of the program to EPA as proposed by the Commission will not resolve ongoing problems with administration of the program, and may potentially dilute funding for coast-specific projects in states like Maine where nonpoint source problems in upland, freshwater lakes have been the top priority.

Recommendation 14-10. We do not support additional federal controls over states’ implementation of the Clean Water Act (“CWA”). The existing authority and control by the EPA over the State’s delegated NPDES program are robust and effective. The existing authority for citizen suits to enforce the CWA is a very strong oversight mechanism that the State supports.

Recommendation 14-12. Maine supports this recommendation concerning stormwater management, which is consistent with the goals of our state’s stormwater management program.

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We note, however, that there is no mention of the federal stormwater requirements under the NPDES program. We have long been concerned that the NPDES program does not include any standards for post construction discharges from commercial or residential development. The preliminary report takes note of the impact impervious surfaces can have on water quality, and yet the federal stormwater program does little to regulate long-term effects. Maine's stormwater law does fill in this gap in the federal program, but our understanding is that most coastal states do not have similar requirements. The report should identify the lack of regulation of post construction effluent as a missing piece of the federal program and make recommendation that it be added to the requirements. For Maine, this step would improve the consistency between the state and federal programs as well as among state programs.

Chapter 15 -- Creating a National Water Quality Monitoring Network

States are in the best position to implement a national water quality monitoring network through participation in the National Coastal Assessment as well as regional efforts that address water quality issues unique to the area. While we support significantly increased monitoring capability, the Commission should modify its report to provide for direct State involvement in the design sampling programs and the interpretation of the data. This is critical to the success of the more sophisticated and intensive monitoring that is proposed.

Chapter 16 – Vessel Pollution

Recommendation 16-5. Maine recently passed new legislation supporting licensing of discharges of graywater and mixtures of graywater and blackwater from large cruise ships to Maine's coastal waters. Maine's law is consistent with that already in effect in Alaska. The State supports the idea of a comparable federal program, but not the report's recommendation of a "new national regime." The existing exemption for discharges from vessels should be removed from the Clean Water Act, and discharges of graywater and blackwater from cruise ships should be licensed under the existing NPDES program. The NPDES program has a track record of success, provides for appropriate treatment of and equity across classes of discharge types. A national standard will make it easier for ships to comply with rules, as there will be no variation from state to state. Such a national discharge standard would help level the playing field for all states and allows them to focus marketing efforts on the quality of the visit to attract tourists. In Maine, there is a growing interest in cruise ship tourism since it provides visitors with a dramatic, exciting, and memorable way to visit our coastline. Cruise ships are now bringing tremendous numbers of visitors to Maine each year, without adding congestion to our roadways.

Recommendation 16-9. This is an item that the cruise ship industry has been working on for many years. Newer high-tech, energy efficient power systems are being installed on all new ships and are targeted for ship refits. Providing industry incentives for these new technologies will likely encourage companies to refit in as timely a manner as possible.

Recommendation 16-13 This topic has been under discussion in Maine for the last two years. There is a fundamental need for a clear national policy that addresses the needs of a vessel in distress. It is a far wiser choice to bring a damaged vessel into port, even if it is leaking petroleum product, so that qualified entities can address the damage, secure the cargo (stop the leak), and

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protect the vessel. Such an approach would be significantly less damaging to the overall coastal resources than keeping a vessel offshore where it may break up and sink and cause extensive environmental damage.

Chapter 17 -- Marine Invasives

The issue of marine invasive species is serious and has not received sufficient focus in the Commission report. More effort needs to be focused on the development of practical and effective management practices for ballast water and fouling organism treatment. And while potential vectors have been identified, in preparation for meaningful regulation, more research is needed to quantify and thus prioritize the actual threats posed by the different vectors that spread invasive species.

New technologies and treatment programs must be encouraged. One of the latest concepts, which seems very promising from both an environmental and economic perspective is oxygen depletion processing which tremendously reduces the oxygen content of the ballast water as it is brought onboard the vessel. This treatment technique suffocates any organism in the ballast water and thus makes transfer of any living organisms highly unlikely when the ship is discharging ballast water.

The Commission report does not adequately recognize or support existing state and regional management efforts for marine invasives. The Northeast Aquatic Nuisance Species Panel (“NEANS”) has already developed the elements of an early detection and rapid response effort. The ability of individual states to actually implement a rapid response plan is limited, however by inadequate funding. Although NEANS has defined research priorities for the region, research on aquatic invaders has been limited. Massachusetts has an education and outreach strategy for invasive species that is perhaps replicable throughout the Gulf of Maine; yet due to available funding constraints the state pursued only one module of the designed multi-audience approach. The Commission should recognize and invest in the national and regional framework that currently exists (Federal ANS Task Force, National Invasive Species Council, Regional Panels and State ANS programs.)

Chapter 18 -- Reducing Marine Debris

Recommendation 18-5. If Maine ports are to receive the Special Area designations then we need to ensure that reception facilities meet the MARPOL and IMO requirements. At present it is questionable whether any Maine ports meet these standards. Generally, debris and waste reception facilities, if available, do not amount to more than a dumpster unless special arrangements are made ahead of time through the ship’s agent.

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Chapter 19 -- Sustainable Fisheries

Separating scientific and management decisions.

The Commission's recommendations (19-2, 19-3) would require the Scientific and Statistical Committees ("SSCs") to determine the allowable biological catch, and require the Regional Fishery Management Councils ("RFMCs") to set harvest limits at or below the level determined by the SSC. The decision of how much fish to catch is not purely a scientific one, but must be informed by the social and economic ramifications of different choices and levels of risk. Isolating science from management in this way would unnecessarily reduce our ability to solve problems. Science involves uncertainty that should be incorporated into allocation decisions. The current composition of the SSCs, comprised of leading scientists in biology, ecology, and statistics, is not well suited to addressing these questions of balancing impacts. If the SSCs are to be setting strict harvest levels, they should have access to social science and economic expertise to inform their decisions.

Adequacy of the science for fisheries management. Although the report generally encourages increased research to improve scientific understanding of the ocean and coastal environment, calls for improvements in the science used for fisheries management are noticeably absent. The report states, "...a lack of adequate scientific information has not been the main culprit in most instances of overfishing." (p. 221)

On the contrary, there is a real need to enhance the scientific information that fisheries management decisions are based upon, particularly the confidence of that information in light of the extreme spatial and temporal variability associated with the effort of present day studies. In general, the data being used to manage fisheries is not sufficient, and efforts should be expanded on all forms of data collection: assessment, monitoring, and fisheries dependent data. Further, additional basic biological research is needed on managed species to better understand life history, stock structure, movements, and basic habitat needs. Research is also needed to better understand the determining factors for ecosystems and their impact of changes in determinative factors such as water temperature and climate on species. . It is critical that new funding be allocated to implement Recommendation 19-7. Neither NMFS nor the states have the resources to address the lengthy list of research needs that have been identified to support improved management of our Nation's fisheries.

It should also be acknowledged that scientific decisions about marine resource management are not solely the purview of federal science institutions. Data collection and analysis should remain a product of collaboration among the federal system, state agencies, and academic and community institutions. The report should emphasize the benefits of strengthening the diversity of science institutions and advocate avoidance of centralizing decision-making authority in the hands of federal scientists.

Recommendation 19-4 directs the National Marine Fisheries Service ("NMFS") to develop a process for independent review of the scientific information generated by the SSCs. The Atlantic States Fisheries Management Council has implemented an effective process for independent external reviews of stock assessments, which has worked very well and could serve as a model to meet this need for the RFMCs. This process involves a comprehensive review by a panel of experts of questions regarding stock assessment data and models, uncertainties in the assessment, conclusions

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of stock status, research needs, and other relevant scientific issues related to the stock assessment. A further need of all stock assessment review processes is a regular periodic review of the data going into the stock assessments.

Recommendation 19-9 addresses the value of cooperative research. The importance of cooperative research cannot be overemphasized. Maine has a long history of working with its fishing industry on gear research to reduce bycatch in the northern shrimp and whiting fisheries. Most recently, Maine scientists and fishermen have been active participants in cooperative research through the NMFS Cooperative Research Partners Initiative and the Northeast Consortium. The Maine-New Hampshire Inshore Trawl Survey is an excellent example of scientists and fishermen working together to collect data to improve the management of our coastal fisheries. Maine strongly believes in the value that such activity adds to the management process for all parties involved.

There is no emphasis in the fisheries chapter on improved social science and economic information to support fisheries management decisions. There is a critical lack of good information upon which to base the economic impact analyses of various fishery management plan alternatives. Without this information, the costs and benefits of a given plan to communities and regions are virtually unknown. We strongly support recommendation (25-3), particularly the creation of formal mechanisms to document and analyze social and economic changes at the regional, state, and local levels.

Role of industry in management. The report's chapter on achieving sustainable fisheries does not delineate a clear role for the fishing industry in the management process. The recommendations seem to seek to insulate the SSCs from industry input into their deliberations, so that they will not be influenced by social or economic considerations. However, there are good reasons for facilitating some types of industry input at the SSC level. Often, industry participants have access to different types of information that can help inform scientific judgments. They can provide insight into the effects of changes in gear or fishing practices on resource trends. They can also provide information about local fisheries, on a smaller scale than the scientists may otherwise be able to obtain.

The recommendation (19-6) to require the shutdown of a fishery if a plan is not presented by the Council in time for NMFS review and approval is unreasonably punitive to the fishing industry. There are often legitimate reasons for delays in the development of plans at the Council level. It is not simply a matter of the Councils dragging their feet to delay tough decisions. This recommendation could encourage rapid decision-making at the cost of good decision-making. In any event, to have a fishery abruptly closed could have severe impacts on coastal communities with long-term consequences.

As mentioned above, there is a clear role for the industry in participating in both the design and data collection phases of cooperative research. Fishermen have traditionally questioned and disputed the data on which stock assessments and management decisions are based. As fishermen become involved in cooperative research, they gain a more complete understanding of the scientific process and sampling methodology, and tend to take ownership in the science on which their fisheries are managed. This is a win-win process as the scientists are gaining the insight and expertise fishermen have established from their years on the water. .

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States' role. Overall, the report does not focus on the role of the states, and that tendency holds true in the fisheries chapter. It should be acknowledged that the states have an important role to play as the primary managers of the inshore fisheries. In addition, states serve as the primary point of contact for communities and fishermen, and can play a strong communication and education role in fisheries management.

There are some recommendations that will adversely affect the states' role and thus cause us some concern. **Recommendation 19-10** calls for all interstate management plans to adhere to the national standards in the MSFCMA, and the federal guidelines implementing these standards. There has been a certain amount of ambiguity about the national standards, and which standard Congress intended to be preeminent. The fact that the interstate plans have not been subject to the federal national standards has not been a problem thus far. Requiring conformity at this point, when ambiguity still exists, would only increase the potential for litigation.

The Commission's recommendation with regard to recreational fisheries (19-8) is sound. However, it may not be necessary for NMFS to require a license separate from the states. Several states (VA, SC) have successfully implemented a saltwater recreational license, which serves to identify anglers in order to improve the effectiveness of the Marine Recreational Fisheries Statistics Survey as the Commission has recommended.

Fisheries Management Councils. Although the RFMCs have variable track records, the Council process does have many benefits. It is an open and democratic process, with many opportunities for public input. One of the outstanding questions in the report is the relationship between the proposed Regional Ocean Policy Councils and the Fisheries Management Councils. As we understand the proposal, the role of the ROPC involves coordination rather additional regulation or enforcement, whereas the function of the Councils would remain essentially unchanged. It is sensible to keep the Council process intact, especially since many of the recommendations in the report are geared toward strengthening the existing Council system.

The Governors should retain the discretion to choose individuals who best represent the interests of the state.

Dedicated Access Privileges. As the report references, New England has historically been especially resistant to rights-based management, especially in the form of Individual Transferable Quotas ("ITQs"). Maine agrees with the Commission that an amendment to the MSFCMA is needed to ensure that there are national guidelines in place that will ensure that where dedicated access privileges are used, they are held to specific standards. Two bills have already been introduced in Congress (H.R. 2621 and S. 2066) that would provide an excellent starting place for this discussion.

While we recognize that dedicated access privileges may be a good choice for some fisheries, it also should be acknowledged that they are not necessarily the best tools to achieve all goals of resource management. The goal of fisheries management is not only healthy stocks, but also healthy fishing communities. Poorly designed dedicated access programs carry the potential for disaster for fishing communities. However, certain forms of dedicated access programs could be used in innovative

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ways to allow the redevelopment of diverse localized fisheries, especially in isolated communities. Maine views community quotas, cooperatives, or geographically based programs as holding promise in such applications.

Ecosystem Management. Maine supports the recommendations in the report that urge a transition to an ecosystem-based approach to management. Ecosystem management demands that in the context of fisheries management, we move beyond simply limiting catch levels to addressing other issues such as essential fish habitat and limiting bycatch. In the context of ocean management, it demands that we look at other resources and activities, such as coastal development, to understand how they are affecting fisheries. In every context, it demands a careful balancing of the needs of natural resources and coastal communities dependent on them. Like any new concept, managers will need time to move incrementally toward this new approach, as our understanding of ecosystem dynamics grows.

Essential Fish Habitat (“EFH”). Moving toward an ecosystem approach for identifying and designating EFH is a good idea; however, there is a need to focus more scientific research to identify EFH. The current EFH designations are broad because they are mainly based on fishery survey results that are conducted for purposes other than EFH identification.

Resource managers are way behind their colleagues who work with the terrestrial environment in terms of bottom mapping which is critical for identifying EFH and protecting critical habitat from harmful practices.

VMS, Bycatch Reduction, and Observers. Maine strongly supports the Commission’s recommendations with regard to VMS (19-19), and reducing bycatch (19-22), including the use of observers to ensure that estimates on impacts of non-target species are as accurate as possible. Recommendation 19-22 should be modified to include increased focus on and investment in conservation engineering as a component of the regional bycatch reduction plans. . The benefits that could be gained through gear modification are not referenced in the report. Gear modification represents a real opportunity to reduce impacts both on non-target species and habitat.

Joint Enforcement Agreements. Maine strongly supports **Recommendation 19-17**, which calls for increased funding for Joint Enforcement Agreements to implement cooperative fisheries enforcement programs between NMFS and state enforcement agencies.

Chapter 20 -- Marine Mammal Protection

Maine supports the following recommendations in Chapter 20 (**Recommendations 20-2, 20-3, 20-6, 20-7, 20-8**). With regard to marine mammals, the specific recommendations in this chapter focus mainly on revising definitions, amending permitting processes, and improving coordination. There are few specific charges to actually strengthen the protections for marine mammals against the large-scale impacts of human activities. For example, although it is acknowledged that vessel strikes are a major threat to one of the most endangered marine mammal species (the Northern right whale) there is little in this chapter that would provide a near-term course of action to minimize this threat.

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The Commission identifies the biggest threat to marine mammals worldwide as their accidental capture or entanglement in fishing gear. The Maine Department of Marine Resources, in collaboration with the Maine commercial fishing industry, has developed a cooperative State Recovery Plan to reduce risks posed to endangered right whales by the gillnet and lobster fisheries. The specific knowledge that these parties brought was essential for successful large whale take reduction. Importantly, the plan acknowledges the variability in spatial distribution between whales and fishing gear, and achieves protection while addressing the operational realities of commercial fishing. The states can be effective partners with NOAA in identifying and mitigating the effects of human activities on marine mammals.

Chapter 22 – Aquaculture

Recommendation 22-2 calls for NOAA’s Office of Sustainable Marine Aquaculture to develop a comprehensive, environmentally sound permitting, leasing, and regulatory program for marine aquaculture. As acknowledged in the report, nearly all marine aquaculture operations in existence today are located in nearshore waters under state jurisdiction. Several states have decades of experience developing permitting, leasing and regulatory requirements, and could offer guidance for offshore programs. A close federal-state partnership will be needed to ensure coordination of the regulatory framework under which farms will operate.

Some of the water quality recommendations in Chapter 14, if implemented, will likely improve water quality conditions and therefore increase opportunities for nearshore aquaculture.

Chapter 24 – Managing Offshore Energy and Other Mineral Sources

Recommendations 24-1 As noted in Governor Baldacci’s cover letter to the Commission, Maine strongly supports the creation of the Ocean Trust Fund and the principle of reinvestment in renewable resources and conservation to assist states with addressing the effects. The funds should be dedicated, not subject to annual appropriation, and should be established at a *minimum* of \$900 million annually, funded from OCS revenues customs receipts or other fees generated from use of coastal and ocean resources.

The program should be developed in a way that does not create incentives for additional OCS development, and ensures that any new uses comply with all environment requirements, including federal consistency. A tiered system of funding should be considered to compensate states with a high level of risk from oil spills, such as Maine.

Chapter 25: Creating a National Strategy of Increasing Scientific Knowledge

Recommendation 25-1. Maine enthusiastically supports the proposed increase in the ocean and coastal research budget, but requests that the Commission provide additional details on research funding needs that show that the proposed \$1.3 billion per year is sufficient to support federal, state, and local information and technology needs.

Maine appreciates recognition of the National Sea Grant College Programs as a valuable resource of research, outreach, education, and technology transfer services, but recommends that the

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Commission also recognize and increase funding for other non-federal science and education programs, including those in the private, not-for-profit sector.

Recommendation 25-2. The national ocean research strategy should be derived from a bottom-up process where the priorities and strategies are developed by the regional science information boards. The NOC should coordinate the federal agencies' funding and technical assistance to support regionally set priorities and strategies. If the Commission retains this recommendation as currently written, Maine recommends that the NOC be required to consult and include in the national strategy the science needs and priorities identified by local, state, regional, and national managers working through the regional ocean information programs.

We also suggest that a timeframe be specified (e.g. 100-years) for the "long term vision" of a national ocean research strategy. Specification of a timeframe will clarify the type of scientific questions that should be addressed in the long-term strategy (e.g. shoreline position.)

Recommendation 25-5. Mapping and charting of near-shore areas is a fundamental need of coastal managers. A commitment to mapping and charting near-shore areas should be articulated in this recommendation.

Of particular importance to Maine is an outstanding need for observations and monitoring to detect and predict the effects of human activities and climate change on coastal communities. We favor sustained funding for long-term collection of data on shoreline change. Such funding is currently not available in the short-term (2-5 year) federal grant process or at the state level. Expanding coastal populations and development in Maine require expanded science to support coastal management at the state and local level.

When consolidating mapping and charting activities of the different federal agencies, the NOC should conduct outreach to user groups to determine which maps and charting tools are useful and should be maintained. New initiatives should work to ensure that existing maps and charts are integrated into future, emerging tools.

Chapter 26: Achieving a Sustained, Integrated Ocean Observing System ("IOOS")

The Gulf of Maine Ocean Observing System has been the leading pilot IOOS in the United States. With over 120,000 daily hits to its website, GoMOOS has succeeded in returning useful data to coastal residents, industry, and government. The Gulf of Maine Ocean Observing System should continue to be the regional organization supplying Maine with data. Similarly, in other regions, data collection and distribution should reflect large-scale ecosystem structure such as the GoMOOS provides for the Gulf of Maine. International sharing of data with Canada is essential to help Maine and the U.S. manage the Gulf of Maine ecosystem.

We are pleased that the Ocean Commission's recommendations mirror the implementation plans developed by Ocean US – the national coordinating office -- for development of the IOOS. We agree that regional ocean observing systems should be restructured as suggested in the report. We support the funding levels proposed and we are encouraged that funding increases will guarantee a focus on sustained data collection and distribution rather than on continuous fund-raising.

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
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We support the creation of a list of core variables to be collected throughout the IOOS system and suggest that the following be added to the suggested core variable list in Table 26.2:

- Physical variables -- Beach topography and nearshore bathymetry
- Biological variables – seabird abundance

We suggest that Table 26.3 – Proposed Supplemental IOOS Variables include:

- Human Health and Use Variables – Shoreline Type (stabilized, natural, etc.)

Our only real concern with this section of the Ocean Commission report is that it calls for Regional Ocean Information Programs to oversee the regional coastal observing programs and to conduct ecosystem assessments. This top-down, federal approach risks losing the vitality and responsiveness of the more bottom-up approach adopted by the ten Regional Associations now being formed as part of the IOOS (for the same regional identified by the Report.) The Regional Associations just had their inaugural meeting in March 2004. They are forming without a federal mandate to address issues specific to their regions. Any new regional organization should build from this grassroots effort to ensure that it will have sufficient flexibility to be responsive to the needs of the diverse regions.

In planning for the national IOOS, Ocean US should facilitate substantive and significant representation of the user community and place an emphasis on transferring the IOOS information to coastal decision-makers in a useable and accessible form. Further, Ocean US and NOAA should seek to build state and local user capacity by supporting necessary tools such as training courses, technology transfer, as well as software and hardware.

Chapter 28 -- Modernizing Ocean Data and Information Systems

Recommendation 28-1. Maine supports the Ocean Commission recommendation and notes the importance that this is an interagency process. We recommend that Ocean.IT be required to establish an advisory board or other process for soliciting the input and involvement of state and local governments, marine labs, and university researchers.

Recommendation 28-2. Maine supports a joint information and communications program by NOAA and the U.S. Navy and other pertinent federal agencies. We recommend that the Commission recognize the importance of state and locally derived data and add a requirement to this recommendation calling on NOAA and the U.S. Navy to develop an advisory board or other consultative process for soliciting state, local, and other end user input. NOAA and the U.S. Navy and other pertinent federal agencies should also fund research on the state and local scale.



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TTY USERS CALL VIA MD RELAY

June 4, 2004

Admiral James D. Watkins, Chair
U.S. Commission on Ocean Policy
1120 20th St., NW
Suite 200 North
Washington, DC 20036

Dear Admiral Watkins:

Thank you for the opportunity to comment on the Preliminary Report of the U.S. Commission on Ocean Policy (Report). My compliments to you, the Commissioners and staff for your exemplary work in producing the Report. The ideas and recommendations put forward in the Report clearly document the challenging course that lies ahead of us if we are to untangle policies described by the Report as “disparate, confusing, and single-issue governance tools.” We must eliminate the confusion and contradictions that have resulted from this unworkable policy approach.

A national ocean policy is an essential foundation for the development of an ocean governance model particularly if that policy recognizes, supports, and assists the states in implementing frontline management of the coastal zone.

The State of Maryland’s comments on the Report reflect the work of an interagency task force that I directed to be formed in anticipation of the release of the Report. Nine State agencies, the Maryland Office of the Attorney General, and the Coastal and the Watershed Resources Advisory Committee reviewed the report with more than sixty individual reviewers involved in this effort. The State’s specific comments on the recommendations of the Report are contained in the attachment. The comments reflect the direct experience and expertise of decades of involvement in coastal management.

The State of Maryland concurs with the goals of the U.S. Commission on Ocean Policy (Commission) for clean, safe and sustainably managed oceans and coasts. We endorse the efforts to achieve ecosystem-based management supported by sound science, effective governance mechanisms, and an informed public. Maryland has been using this management approach for many years especially with regard to the restoration of the Chesapeake Bay and its coastal bays. We welcome the development of a clear and consistent national policy to assist states in achieving coordinated management of our nation’s coastal and ocean resources.

As the Commission prepares to finalize its recommendations for the President and Congress, I respectfully request that you consider several themes throughout your deliberations:

- *The need to incorporate state and local perspectives into the development and implementation of federal plans and programs.* States have the primary responsibility for the protection of our coastal and nearshore resources. Little can happen to reverse the course of the decline in these resources without the direct and substantial participation of the states and local governments that are the frontline managers of the coastal zone. Enhanced partnerships through increased federal support, rather than under-funded prescriptive and punitive approaches, are needed to advance more effective coastal and ocean management. I commend the Commission for soliciting state's input for inclusion in the Final Report.
- *The need to build upon existing programs.* The Report's focus on the need to improve coastal and ocean resource management obscures how much has been accomplished in the relatively short period of the last thirty years. Much of what has been accomplished has been through states that serve as laboratories for innovation. On-going efforts will yield further progress. Federal assistance to strengthen these efforts to see them to fulfillment should be made a priority over adding new programs, layers of bureaucracy, or additional demands upon states.
- *The need to prioritize among the broad suite of recommendations presented in the Report.* Establishing budgetary priorities among the recommendations and the development of a strategic framework for funding and implementation are essential. Without this focus, the attainment of effective national policies and governance will not be achieved. The foremost priority of the Commission, Congress and the Administration should be ensuring that those recommendations that will make the most substantial and immediate difference in improving the environment and quality of life in our coastal communities are undertaken as soon as possible. There are critical needs, opportunities, and plans in place that cannot wait. One of the greatest needs is to provide commensurate funding to state and local governments as regulations are amended and implemented to address future demands.

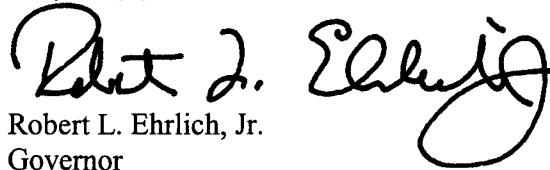
The Report is only a starting point in the realization of improved coastal and ocean management. An on-going dialogue with Maryland and other coastal states is essential to filling in the many details. We recognize that this is an enormous undertaking and we look forward to being a willing and committed partner to fulfill the intent of the Oceans Act of 2000. To this end, Maryland is ready to work with the Commission and the appropriate federal agencies to build a unified strategy to gain support for improved coastal and ocean resource management.

Page Three
Admiral Watkins

I have requested our Secretary of the Department of Natural Resources, C. Ronald Franks, to be the point of contact for matters relating to the Commission. Please call on him if we can be of assistance to the Commission.

Again, I thank you for your work on behalf of our oceans. I look forward to seeing the Final Report.

Very truly yours,


Robert L. Ehrlich, Jr.
Governor

ENHANCING OCEAN LEADERSHIP AND COORDINATION

The State of Maryland agrees with the Commission's finding of a need for coordinated goals and objectives and a national leadership structure for coastal and ocean management in order to develop and implement a strategic vision to see those goals and objectives realized. Maryland has taken a similar approach with the Governor's Chesapeake Bay Cabinet, which has been effective in bringing a coherence and focus to Maryland's policies and their implementation for many years. We believe that a successful national policy must be built on strong ties with state managers.

The lack of consistency, coordination, and efficient delivery of programs and services among the federal agencies is a serious problem for the states and significant improvements are required. The Preliminary Report is focused on adjusting the federal management regime and large-scale assessment and management approaches. The fact that states have the primary responsibility for coastal and nearshore resources is not sufficiently recognized throughout the Preliminary Report.

As with other recommendations proposed throughout the Preliminary Report, the Commission needs to carefully consider how new organizational entities being proposed would be an improvement over the way things are done now as measured by on-the-ground improvements. Clarification is needed on how the proposed National Ocean Council relates to the existing coordination role of the Council on Environmental Quality. The Commission is cautioned about putting too much responsibility in the National Ocean Council at the risk of national policy becoming top heavy and the Council becoming a bottleneck. Attempting to bring all of management under one structure may exacerbate existing inefficiencies and create new ones. Consideration should be given to the possibility that a more efficient governance structure might argue for less consolidation across the board than envisioned by the National Ocean Council model, and more consolidation in specific areas, including habitat, erosion management, energy, marine commerce, and transportation.

ADVANCING REGIONAL APPROACHES

While the State of Maryland supports improved inter-governmental coordination, the establishment and role of Regional Ocean Councils as called for by the Commission (Recommendation 5-1) is too unspecific to comment on. The regional councils envisioned by the Commission should not add another layer of bureaucracy that places more demands on the states or replaces existing effective regional agreements and compacts. Maryland has 20 years of experience with regional management through the Chesapeake Bay Program. The Chesapeake Bay and Coastal Bays Programs currently

coordinate and set priorities for the Bays, and these should be looked to as models for the regional ocean councils.

The Commission also needs to consider scale efficiencies as the geographic focus and management structure enlarges. If Regional Ocean Councils are to be established, their interests and focus should be narrow and appropriate in scale to the size of the region and the dominant issues in those regions.

A regional watershed framework needs to be inclusive enough to be meaningful in a functional ecological sense but restrictive enough to represent reality at the local government level where most programs are implemented. While it is necessary to assess watershed functions, conditions, trends, and impacts to determine management strategies, this approach reaches a point of inefficiency when program management, studies and monitoring consume the majority of staff and funding resources such that acting on these trends and implementation becomes secondary.

COORDINATING MANAGEMENT IN FEDERAL WATERS

Though the State of Maryland is in favor of improved coordination among federal agencies through the establishment of a leadership structure, division of responsibilities and coordination mechanisms, the Commission's proposed restructuring of responsibilities is for the most part beyond the purview of the State. The Report should address how those changes will result in on-the-ground improvements in management and improve our ability to manage the challenges we will face over the next 50 years. The Commission should also take into account that more layers of bureaucracy or program offices are likely to add to and create inefficiencies.

Maryland supports area-focused approaches to improved coordination and management. The Preliminary Report discusses the establishment of marine protected areas (MPAs). These should be promoted as one among several means of improving coastal and ocean management. The need and focus of such area designations will vary. Where designated, MPAs should be coordinated and consistent with state management efforts.

It should also be noted that in discussing improved governmental coordination, the Preliminary Report leaves unaddressed the many federal agencies that take an active role in funding, or undertaking, or obligating underwater archaeological research or surveys in compliance with various federal statutes and programs.

PROMOTING LIFELONG OCEAN EDUCATION

Given that states play a fundamental role in education, the Commission's recommendations should have a more explicit focus on strengthening existing and effective local-state-federal partnerships. Maryland is committed to promoting life-long learning about the environment in a way that promotes personal stewardship and is now

in the process of developing a statewide curriculum. The pieces are in place for Maryland's full participation in a new and vigorous national coastal and ocean education effort. The Maryland State Department of Education (MSDE) has incorporated opportunities for oceanographic studies through the new Pre-K – 12 curriculum objectives and partnerships with the Maryland Sea Grant, and the Mid-Atlantic Regional Center for Ocean Sciences Education Excellence, (COSEE, a consortium consisting of the University of Maryland's Horn Point Laboratory Center for Environmental Science, Rutgers University, the Virginia Institute of Marine Sciences (VIMS), Hampton University, Stevens Institute and the New York Aquarium). These organizations post lessons, resources, and references on the Internet and offer teacher training workshops and summer internships. Maryland supports the Commission's call (Recommendation 8-5) for expansion of the national COSEE program.

The Commission's Report should provide a greater voice of support for existing marine science education programs. Although there are references to the successful role of the Sea Grant Colleges and the National Estuarine Research Reserve System (NERRS) in bridging the gap among research and education communities; there is no mention of Sea Grant or NERRS in any of the recommendations. Maryland Sea Grant, for example, already links research directly with the delivery of defined education tools, such as school curricula, secondary school teacher training and classroom educational materials, as well as outreach to the public through communication and extension services.

An important dimension of education that receives little mention is the education of decision-makers at all levels of government who are ultimately responsible for ecosystem-based management. Again, existing programs like Sea Grant and NERRS that connect scientists, local communities, state agencies and non-governmental organizations should be supported for that purpose. In a similar vein, the Commission's recommendations concerning the nation's ocean-related workforce (Recommendations 8-10 through 14) should specifically address the need for training of the technical experts needed to achieve truly ecosystem-based management of ocean resources. There is little or no federal support for such training at present.

MANAGING COASTS AND THEIR WATERSHEDS

Maryland supports the proposed reauthorization of the *Coastal Zone Management Act* (CZMA) to better enable the Maryland Coastal Zone Management Program to fulfill the broad objectives of the Act. In order for the State to meet its expanding programmatic responsibilities under the CZMA, such as the implementation of the coastal nonpoint source control program, development and tracking of performance measures, and the development and continual updating of the State's Coastal and Estuarine Land Conservation Plan, increased federal resources are needed for the State. For the past 10 years, Maryland's share of the amounts appropriated by Congress for state coastal management grants has been capped while grants for states with much less shoreline and population have increased several fold.

The State of Maryland agrees with the Commission's recommendation for the establishment of performance measures for coastal zone management programs. (Recommendation 9-1). Such measures are already under development within NOAA. That effort needs to be expanded to the development of the full complement of necessary features for a performance measurement system such as the establishment of baselines, trends, measurable goals and objectives, tracking mechanisms, and means to evaluate why particular objectives were met or unmet. The great diversity among states and ecosystems requires that performance measures be based on state based objectives and ecosystem needs. The Commission should urge NOAA to work more closely with states in developing performance measurement systems which further adaptive management and reflect state priorities.

The Commission recommends a watershed focus in pursuing ecosystem management. (Recommendation 9-4). Maryland supports this approach and has taken a leading role in watershed management through the combination of its Tributary Strategies, Watershed Restoration Action Strategies and Total Daily Maximum Load Programs.

The Preliminary Report does not adequately make the case for Recommendation 9-2 to consolidate the various area-based coastal management programs. These programs could be better coordinated to enhance effectiveness.

One editorial comment must be made. At page 109, the text box reads, "The Maryland experience, which has since been scaled back under new budgetary pressures, provides one model of growth management for consideration by other state and local governments." This is incorrect. Although State funds used to fund development related projects inside designated growth areas are less compared to funding levels in previous years due to budget shortfalls, Maryland has not scaled back efforts to implement Smart Growth.

GUARDING PEOPLE AND PROPERTY AGAINST NATURAL HAZARDS

Given Maryland's recent experience with the unprecedented damages seen with Tropical Storm Isabel, it is clear that there is a need to better inform the public about the risks and vulnerabilities associated with coastal hazards. Prior to the storm surge seen with Tropical Storm Isabel, many property owners far from the ocean coast had no idea that they could be at risk from flooding. As in other states, the floodplain maps developed by the National Flood Insurance Program are long overdue to be updated. A consequence of these inaccurate maps is that new development that does not meet code requirements for flood protection continues to be located in flood prone areas. Map modernization should concentrate on improved mapping and data collection rather than digitizing outdated existing maps.

The recommendations of the Commission to improve coastal hazards data management need to be expanded. (Recommendation 10-2) The issues associated with updating maps go far beyond collecting new data and transferring it onto maps. New technologies for

hazards planning have greatly expanded the potential to anticipate risks and mitigate vulnerabilities. However, the realization of that potential is dependent upon building state and local capacity to use this data at the appropriate planning level. The need is not just for acquiring data, but utilizing it at the appropriate scale and providing local governments the capabilities to manage, house, analyze and visualize the data.

Absent from the Preliminary Report is any discussion of the need for increased planning assistance to identify areas at risk from sea level rise and options to address the problem. In the Chesapeake Bay, the sea level has risen over one foot in the past 100 years — twice the global average due to land subsidence. The impacts of sea level rise are already being seen in the areas of low relief on Maryland's eastern shore with an acceleration in erosion rates, increase in flooding and the failure of wells and septic systems.

The Preliminary Report calls for mitigation planning (Recommendation 10-4). Much of what is recommended is already being done. Pursuant to the *Disaster Mitigation Act of 2000*, every county in the State has developed or is developing a hazards mitigation plan. What is needed is assistance in the implementation of those plans.

Another lesson learned from the Tropical Storm Isabel experience is that the National Flood Insurance Program's estimates for repairs are based on either outdated information or estimated costs not specific to the locale in which the damages occurred. Many homeowners were unable to make repairs to major damage to their homes when their flood insurance policies, which they are legally required to maintain, were inadequate to cover their costs. This appears to be in part a result of averaging repair cost estimates nationally. Regional differences in costs need to be taken into account in these estimates.

A more aggressive approach is needed to reduce flood damages. Although the Federal Emergency Management Agency (FEMA) has greatly expanded its mitigation efforts in recent years, much more assistance is needed for understaffed agencies and communities to retrofit structures, remove structures from hazardous areas, and discourage development in the floodplain. Mitigation alone is not enough to substantially reduce flood damages to existing structures in flood prone areas. So long as federal flood insurance is provided at subsidized rates, the status quo will be perpetuated.

The Commission should also take note of illusory budgetary savings achieved by agencies through cost transfers. An example recently occurred in Maryland when FEMA rejected a proposed mitigation project to buy-out six homes that were repetitively flooded. FEMA rejected the proposed buy-out because it did not satisfy FEMA's benefit/cost analysis. Ironically, in all likelihood a much more expensive and less desirable engineered flood control project to protect these six homes would be approved by the Corps of Engineers under its benefit/cost analysis.

The Commission's overall recommendations for reform of the Corps of Engineers (COE) Civil Works Program would foster greater consideration of coastal environmental issues and concerns into the COE process in a more consistent manner from region to region.

(Recommendation 10-1) Any changes should avoid too cumbersome a process that excessively increases the time or cost of conducting a review.

CONSERVING AND RESTORING COASTAL HABITAT

Rapidly escalating land prices in the coastal zone along with diminishing opportunities to acquire large tracts make land conservation and preservation a priority in Maryland. The State issued a new plan for land conservation in December 2003. That plan prioritizes those areas that are most important to the health of the Chesapeake Bay, particularly the “green infrastructure” bordering on tributaries in the watersheds. Maryland supports the Commission’s recommendation to amend the Coastal Zone Management Act to establish a Coastal and Estuarine Land Conservation Program to assist states in identifying priority coastal areas for conservation. (Recommendation 11-1). Caution is urged in regards to the Commission recommendation to amend current legislation to use existing conservation and restoration funds for assessments, monitoring, research and education. (Recommendation 11-3). As the Preliminary Report recognizes, funding for acquisition is already far below what is needed. Funds for assessment, monitoring, research and education should be generated through other programs.

The Commission should note that despite the emphasis it has placed on ecosystem-based management, there is little discussion or recommendations in the Preliminary Report on conserving and restoring coastal habitat. This reflects an overall imbalance in the Preliminary Report that the Commission should attempt to address.

MANAGING SEDIMENT AND SHORELINES

Many of the issues that arise from the efforts to restore the Chesapeake Bay relate in some way to sediments. Much of Maryland’s shoreline is eroding causing excess nutrients, impediments to navigation, loss of shallow water habitats, increases in the frequency of disturbance, and the smothering of submerged aquatic vegetation and oyster beds. In certain areas, inputs of toxics from tributaries to the Bay cause sediment contamination. At the same time, the process of erosion and sedimentation is an important natural component of the Bay and essential to its health.

Maryland supports the Commission recommendation to manage sediment on a regional basis (Recommendation 12-1) and emphasizes that such an approach will be most effective if formulated with respect to the physical processes that affect sedimentation. The regional approach to managing sediments is especially applicable to Maryland due to its two distinct regions: the Chesapeake Bay region and the Atlantic Coastal Bays and Ocean Coastline region. These two very different regions require different management approaches. Multiple-objective management within these regions will require the consideration of multiple physical scales — site level, river level, watershed level and physio-graphic level.

The current project-by-project approach to managing sediment is inefficient and often ignores the broader context of sediment management where multiple objectives and physical processes are at issue and potentially conflicting. Regional sediment management needs to incorporate both the aquatic transport systems offshore and watersheds of contributing tributaries. Control of sediment at the source should be the first option in management.

The need for the dredging of navigational channels, especially maintenance dredging, can often be related to the mismanagement of sediments on land. Increasing sedimentation and the contamination of sediments reaching the Bay increase the need for and cost of dredging to maintain the channels, and limit the options for dredge material disposal. Lack of sufficient funding for channel maintenance is already causing the delay of needed projects with impacts on state and regional economies.

Going beyond the recommendation for regional sediment management, the Commission should present a vision for the optimum management of sediments and a framework for improving the management of sediment and shorelines. That vision should be tempered with a recognition that some sediment problems are controllable and others not.

Maryland supports increased beneficial use of dredged materials (Recommendation 12-2). The Commission's support is needed particularly on continuing federal support for beach renourishment. Maryland's beaches are part of the State's environmental and economic infrastructure. Their maintenance has benefits that go beyond the State's borders. The Commission should urge the reversal of the Office of Management and Budget policy to discontinue federal assistance for beach renourishment projects. The Commission should also support the preservation of offshore sources of clean sand in federal waters where necessary to meet future needs for beach replenishment.

Many of the sediment recommendations contained in the 1994 report *The Dredging Process in the United States: An Action Plan for Improvement* have been implemented on a state level by the State of Maryland, and have been adopted by the local office of the Corps of Engineers. This process has proved effective in reducing conflicts associated with dredging projects. Implementation of these procedures on the federal level would serve to further improve the process.

Recommendation 12-4 suggests involvement of the Corps in monitoring and cumulative impact analysis. While the Corps may be the appropriate lead for the implementation of sediment management projects (i.e., engineering), the state resource agencies (including geological surveys) and/or U.S. Geological Survey may be a better lead agency for the necessary scientific studies for regional sediment management.

SUPPORTING MARINE COMMERCE AND TRANSPORTATION

While the Commission has worthy recommendations for anticipating growth for marine transportation and the intermodal network for the delivery and distribution of goods, the Commission may have misperceived the federal government's role with its Recommendation 13-5A to periodically prioritize future federal investments among ports. The Final Report should recognize that not all decisions are for government to make. The federal government is not simply a central planning agency. It has a responsibility to balance interests in ways that are fair and equitable even if not always most efficient. Prioritizing funding for ports under a strategic plan for a national marine transportation "system" may be more problematic than it is for the other modes. Since most commercial port traffic is between domestic and foreign destinations, ports compete with each other directly without the interdependence that is evident in the aviation system, or even the highway system. Prioritizing the needs of one port over another could be construed as government intervention into the balance of commerce, and in any event, would have serious repercussions on the economies of the cities, states and regions that depend on their ports as economic engines.

The Preliminary Report mentions the needs for increased port security. The Final Report should make clear the critical need for increased federal assistance to meet Homeland Security requirements.

ADDRESSING COASTAL WATER POLLUTION

With the enactment of the *Bay Restoration Fund*, Maryland has taken a big step towards improving wastewater treatment throughout the State in furtherance of the Commission's Recommendation 14-4 to increase funding for wastewater and drinking water infrastructure systems. The bill establishes a \$2.50 fee per household per month both for sewer customers and septic owners, as well as a flow-based fee for industry. The funds will be directed toward the upgrade of major sewer plants, upgrading septic systems and installing cover crops. In Congress there is a push to increase funding for the State Revolving Fund Program that would further assist large and small communities in upgrading sewage treatment plants. Maryland strongly supports this effort.

Alternatives to revolving loan funds should also be developed, as loans must be reported as debt by local governments. This adversely affects bond ratings and results in higher interest payments for all capital improvement projects.

Regional strategies are needed to revitalize urban areas where the basic infrastructure is already in place to meet population needs. Increased spending to rehabilitate older infrastructure is more cost efficient than continuing to expand service areas. This is a key objective of Maryland's Priority Places Program.

Maryland supports recommendation 14-2 to increase technical and financial assistance to communities for septic system management. Assistance is needed to better establish the

contribution of septic systems as sources of nutrient pollution and to develop defensible and cost-effective management programs where warranted. Congress should also consider establishing a revolving loan fund and other funding alternatives to assist states and localities in providing funds for replacing and upgrading septic systems.

The Commission's Recommendation 14-3 calls on states to issue regulatory controls on concentrated animal feeding operations. Maryland is developing Concentrated Animal Feeding Operations (CAFO) regulations. Maryland would benefit from expanded federal funding/cost-share for implementation in this area.

The State of Maryland is working with private industry to explore alternative uses of chicken litter, from which the run-off adversely affects the health of the Chesapeake Bay. In addition to existing alternative uses, the potential to convert litter to energy could help mitigate environmental hazards, reduce demand on current energy sources, and stimulate economic development on our State's Eastern Shore. The State supports increased federal research funding that could help advance these efforts.

Maryland supports Recommendation 14-7 for a comprehensive and coordinated approach to address the complexities of nonpoint source impacts to coastal resources. Additional resources and requirements should address performance-based criteria in recognition of the wide variety of state and local program strengths and weaknesses.

Maryland supports the Commission's recommendation of the establishment of a significant national goal to reduce nonpoint source pollution in impaired coastal watersheds. (Recommendation 14-8) There are already efforts underway that seek to establish goals for the national nonpoint source program. These program goals address nutrient reduction and improving water quality through the de-listing of impaired waterways. In addition to national program goals, there are state and regional efforts such as the Chesapeake Bay Agreement 2000 that have established goals that will complement this particular effort. The federal government needs to more effectively work with the states in establishing national goals.

The State of Maryland supports expanded regional approaches to reducing atmospheric deposition. It has been estimated that a substantial portion of the excess nutrients in the Chesapeake Bay are a result of atmospheric deposition and that much of the air-borne pollutants come from out of the State.

Maryland supports the Commission's recommendation to increase local government capacity and that of watershed groups to better manage polluted stormwater runoff. (Recommendations 14-11, 14-12 and 14-13). Maryland's current stormwater regulatory programs and other measures are fairly effective in controlling and treating runoff, although greater emphasis is needed for reducing the creation of impervious surfaces. While it is important to strengthen the capacity of local governments to manage urban nonpoint source pollution, funding is the greatest need — not strategies or technical assistance or greater institutional support. Urban nonpoint source control programs

deserve the same level of importance and funding as wastewater treatment and agricultural best management practices.

The Commission's proposal to merge the EPA and NOAA nonpoint source management programs leaves too many questions unanswered to respond to the recommendation (Recommendation 14-9). A merger for the sake of consolidation alone will not result in improvements to water quality. In Maryland, the division of responsibilities among the two federal agencies has not resulted in a problem. Both programs are administered by the Coastal Zone Management Division of the Department of Natural Resources (DNR). The focus of these programs should not be on structural reorganization but on the need for broad scale implementation of best management practices.

The State of Maryland urges the Commission to reconsider Recommendation 14-10, which calls for penalties on states for failure to meet water quality objectives. The threat of penalties is not effective if program objectives are not realistic and adaptable, nor do penalties advance the formation of partnerships between the federal and state agencies. While the threat of penalties can have some effect in providing some leverage to accomplish change, penalties should not be mechanically applied. Discretion is needed to consider the uncertainties that all programs face in achieving their objectives, e.g., weather, funding support, and the effectiveness of best management practices (BMPs) in the many different contexts in which they are applied. Penalties need to be proportional to the federal support for the program, and targeted to those programs and entities that have the ability to change the behaviors that are resulting in objectives not being achieved. Penalizing one agency for the lack of action by another is not effective.

Federal agencies and states need to define what constitutes 'meaningful progress towards meeting water quality standards.' This requires that EPA, NOAA and the states establish benchmarks toward improving water quality and meeting water quality standards. These benchmarks need to include timelines to meet environmental goals and objectives. Environmental benchmarks need to take into account the wide gap between program funding and water quality objectives.

In developing its Final Report, the Commission should give further thought to the outcome of the imposition of financial sanctions. Unless a strict pass/fail standard is applied for the imposition of sanctions, how could one state's effort be compared to another given the vastly different circumstances that occur even among neighboring states? Would the federal government fine those states that have pushed through a major effort on environmental restoration and protection, yet still failed to fully meet water quality goals/standards? Would the federal government try to take over state water programs and if so be prepared to replace existing state resources for these programs?

CREATING A NATIONAL WATER QUALITY MONITORING NETWORK

Maryland endorses the Commission's recommendations for a national water quality monitoring network that provides adequate coverage of both coastal and upland areas, is linked with the Integrated Ocean Observing System, and meets the requirements spelled out in Recommendation 15-3. In particular, regional flexibility is a key requirement if the monitoring results are to be useful at the primary scale of ecosystem-based management, which is subregional. Previous federal monitoring programs that have employed uniform strategies for the sake of inter-regional comparability (for example EPA's Environmental Monitoring and Assessment Program) have proven of limited use at this scale of management. The national network proposed should build on, support and extend the results of existing management-oriented monitoring programs, such as that in place for the Chesapeake Bay, rather than duplicate them. For example, monitoring is an important part of Maryland's efforts to restore the Chesapeake Bay. The Department of Natural Resources *Eyes on the Bay* Program provides resource managers and the public with near real time information on water quality for waterbodies throughout the Bay. It is essential that states are included in the development and implementation of a national water quality monitoring network. As states have the primary responsibility for managing water quality, the scale of a national water quality monitoring network needs to be appropriate to states' management framework.

LIMITING VESSEL POLLUTION AND IMPROVING VESSEL SAFETY

Maryland's Clean Marinas program has been cited as a national model to achieve voluntary adoption of best management practices to reduce pollution from recreational boating. The federal Clean Vessel Act has been instrumental in achieving the objectives of the program by providing assistance to install sewage pump-out devices at marinas. The effectiveness of the Clean Vessel Act could be improved by increasing and expanding the uses of the grants to states. In Maryland, about 74 percent of recreational boats do not have toilets on-board. Recreational boaters need to have toilets at boating destinations. Also, new boat engine technologies have greatly reduced the pollution from small boat engines. Incentives are needed to phase out these older engines.

Recommendation 16-8 proposes to move the Clean Vessel Act (CVA) assistance program for sewage pump-outs from the U.S. Fish & Wildlife Service (USFWS) to the Environmental Protection Agency (EPA). The CVA currently works well and is easy for states to administer. Since the CVA is funded under the Aquatic Resources/Sports Fish Restoration Fund, which also funds other USFWS boating-related programs, it makes sense to keep those programs at USFWS. The Commission should also take note that moving the program to EPA could create the perception of a linkage between the CVA and EPA's No Discharge Zone program which is controversial in some states and among some constituencies, resulting in less support and participation rather than more.

PREVENTING THE SPREAD OF INVASIVE SPECIES

Maryland's recent experiences with the northern snakehead and the efforts needed to eliminate the fish highlight the need for broader and stricter federal regulation of the importation, interstate transport, sale and introduction of non-native species.

The Preliminary Report appropriately stresses the importance of coordination and cooperation in the United States and internationally to prevent the introduction of non-native species. A primary pathway for unintentional introductions is ballast water. Recognizing that the International Maritime Organization has recently adopted a convention that addresses ballast water management, the Ocean Commission should encourage Congress and the U.S. Coast Guard to adopt a U.S. ballast water standard that is scientifically sound, biologically meaningful and enforceable. Furthermore, the Final Report should note that the IMO standard does not meet those requirements and will do little to prevent the introduction of invasive species via ballast water into the United States. The implementation of consistent ballast water management requirements for U.S. ports is required to avoid unfair differences in infrastructure and procedure requirements among ports.

Maryland is one of the few states that regulates ballast water management, and, with the exception of the Great Lakes states, it is one of the few states to have committed substantial research dollars to this problem. The Maryland Port Administration has invested significant funds to support ballast water treatment demonstration projects in the Chesapeake Bay. University of Maryland researchers are leading experts on ballast water treatment strategies with active testing programs based in the Chesapeake Bay.

ACHIEVING SUSTAINABLE FISHERIES

The Commission's Preliminary Report contains much good advice with respect to the management of fisheries in U.S. waters in recommending that an ecosystem-based approach be developed and gradually implemented. Scientists and managers in the Chesapeake Bay region already have taken a leading role in developing ecosystem-based approaches for fisheries and many of the Oceans Commission's recommendations are being considered with respect to fisheries and fisheries ecosystem plans. Furthermore, these efforts are on geographic scales appropriate to the resources, involving coordination of multi-state and federal-state jurisdictions. The Commission's Report could be strengthened if it more fully considers the roles and responsibilities of the states for fishery resources that migrate across federal-state jurisdictional boundaries in the context of ecosystem-based management. Furthermore, ecosystem-based management requires that the state and federal agencies beyond those with primary responsibility for fisheries management (e.g., those responsible for water quality, and transportation) to become more meaningfully involved in the management process.

To advance ecosystem-based management approaches, more scientific information, modeling and monitoring, as well as economic information, will be needed to support fisheries management.

We support concepts being implemented by the Atlantic States Marine Fisheries Commission under the Atlantic Coastal Fisheries Cooperative Management Act. The Chesapeake Bay is in many ways a microcosm of the U.S. coastal ocean, in the sense that virtually all of the problems addressed in the Commission Report are represented here. Scientists in the University of Maryland and in our Department of Natural Resources have spearheaded the development of a prototype Fisheries Ecosystem Plan, placing Maryland at the forefront of developing ecosystem-based requirements for sustainable fisheries management. It is important to note that the recommended approaches can be adopted and implemented incrementally rather than waiting until a complete picture is obtained, a point that the Commission's Report should make more strongly.

Maryland does not support the mandatory setting of the biological catch at or below the allowable biological catch assigned by the scientific and statistical committees (SSCs). Stock assessment data are often inadequate to be scientifically competent for setting catches. The SSC should not be in a position to order the Regional Fisheries Management Council (RFMC) or should the RFMC be put in a position to merely rubber-stamp the SSC findings. This is not consistent with a holistic ecosystem approach to management that must consider the consequences to management decisions, for example, the reduction or redirection of fishery efforts.

Maryland does not support the setting of deadlines for reports by the SSC with a default allowable catch decision by the National Marine Fisheries Service (NMFS). NMFS is the funding agency for the SSC's and would be in a position to effect the default ruling when NMFS did not adequately provide a budget to the SSC's for an adequate assessment and assignment of catch allowances. And again, suspension of all fishing should not be imposed when a fishery management plan (FMP) is not presented on schedule when NMFS funds the council staff that is charged with development of the FMP.

The Commission appears to have made an assumption that the National Marine Fisheries Service has the capacity to better manage fisheries. This assumption has little basis in experience. Delegating more responsibilities to NMFS is likely to result in bottlenecks that further bog down the whole system for managing fisheries.

The 'dedicated access privileges' recommended by the Commission can be beneficial to commercial fisheries, however careful consideration of the socio-economic consequences on a fishery-by-fishery basis are required rather than a blanket policy. Fees collected for such privileges should be dedicated to the management of the resource.

The increased use of Vessel Monitoring Systems (VMS) in fisheries management as recommended by the Commission has clear enforcement value and provides information on how catches are distributed, but is more appropriate to some fisheries (e.g. where area closures or other spatial management approaches are emphasized) than others. VMSs are

simply one of the several management measures to be considered for each fishery or group of fisheries.

PROTECTING MARINE MAMMALS AND ENDANGERED MARINE SPECIES

Maryland has been cited as a national model for responding to marine strandings but that is not the full extent of the State's concern for endangered marine species. Although there is much discussion related to marine mammals, there is no mention of the need to advance conservation for other species particularly sea turtles. Turtles deserve the same attention in this report as marine mammals, particularly when it comes to securing stable funding for sea turtle research in each state.

We believe that there are circumstances where there is justification for re-evaluating the federal preemption of state management in regards to local endangered species and marine mammal issues.

SETTING A COURSE FOR SUSTAINABLE MARINE AQUACULTURE

The State of Maryland agrees with the Ocean Commission's conclusions that marine aquaculture must be pursued in a sustainable manner with regard to its impacts on the environment and other marine resources. We have some concerns, however, regarding the recommendation to designate NOAA as the lead agency for marine aquaculture (Recommendation 22-1). While this may be appropriate for offshore aquaculture, aquaculture of coastal and estuarine species is often regulated by state agricultural agencies in conjunction with natural resources and environmental agencies. Defining or establishing a specific delineation of authority among federal and state agencies is advisable to prevent conflict or overlap of regulations.

Creating an Office of Sustainable Marine Aquaculture operating under the suggested guidelines and in coordination with USDA is an obvious initial step in fostering aquaculture development and could be effective in streamlining regulations if delineations of authority are clearly defined. The development of best management practices is a sound approach, but these must be adaptive to allow for innovative approaches to solving environmental issues. The establishment of federal guidelines for marine aquaculture in offshore environments could be useful to states in developing their own specific policies. The *Code of Conduct for Responsible Fisheries* contains a comprehensive set of sound guidelines for aquaculture. U.S. marine aquaculturalists should adopt these as a minimum base of operating principles.

Funding for marine aquaculture research and development is currently very limited and should be expanded. It should also be recognized that marine aquaculture will play an important role in ecosystem restoration and biotechnological products as well as food production. To ensure innovation and support for research and outreach efforts with the greatest economic potential, research priorities should be established by an official

advisory committee with state and industry representation and the inclusion of restoration and biotechnology experts.

Responsibly managing and conducting aquaculture requires more than technical expertise in raising fish and shellfish. Federal assistance for new aquaculture ventures should require these high risk ventures to have in place sound business practices such as business plans, access to insurance, and adequate long-term capital needs to ensure that the substantial work required on the part of state agencies to review and approve these types of ventures is not wasted due to poor business planning.

CONNECTING THE OCEANS AND HUMAN HEALTH

The State of Maryland supports the recommendations of the Ocean Commission regarding the oceans and human health, in particular the expansion of competitively awarded research and development grants for research that lays the groundwork in the new fields of marine bio-products, bio-toxins, marine microbiology and virology. Improved methods and networks for monitoring natural waters will be particularly advantageous if they improve our ability to predict unhealthy conditions. Better predictive tools are needed and should be highlighted as an important research target under Recommendation 23-4. In addition to the need for improved methods for identifying and monitoring pathogens, chemical toxins and organisms in ocean waters as advocated in Recommendation 23-3, pollution from pharmaceuticals raises several threats: the extension of anti-microbial resistance in natural microbial populations, and the possibility of immunologic effects, endocrine disruption, and other toxicity in receptor species, including humans. Methods and programs to adequately monitor the presence of pharmaceuticals in commercial seafood should be recommended.

MANAGING OFFSHORE ENERGY AND OTHER MINERAL RESOURCES

Maryland strongly supports dedicating outer continental shelf royalties for needed investments by states in meeting coastal management needs. Despite the increases in investments in coastal restoration and protection particularly with Maryland's new fees to upgrade sewage treatment plants, the estimated funding needs to meet our Bay restoration objectives far surpass available funds.

Maryland has just enacted the *Renewable Energy Portfolio Standard and Credit Trading Act* that requires that a certain percentage of energy sold in Maryland be derived from renewable sources. This legislation includes ocean-based energy sources – tidal, current, and thermal – in defining eligible renewable sources. The legislation also includes wind-based energy generation, which, as the Report indicates, could be sited at offshore locations. Streamlining the renewable permitting process could help Maryland more quickly realize the renewable standards set forth in the legislation, and do so at a lower cost to consumers.

The streamlining of permit processing for offshore renewable energy sources needs to give full consideration to other uses of offshore resources particularly the need to preserve sand resources where needed for future beach renourishment projects. In addition, full consideration of environmental impacts is needed such as those that may occur in avian flyways. The visual impacts of wind turbines on nearby communities also needs consideration such as when facilities are located within sight of tourist destinations such as Ocean City.

A NATIONAL STRATEGY FOR INCREASED SCIENTIFIC KNOWLEDGE

The State of Maryland endorses the development of a national strategy for increasing scientific knowledge that is directly applicable to improving coastal and ocean management. Given the seriousness of the problems of the coastal ocean environment around this nation and throughout the world, the magnitude of the challenge for sustainable management of ocean resources, and the lagging nature of federal investments in comparison with other fields of science, the proposed doubling of the federal ocean and coastal research budget over five years (Recommendation 25-1) is a reasonable goal. While these investments would support expanded basic research, ocean exploration, social science, and the Integrated Ocean Observing System, Maryland believes that new funding should be directed to the science and technology required to achieve science-based measures to use, safeguard, manage, and restore ocean and coastal resources. The State recommends that the Final Report include a focus on the science needed to support ecosystem-based management as an explicit criterion in its recommendation for a national ocean research strategy and a means to prioritize the allocation of resources (Recommendation 25-2).

The State of Maryland also suggests that the critical and sustained investments in ocean research made by the states be made a more explicit part of the national research strategy. Maryland and other coastal states invest heavily in the marine science programs of their public universities. This has resulted in internationally prominent centers of excellence that contribute significantly to environmental and resource management. Where such significant expertise and physical research capacity already exists, the federal government should strengthen partnerships between federal agencies and state universities rather than attempting to duplicate the expertise within federal laboratories.

In addition to biological and physical research, the Commission recognizes the importance of economic studies and social sciences to improving coastal and ocean management (Recommendation 25-3). The establishment of a national program for social science and economic research would have much value. The focus of the Commission appears to be on statistical analysis. In-depth policy analysis is also needed of the social and market drivers that affect coastal communities and resources. Effective policy analysis needs to incorporate multiple perspectives such as those of recreational fishers and boaters, the tourism industry, residential and commercial developers, lending institutions and tax advisers.

ACHIEVING A SUSTAINED, INTEGRATED OCEAN OBSERVING SYSTEM

The Preliminary Report of the U.S. Commission on Ocean Policy lays out a bold vision for stewardship of our ocean resources and for protecting human lives and property, by significantly improving forecasts of marine and terrestrial conditions over time scales ranging from short-term warnings to long-term effects of global climate change. Of particular interest to the State of Maryland is the strong call for implementation of the Integrated Ocean Observing System (IOOS; Chapter 26). As projected, this sustained, continuous system would provide a wealth of real-time forecasts and information products tailored to serve Maryland's needs. These products would help guide shipping to Baltimore Harbor, aid port security, enable effective response to hazardous material spills, improve marine weather forecasts, support ecosystem-based management of fisheries, facilitate emergency management of storm surges, and track and guide the restoration of Chesapeake Bay's water quality.

Over a decade ago, the University of Maryland launched the Chesapeake Bay Observing System (CBOS). Soon after a program of monthly aircraft remote sensing flights commenced. NOAA's Physical Oceanographic Real-Time System (PORTS) was also initiated to help guide shipping to the ports of Baltimore, Hampton, and Norfolk and the Maryland Department of Natural Resources Eyes on the Bay program began to instrument docks and piers in Bay tributaries to track water quality. CBOS could not have been done without commitments to make substantial investments in infrastructure and operations, and without an integrated, cooperative effort from governmental (federal, state, and local), academic, and private-sector partners. This experience has also shown, through the success of coastal forecasting demonstration projects (under the auspices of the National Ocean Partnership Program), that such a coalition can produce forecast and analysis products which greatly enhance the ability to provide timely warnings and to adaptively manage marine resources.

The time has arrived when observing systems can produce real-time information on the coastal ocean that is valued by a variety of constituencies. With the advent of IOOS, new regional associations can not only accelerate the development of these systems, but also accelerate the production and delivery of relevant information to the end users. For the State of Maryland, this means fully participating in the Mid-Atlantic regional association. Through this process, present State activities in the observing system arena will be enhanced by leveraging the combined activities in the larger domain of the entire Bay and adjacent continental shelf.

As much as possible all dimensions of ecosystems need to be monitored. It should be noted that investments in observing systems should be a supplement not a substitute for continued investment in other monitoring approaches. The complexities of the environment cannot be simplified using broad scale monitoring systems without losing predictive capabilities.

It should also be noted that investment in monitoring needs to be balanced with the foremost priority of actually addressing problems. Though we have much to still learn about coastal and ocean ecosystems, there is much that can be done to address many of the problems that have been identified. Media accounts of Congress's reaction to the Preliminary Report mention the high priority of some members to invest \$1 billion in observing systems but no mention is made of the critical and immediate need to make on-the-ground improvements in the nation's marine ecosystems and our ability to sustainably manage them. The Commission's Final Report needs to urge Congress to strike an appropriate balance between investments in environmental assessment, planning, protection and restoration programs.

OCEAN INFRASTRUCTURE AND TECHNOLOGY DEVELOPMENT

The State of Maryland supports the recommendations of the Ocean Commission for enhancing ocean infrastructure and technology development. In particular, targeted support is required for the development of environmental sensors and advanced telecommunications needed for the full development of the Integrated Ocean Observing System. Maryland is well-placed to participate in advancing technology development as it is the home to the headquarters for the Alliance of Coastal Technologies, a collaboration among NOAA and eight research institutions, to advance the development, application and testing of new sensor technologies.

As the Commission points out, greater federal investments are required for the modernization of critical assets. States, including Maryland, have invested heavily in the permanent infrastructure (research laboratory buildings) needed to support ocean research, but find it increasingly difficult to support the capital costs of rapidly evolving instrumentation. Federal investment is needed to support institutions in keeping up with instrumentation advancements.

MODERNIZING OCEAN DATA AND INFORMATION SYSTEMS

The State of Maryland agrees with the recommendations of the Ocean Commission for modernizing the storage, management, distribution and analysis of overwhelming amounts of ocean and coastal data and information. Synthesis and interpretation of information for use in ecosystem-based management should be a central design requirement for the new systems and data centers that will be required.

Throughout Chapters 25 & 28, the recommendations identify various federal agencies that need to be involved in the increased coordination and communication roles. Recommendation 28-2 would direct NOAA and the Navy to "establish a joint ocean and coastal information management and communications program to generate products relevant to national, state, and local needs." Yet there is no direct inclusion of those user communities in developing those programs or protocols. None of the recommendations address involving local partners — regional, state, county, municipal and tribal

governments — who often are the ones making decisions using these data and analyses. Due to the fact that the agencies or sections collecting data are often not the ones using the data, Maryland has found that the issues and substantial expenses accompanying data processing and analysis are often given inadequate attention and that data is left unused or is much more expensive to develop due to the lack of consideration of the full range of users needs. Embarking on this new and much needed initiative without the direct involvement of all interested parties will not yield the success it might otherwise achieve. Regional, state, local, municipal and tribal governments should have the opportunity to be engaged in these efforts at the outset.

Sound science and computer system development principles and practices dictate that any new project begin with an assessment of user needs. The best means of accomplishing this is to have all the users involved at the outset. Including all interested parties in the beginning of any effort has several real and tangible benefits:

1. The resultant product — be it a system design or operation protocol — has the benefit of input from all the potential users of the system at the beginning of development. Modifications at later dates, often costly in time and money, can be avoided or minimized;
2. With user buy-in, the system or protocol has a better chance of success with success being defined as utilization. In the terms of state and local governments, this means improved decision making based on access to needed data; and
3. Federal agencies can demonstrate to the Office of Management and Budget (OMB) that there has been local participation in their efforts at the outset rather than scrambling to find local support of programs designed without local input.

FUNDING NEEDS AND POSSIBLE SOURCES

It is encouraging to see the strong statement in the Preliminary Report that states cannot take on more unfunded federal mandates. For the many visionary activities and projects set forth herein, the Report provides a realistic funding mechanism in the Ocean Policy Trust Fund. From the OCS oil and gas leasing and development income, the funds identified will pay for the estimated costs of the report's recommendations. This is a most unusual situation for a proposed federal activity, provided the funds are not tied to burdensome requirements that do not advance more efficient governance and enhanced local decision-making. It is also encouraging that the Commission has recommended distributing a portion of the OCS receipts to coastal states that do not have mineral activities off their shores.

Previous revenue sharing proposals have proposed a two-tiered approach with producing states receiving a separate and larger portion of revenues under the first tier and all coastal states receiving a portion according to the allocation formula developed for state grants under the *Coastal Zone Management Act*. A third tier should be added to provide

additional funds to those states such as Maryland which serve as receiving and distribution points for energy facilities.



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June 4, 2004

Admiral James Watkins, USN (Ret.), Chair
U.S. Commission on Ocean Policy
1120 20th Street, NW
Suite 200 North
Washington, DC 20036

Dear Admiral Watkins:

Thank you for taking the time last month to meet with me regarding the draft report that was recently released by the U.S. Commission on Ocean Policy. I have reviewed the details of the draft report and want to commend you and the Commission for putting forward a comprehensive, thoughtful approach to managing our ocean resources.

There is a great deal of useful information in the report and the recommendations, taken as a whole, clearly map out a new strategy for federal, regional, and state ocean resource management that I strongly support. I believe we are at a critical juncture in ocean management and must take decisive action by moving forward expeditiously on implementing the recommendations in your report. The importance of our ocean and coastal resources as a driving ecological force on this planet and as an economic engine generating \$800 billion in trade, services, and products deserves an immediate and sustained commitment from the federal government and the nation's states and territories.

Although I have included some recommendations to the draft report that I hope the Commission will carefully consider, it is imperative that we not lose the current momentum on this issue. Just as I have directed my Administration to implement the recommendations of our own Massachusetts Ocean Management Task Force, I hope the President and Congress will have the same trust in your hard work, insightful conclusions, and the inclusive process upon which your recommendations are based to implement the Commission's recommendations.

I also commend the Commission for the scope and detail of its report. Over the last two years, Massachusetts has worked closely with the Coastal States Organization (CSO) in providing information and recommendations to the Commission on, in particular, ocean governance, the importance of states in managing ocean resources with federal agencies, and regional, ecosystem-based management approaches. We discussed each of these issues at our meeting last month, and I continue to support CSO's position on the overall report, including passage of a strengthened Coastal Zone Management Act. But beyond our borders and immediate interests here in Massachusetts, the Commission has done an excellent job highlighting key coastal and ocean resource issues, such as recognizing America's fourth coast along the Great Lakes and the importance of coral reefs in many southern states, Hawaii, and the island territories. Yours is very much a national report that deserves to be taken seriously.

In Massachusetts, my Administration launched its Ocean Management Initiative over a year ago with the creation of an Ocean Management Task Force, which released its report, *Waves of Change*, in March of this year. Both the Massachusetts report and the Commission's draft report cover many of the same issues and complement each other. With several new types of coastal and offshore developments proposed along the Massachusetts coast, now is the time for action.

The most prominent of these proposals is an offshore wind farm, Cape Wind, whose proponents have identified a project area in federal waters between the main landmass of the Commonwealth and its offshore islands of Nantucket and Martha's Vineyard. Even though I am a strong supporter of renewable energy generally and wind power in particular, I have opposed this proposed 130-turbine project because I believe it is planned in an area that is incompatible with such large-scale industrial development. One of the most productive locations for wind power in the Northeast is offshore where the wind is strong and the waters are shallow; we also have significant potential for deepwater offshore wind farms. However, the Cape Wind project has revealed significant gaps in state and federal authority to permit offshore uses and lease ocean space. Federal law allows projects to be sited on a "first-come, first-serve" basis rather than through competitive review of proposals, fails to provide for leases to govern wind power development or for payment of lease fees or royalties by developers, and does not require consultation with the Governors of affected states, as is required for extractive activities. Federal law also fails to assign an appropriate role to the nation's leading oceans agency, the National Oceanic and Atmospheric Administration (NOAA), and does not enable NOAA to direct wind power development to environmentally sound areas. There is an immediate need for federal and state government to take public trust responsibilities for the ocean seriously. Your report, taken in tandem with the recommendations in *Waves of Change*, will do much to clarify a process that is heavily flawed.

With the *Waves of Change* recommendations, Massachusetts has taken preliminary steps toward more effective governance of state waters. We have already been in contact with James Connaughton, Chair of the Council on Environmental Quality, and NOAA

Administrator Vice Admiral Conrad C. Lautenbacher, Jr., regarding the possible application of these recommendations elsewhere in state and federal waters. Specifically, given that federal legislation to establish regional councils may take time to pass, ecosystem-based management approaches could be advanced by developing memorandum of understanding between federal agencies and states for state waters and adjacent federal waters, in much the same way that adjacent state and federal wildlife areas on land are often managed. This type of approach is consistent with the Commission's call for regional councils and ecosystem-based management, and may in fact help promote a national system of these councils. Supported by a vibrant marine technology industry and world-class science and research facilities, such as the Woods Hole Oceanographic Institute, the Marine Biological Laboratory (MBL), the Massachusetts Marine Fisheries Institute/University of Massachusetts, and the Massachusetts Institute of Technology, the Commonwealth has the political will, public interest, and the intellectual capital to undertake a sustained effort to improve ocean management. I would appreciate any support you may provide in advancing Massachusetts and this region as a pilot ocean governance program.

The key points I want to convey are to: (1) move forward with implementing your recommendations; (2) include states as full partners in this effort; and (3) consider Massachusetts as the first pilot on ocean management and governance.

There are specific issues covered in the Commission's report for which I would like to offer comments. These suggestions should be viewed as an effort to add to an already impressive report.

Federal Leadership in Conjunction with the States

I support strong leadership on coastal and ocean issues at the federal level through NOAA and the proposed National Ocean Council and a strong, active role for states; and the two are not incompatible. Having equal, robust, focused partners at the state, regional, and federal levels enhance our ability as a nation to manage our oceans under a consistent framework that is based on regional, ecosystem needs.

At the Commission's hearing in Boston on July 23, 2002, Massachusetts offered testimony that strongly supported designating NOAA as the lead federal planning and management agency for ocean and coastal resources. I believe having NOAA conduct planning and management activities in federal waters would help prevent situations where the state's role is diminished, such as recently happened when the Minerals Management Service removed states without offshore oil and gas production from membership on the Outer Continental Shelf Policy Committee - a clear step in the wrong direction. In addition, I believe the proposed National Ocean Council (NOC) can serve the very useful function of coordinating programs among agencies.

While I generally support consolidating related programs, I have some concern about moving NOAA's Section 6217 coastal nonpoint pollution program to the U.S.

Environmental Protection Agency (EPA) or EPA's National Estuary Program to NOAA. Both of these programs have different and complementary strengths, and I would anticipate that the NOC can help further coordination without limiting policy options available to states.

My final point under this topic may come as no surprise to you or the Commission members. While states should be equal and active partners in ocean and coastal management, I do not support unfunded federal mandates. I appreciate the Commission's careful estimates of the full cost of implementing its recommendations, funded through the use of existing Outer Continental Shelf oil and gas revenues, and I believe Congress and the President should examine this recommendation closely. The need for effective governance structures and additional science and research is correctly identified by the Commission and should be adequately funded.

Regional, Ecosystem-based Management Approaches

I strongly support the Commission's focus on regional, ecosystem-based management and governance approaches. For 15 years, Massachusetts has been an active participant in the Gulf of Maine Council on the Marine Environment, a model of voluntary regional and international natural resource cooperation. New initiatives, such as the Gulf of Maine Mapping Initiative (GOMMI), the Gulf of Maine Data Partnership, the Gulf of Maine Habitat Restoration Program, and Gulf of Maine Ocean Observing System (GoMOOS) – itself a national leader in ocean observing systems – have sprung from the work of the Council.

As effective as the Gulf of Maine Council is in initiating and coordinating activities on both sides of the Hague Line, additional, more formalized approaches to regional ecosystem-based management are needed, as the Commission has clearly recognized. What is not as clear in the draft report is the need to encourage states that have not looked at ocean and coastal management from a regional perspective to participate in multi-state or international associations. I recommend that the Commission clearly articulate specific incentives that the National Ocean Council, the EPA, and NOAA should provide to ensure effective regional, ecosystem-based management.

I believe that the Gulf of Maine Council, with its long history of regional collaboration and data collection, is extremely well positioned to advance the regional council model recommended by the Commission. Combined with the ocean management strategy we are pursuing in Massachusetts, this region offers the best opportunity to promote ecosystem-based management on a regional and international basis.

Fisheries Management

The Commonwealth has long had one of the most valuable commercial fishing industries in the nation, and our state's recreational fishing industry has expanded greatly over the last ten years to become one of the nation's leading fishing regions. Our proximity to the

Gulf of Maine and Georges Bank allows the state to be a major force in fisheries, and other geographic attributes attract much of the marine industrial activity that makes Massachusetts coastal waters dynamic.

I appreciate the attention the Commission has brought to the pressing issues associated with managing marine fisheries. The report was, in general, supportive of participatory governance, better science, independent review of the science, better coordination among agencies, and increased funding. The need to strengthen and develop working partnerships has been recognized as a priority by ocean leaders in Massachusetts and led to the creation of the newly formed Massachusetts Marine Fisheries Institute (MFI), a partnership involving the state's marine fisheries agency and University system. I believe that the MFI could serve as a commendable model for the rest of the nation.

I concur with the Commission recommendations on ensuring that: (1) fisheries research is relevant; (2) Regional Fisheries Management Council members receive adequate training; (3) steps are taken to reduce overcapitalization in the nation's fisheries; (4) joint enforcement agreements are strengthened, providing more enforcement resources and encouraging the use of modern technology to improve compliance with regulations; and (5) the need to focus more on ecosystem-based management of marine resources.

Areas where I believe that more discussion is necessary include: (1) the approval of Scientific and Statistical Committee (SSC) members by the NOAA Administrator; (2) the determination of allowable biological catch by SSCs rather than by the Councils; and (3) the use of default measures to ensure timely development of fishery management plans. In addition, more information is needed on implementing ecosystem-based fisheries management at a regional level, as well as the recommendations concerning essential fish habitat, before we can fully endorse these fisheries management recommendations.

Marine Mammals

I support the Commission's recommendations for strengthening the Marine Mammal Protection Act. The Massachusetts coast supports significant, often seasonal populations of whales, including the endangered North Atlantic Right Whale. North Atlantic Right Whales are the most critically endangered mammals in our waters and one of the most endangered species in the world. Massachusetts agencies have worked closely with nonprofit organizations (such as the Center for Coastal Studies), lobstermen, and shippers to develop strategies to reduce harm to these whales. I urge the Commission to support these constructive partnerships and other efforts to increase cetacean populations.

Invasive Species

Invasive marine species are responsible for incalculable ecological and economic costs to ocean resources and activities. In Massachusetts, the introduction of the green crab and Asian Shore crab have contributed to declines in soft shell clam populations, tunicates have recently covered valuable scallop grounds on Georges Bank, and the invasive

seaweed *Codium* has appeared on Cape Cod bayside beaches in recent summers causing beach closures and tourism losses. I support the Commission's recommendation for mandatory ballast water discharge standards and encourage more proactive steps regarding the regulation and enforcement of intentional introductions of invasive species. States and regional aquatic nuisance species panels are best positioned to respond to invasions when they are first identified, are at the forefront of rapid response planning, and require adequate funding to protect oceans and coastal areas from future invasions.

Aquaculture

For more than a decade, the Commonwealth has worked toward a streamlined regulatory aquaculture process and engaged in research and industry assistance activities that promote Massachusetts aquaculture. We recognize the great potential of this industry to provide employment opportunities and to enhance our fisheries resources and harvesting capacity. To that end, I concur with the Commission's suite of recommendations aimed at expanding this industry and recommend emphasis be placed on expansion of research and development opportunities that partner state and federal agencies with industry and work toward the establishment of economically and environmentally feasible aquaculture enterprises.

Coastal and Marine Habitat Conservation and Restoration

The protection of coastal and marine habitats is of paramount importance to a heavily developed state like Massachusetts. Every day we lose coastal habitat to residential, commercial and even recreational developments. In addition, lesser-known subtidal habitats are increasingly impacted and occasionally lost to construction of infrastructure projects and other commercial, industrial, and recreational activities.

I support the Commission's call for dedicated funds for the coastal and estuarine land conservation program but urge you to consider a more ambitious minimum funding level. Coastal properties are precious ecologically as well as economically, and \$60 million will allow for only minimal acquisition of these truly endangered coastal lands.

I further support the call for strengthened coastal and ocean habitat conservation and restoration. In Massachusetts, we have made great strides in restoring coastal wetlands and continue to expand our efforts. We are now developing effective ways of restoring valuable subtidal habitats, such as eelgrass beds. As successful as many of our restoration efforts have been, it is always better to avoid damaging or losing habitats than having to expend considerable expense in attempting to restore complex natural environments. I urge the Commission to focus state and federal resources on the identification of valuable coastal habitats through coordinated mapping, monitoring, development of strong management planning, and, as a last resort, restoration of lost or degraded habitats. Improving NOAA Fisheries' ability to manage essential fish habitat is a critical component of this effort, as is a commitment to utilizing marine protected areas as a potential marine conservation tool.

Water Quality

Massachusetts' success in cleaning up Boston Harbor over the past two decades is a huge accomplishment, but we continue to address a range of marine water quality issues throughout the Commonwealth. Massachusetts lacks marine monitoring for most areas outside of Boston Harbor, and as a result, we have limited information on the health of those marine systems. Within Boston Harbor, the monitoring requirements in EPA's National Pollution Discharge Elimination System (NPDES) permit for the Massachusetts Water Resources Authority outfall laid the groundwork for the extensive monitoring that we have today. Coastal water quality would greatly benefit from similar types of monitoring efforts to ensure that water quality standards are being maintained.

Another significant water quality challenge facing coastal states is non-point source pollution, particularly stormwater pollution. One of Massachusetts' particular concerns is nitrogen loading in our fragile bays and estuaries. I support the Commission's call for increased attention to the connection between land use and stormwater pollution to our waterways. In Massachusetts, we are managing stormwater on several fronts, most notably through EPA's Section 319 Clean Water Act program and NOAA's coastal non-point pollution program.

Coastal Hazards/Flood Zone Mapping

As Governor of a state with over 1,500 miles of coastline vulnerable to the damaging impacts of northeasters and hurricanes, I strongly support the Commission's recommendations that would serve to discourage development in high hazard coastal areas. While Massachusetts, like other states, uses a range of tools to manage such development and minimize its economic and environmental costs, the Commission has correctly identified that improving the collocation and utility of hazards-related data would most effectively support our efforts.

Massachusetts is currently working with partners, such as the Federal Emergency Management Agency, to develop technical resources that will support better decision-making in the future. The lure of coastal property is so strong that, without contemporary and regularly updated mapping of coastal flood zones, we will continue to see new houses built on shifting sands. Over 60% of flood maps in Massachusetts are over 20 years old. In many cases, this fact means that current maps dramatically under-represent areas that are actually subject to storm damage. The Commission's recommendations recognize that the lack of accurate maps will likely result in an underestimation of the risks from natural hazards and hinder efforts to effectively manage the impacts of development in hazard-prone areas. Homeowners in coastal towns are increasingly having trouble buying homeowner's coverage because insurance companies find it difficult to quantify the risks due to outdated floodplain mapping.

Coupled with increased financial and technical assistance for the development and implementation of hazard mitigation plans and measures to establish clear disincentives to building in coastal high-hazard areas, the Commission's work provides a strong, complementary basis for local and state hazard management efforts.

Ports and Shipping

Recommendations to support marine commerce and transportation resonate in Massachusetts, where we have taken an active role in addressing many of the issues identified by the Commission. In 1996, the Seaport Bond Bill was enacted to provide planning, technical assistance, and financial support to maintain and improve the Commonwealth's marine infrastructure. Lieutenant Governor Kerry Healey is the current chair of the Seaport Advisory Council, which works closely with local managers of our ports and harbors, marine operators, and state agencies in the implementation of such bond-supported projects as the redevelopment of the State Pier in Fall River, dredging Boston Harbor to support deep water container ships, and the reconstruction of commercial fishing facilities in Gloucester.

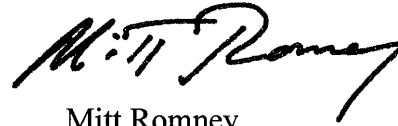
In support of the nation's vital interest in marine commerce and the Commission's related recommendations, and in recognition of the fact that most of the tangible products of the global economy are distributed over ocean and coastal waters, issues that impact the movement of domestic cargo, including the Jones Act, tariff laws, and the harbor maintenance tax, should be carefully considered. I also recommend steps be taken to secure federal funding for additional port security (particularly for local and state agencies responsible for managing our ports), ocean highways, and shipping terminal infrastructure.

Most recently, short sea shipping – the movement of goods by water between major and lesser ports – has emerged as a growing industry along the Eastern Seaboard, with significant economic and environmental benefits. By going 'back to the future' and replicating with modern technology the days when the coastal schooner fleet formed the backbone of industrial transportation, we can reduce transportation costs to business and industry, traffic congestion on our roadways, and emissions to the air, and revitalize underutilized urban port areas. Massachusetts is well situated to lead this effort with large and small ports and a high concentration of maritime industrial and technological companies. We are also home to the Massachusetts Maritime Academy, a leading educational institution in developing new approaches to shipping and seamanship and training tomorrow's workforce.

A reliable and well-developed marine transportation system will allow Massachusetts companies to efficiently reach their global trading partners. It is imperative that the federal government continue in its role of funding the dredging of federal channels and providing efficient intermodal connections to allow regional economies to grow.

Once again, I wish to congratulate the Commission on its excellent work and you personally for guiding this process to such a successful conclusion. Please do not hesitate to contact me, or my staff, if we may clarify these comments or otherwise assist the Commission during its final deliberations.

Sincerely,

A handwritten signature in black ink that reads "Mitt Romney". The signature is written in a cursive, flowing style with a prominent "M" and "R".

Mitt Romney

cc: Massachusetts Congressional Delegation
Ellen Roy Herzfelder, EOE
Dr. Susan F. Tierney, Analysis Group, Inc.
Tony MacDonald, Coastal States Organization



STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

JENNIFER M. GRANHOLM
GOVERNOR

JOHN D. CHERRY, JR.
LT. GOVERNOR

June 4, 2004

Public Comment on Preliminary Report
U.S. Commission on Ocean Policy
1120 20th Street, NW
Suite 200 North
Washington, D.C. 20036

VIA EMAIL: comments@oceancommission.gov

RE: Preliminary Report of the U.S. Commission on Ocean Policy - Governor's Draft,
Washington, D.C., April 2004

Dear Commissioners:

As Governor of the State of Michigan, I would like to thank the United States Commission on Ocean Policy (Commission) for identifying the challenges we face in improving and sustaining our ocean and coastal areas. These vast waters set the boundaries of our great nation and reach into its very heartland through the Great Lakes, the greatest freshwater seas in the world. The Commission has conducted an exhaustive inventory of the riches our coastal resources bring to America. From their analysis of the problems that face us, they have made approximately 200 recommendations to guide our states and the nation, as we confront the problems that have too long been ignored. I commend the Commission for bringing to the forefront the need for better management and protection of these vast resources.

The document presents a plan that represents a tremendous step forward in recognizing the importance of ocean policy and management with implications also noted for the Great Lakes. The vision for the future using cross-cutting themes identified as 1) creation of a new national ocean policy framework to improve decision-making; 2) strengthening science and making high quality information available to decision makers; and 3) enhancing ocean education and promoting a stewardship ethic are sound pillars upon which to frame specific recommendations. Presumably these three areas have been identified as fundamental to the "failing" of current ocean policy and management in the United States.

The true measure of the Commission's success will be how we act on its recommendations to improve the quality of life in coastal communities, support healthy aquatic and shoreline habitats, ensure the nation's long term economic and ecological well being, and affect positive outcomes on the ground. Toward that end, I offer the following comments and concerns:

Inclusion of the Great Lakes

As Governor of the "Great Lake State," I strongly suggest an important amendment to the report. Recognized under federal law as the nation's "4th Seacoast", the Great Lakes shoreline should be on an equal footing with the other coasts. Michigan's coastline alone equals the length of the Atlantic Seaboard from Maine to Florida. Wherever applicable, "Great Lakes" should be added after "oceans" when policy or management recommendations are applicable to both. In addition, throughout the report, there should be explicit documentation of the critical economic and ecological values of the Great Lakes Region and the necessity of maintaining and improving the biological, chemical and aesthetic integrity of the Great Lakes

National Ocean Policy Framework

The Commission recommends the development of a National Ocean Council (NOC) and a Presidential Council of Advisors on Ocean Policy within the Executive Office of the President. (Rec. 4-2) While Michigan strongly supports mechanisms that will coordinate the myriad of federal agency programs affecting the Great Lakes, ocean, and coasts, care should be taken to avoid creation of a new coastal bureaucracy. Creating a new bureaucracy has the potential to undermine existing organizational structures and relations. Clearly the NOC'S actions should not hinder appropriate lead agencies with statutory responsibility to implement and enforce their programs.

The Report should be amended to clarify throughout that a primary charge of the NOC is to coordinate and support implementation of coastal, Great Lakes, and ocean management plans developed at the local, state and regional level, consistent with national goals. Such plans and policies are best developed from the "bottom up" to respond to the diverse needs of the different states and regions.

The NOC should coordinate coastal and ocean functions within each federal agency (among federal agencies?) to assure they compliment and support each other. Innovation, improved government efficiency, and responsiveness to state and public concerns can benefit from the integration of the many federal coastal and ocean program efforts to improve support for ecosystem management and sustainable development.

I cautiously support the creation of Regional Ocean Councils (Rec. 5-2) to promote the concepts of ecosystem management, provide coordination mechanisms, and set regional goals. The Regional Councils can play a critical role in the collection and recording of scientific data, maintaining water quality agreements, fisheries management, and the management and eradication of aquatic nuisance species. While I support the role of Regional Councils in achieving these goals, the states must retain authority over water use, diversions of Great Lakes waters and management of coastal resources.

If Regional Councils are formed, they must be guided to ensure that their work supports and is not duplicative of other existing regional efforts (e.g. Regional Fisheries Commissions, Gulf of Maine Council, National Estuary Programs, etc.) I believe that the mechanism for consensus and collaborative Great Lakes management already exists through the Great Lakes Fishery Commission and believe that an additional commission would serve no real purpose in advancing the status of resource management in the Great Lakes and may otherwise redirect scarce resources.

Michigan supports the Commission's recommendation to pass an organic act that codifies the establishment and missions of the National Oceanic Administration (NOAA). (Rec. 7-1) The act should ensure that the NOAA's structure is consistent with the principles of ecosystem-management. The location of the NOAA within the Department of Commerce should be reconsidered since this makes consideration of Great Lakes, ocean and coastal program policy less integrated with other federal environmental, natural resource and science programs.

Reauthorization of the Coastal Zone Management Act

The Coastal Zone Management Act (CZMA) of 1972, as amended, has been an important mechanism for establishing ocean, Great Lakes, and coastal management policies and programs. Several recommendations in the report can be accomplished through an enhanced CZMA, in lieu of creating new, duplicative programs. Therefore, Michigan strongly supports the Commission's recommendation to reauthorize the CZMA. (Rec. 9-1)

The CZMA is an important vehicle for implementing the wide range of Commission recommendations because it was crafted to integrate federal, state, and local policies and issues. A reauthorized CZMA should retain its focus on partnerships and community assistance on a watershed basis. The CZMA must continue to provide states the flexibility to develop and implement coastal programs that meet federal goals in ways that best fit each state's unique combinations of ecology, geography, and politics. The federal consistency provisions of the CZMA must also be maintained so the states can be assured that federal actions will comply with state and local policies.

Michigan's base funding under the CZMA, the primary funding source for coastal management, has been capped for more than a decade at \$2 million. Each year more than half of Michigan's Coastal Zone Management (CZM) appropriation is passed through as grants to coastal communities for projects that improve land use planning, public access and recreation, brownfield and waterfront redevelopment, and coastal resource protection. Given the wide-ranging goals of the CZMA, \$2 million is no longer adequate to continue these efforts.

Michigan supports the Commission's recommendations for periodic, comprehensive resource assessments, to establish baseline data and measure performance. (Rec. 9-1) Current funding levels under the CZMA are not adequate to fund these activities which carry significant costs. If CZM funding is based upon performance, states should receive increased funding to collect necessary data and establish measurable goals. Care should be given that state CZM programs are only evaluated for their ability to achieve goals within their scope of influence. Performance measures must be realistic and reflect the responsibilities of the state CZM programs. Performance-based funding for Great Lakes, coastal and ocean management programs must also take into account the response time for biological systems.

Coastal Habitat Restoration

Michigan supports the Commission's recommendation to Congress to amend the CZMA to incorporate the Coastal and Estuarine Land Conservation Program (CELCP). (Rec. 11-1) Michigan's CZM Program is currently working with other state agencies and stakeholder groups to develop our CELCP. I encourage Congress to provide dedicated funding for CELCP at a level adequate for states to implement habitat restoration priorities to be modeled on the successful Great Lakes Coastal Restoration Grants. In 2002, the Great Lakes states received \$30 million to administer the Great Lakes Restoration Grants. Michigan's appropriation of \$7 million leveraged more than \$16 million in matching state and local funds, acquired and protected 1,580 acres of land, and restored another 539 acres of valuable coastal habitats.

In developing national goals for ocean, Great Lakes, and coastal habitat conservation and restoration efforts, the NOC should build upon existing statutes and guidelines to ensure that federal activities are coordinated. (Rec. 11-2) Regional habitat conservation plans should incorporate existing state plans. Likewise, the National Habitat Restoration Strategy should be based on state and regional goals. Any process for determining regional habitat conservation and restoration needs, and goals should include state fish and wildlife conservation, and CZM programs.

Science, Research and Education

Appropriately, the report highlights the needs for increased research, outreach and education in many areas. (Rec. 8-1, 25-2) One message that is most disturbingly overlooked is the need for a long-term approach to aquatic and coastal resource management. There is a time lag in human activities and biological systems, and thus any rehabilitative action implemented today will require several years to realize biological benefits. The amount of time for response will depend on the magnitude of the current degradation and the reliance on climatic factors for producing results. The United States can continue to increase funding to research, coordination, etc. but unless decision makers (particularly elected officials) are committed to recognizing the tradeoffs between short-term decisions that are politically popular and the decisions that are required for long-term sustainability of coastal

and aquatic resources, there will be a continued reluctance to make sustainable decisions rather than those that are expediently popular. Thus perhaps the only way to overcome this continued challenge in resource management is to provide education to stakeholders to gain full awareness of the consequences from choices that are made for social and political reasons (and thus the ecosystem approach will be instrumental).

Rather than development of another national level committee for outreach and education, I strongly recommend a grass-roots approach to this effort through the full use of NOAA's Sea Grant College Program. The Sea Grant Program, with an emphasis on outreach and education with the stakeholder groups and state and local agencies, combined with an adequate level of funding, has the ability to reach stakeholders through objective approaches and are not often associated with the "baggage" of a federal or state agency. I furthermore suggest that a review of this program to determine their needs for achieving this outreach effort is conducted and that funding is directed to this program rather than creating a new national committee for education and outreach.

Michigan supports continued development of and funding for regional Integrated Ocean and Great Lakes Observing Systems (IOOS and GLOS). (Rec. 26, 1-11) Funding for IOOS and GLOS should come from various federal sources to increase agency participation and coordination of the systems. In planning for national and regional IOOS, the NOAA should have significant representation from the user communities, and place an emphasis on transferring the IOOS information to coastal and aquatic decision-makers in usable and accessible forms. Further, the NOAA should seek to build state and local user capacity by supporting necessary tools such as training courses and technology transfer, as well as software and hardware. I encourage an increased federal commitment to make data and information available to state and community managers, and to support technical assistance and stronger links between the management and scientific community.

Standardizing the national reporting system among states and across regions will enable states to uniformly measure the value of our ocean, Great Lakes, and coastal resources. This will provide the information needed to make the most effective, efficient, and coordinated management decisions.

In determining appropriation levels care should be taken to mend disparities in funding for mapping between the Great Lakes and ocean communities. For example, current funding from the National Science Foundation allocates \$280 million for oceans and \$1 million for all "large lakes". This imbalance requires immediate correction.

Coastal Pollution and Watersheds

The protection of Michigan's surface and ground waters is a key priority of my administration. The Great Lakes fuel our economy, and help define our character, culture and values. I encourage the Commission to advance beyond the traditional focus on water quality problems that drive watershed management efforts and support and fund programs that encourage a comprehensive approach involving land use management and pollution

prevention. In this same vein, I urge increased support for integrated coastal, watershed, and shoreline management. Coastal management and watershed management programs should be strengthened and better integrated. It is important that the Clean Water Act (CWA) be reauthorized, and funding continue to be provided for grants to states to implement coastal nonpoint pollution control programs, and that the NOAA, the USEPA, and the states continue to work cooperatively to reduce further impairment and restore existing degraded watersheds.

I support amending the CWA, CZMA, and other federal laws to provide better financial, technical, and institutional support for watershed initiatives. To the extent possible, the NOC and regions should rely on existing state programs, as well as regional and local watershed councils.

Nonpoint source pollution, particularly sedimentation, continues to be an outstanding issue with regards to multiple habitats including instream, coastal shoreline, and lake and reef habitat. Michigan strongly supports increased coordination of the U.S. Department of Agriculture conservation programs with other programs aimed at reducing nonpoint source pollution (Rec 14-7, p 165; 14-9 p 168). Furthermore, increased efforts for outreach programs and education to local municipalities and land use decision makers is needed to allow for more informed decisions and their consequences when altering the landscape (Rec 14-11, p 170). [Include parallel between "dead zones" in Lake Erie and Gulf of Mexico?]

The Section 319 Program administered by the USEPA and the 6217 Coastal Nonpoint Source Program Administered by NOAA play significant roles in reducing nonpoint source pollution. The recommendation to merge the 6217 program and 319 programs within the USEPA is a concern (Rec. 14-9). Each of these programs has its own strengths, which when used together, provides an effective means for managing and reducing pollution from diffuse sources. Funding under the 319 program is targeted solely toward implementing approved watershed management plans. The level of funding available through the 319 program is a meaningful incentive for communities to develop watershed plans. The strength of the Section 6217 program lies in its promotion of better land use management, and the flexibility it grants states to target coastal priorities.

Michigan supports controlling nonpoint source pollution through the use of a wide range of tools that includes working with communities to develop watershed plans, improving local land use planning and zoning, and implementing best management practices. Merging the two programs will create a disincentive for state water quality and coastal managers to coordinate their activities and result in a loss of flexibility to the states. Merging the two programs also does not resolve challenges to the state 6217 program development, administration or implementation. Those challenges result from a lack of coordination between EPA and NOAA and inadequate funding. Congress should continue funding of the Section 319 program and also provide adequate funds to implement the 6217 nonpoint source pollution program,

I urge the federal government to reinforce state efforts by assuring consistency of federal infrastructure investment with ecosystem-based and state growth management plans. Federal infrastructure and incentive programs must conform to state and regional ecosystem plans, and be consistent with state coastal, watershed, and growth management plans.

The Commission recommends that the NOC focus nonpoint source pollution control efforts in impaired coastal watersheds as a national goal, and coordinate all federal nonpoint pollution programs to meet that objective (Rec. 14-8). However, I caution that an exclusive focus on water quality-impaired coastal watersheds overlooks the importance and value of pollution prevention for high quality watersheds, such as those that are prevalent in Michigan. Pollution prevention is far less expensive than remediation over the long term.

Michigan is also very concerned about the increasing number of pollutants and toxics entering our Great Lakes through point sources. I encourage strengthening and increasing funding for the National Pollution Discharge Elimination System and State Revolving Loan Fund Programs administered by the USEPA. In addition, I support the Commissions' recommendations for advanced nutrient removal for wastewater treatment plant discharges, (Rec. 14-1), regulatory controls on confined animal feeding operations, (14-3), increased technical and financial assistance to help communities improve the permitting design, installation, operation and maintenance of septic systems and other on-site treatment facilities (Rec. 14-2) and trading credits for nutrients and sediments as a water pollution management tool (Rec. 14-5). These goals strongly reflect my priorities for protecting Great Lakes water quality and support the legislative and policy actions I have proposed for Michigan.

Michigan is also very much concerned about the high level of toxins entering our Great Lakes through atmospheric deposition. As the Commission reports, atmospheric deposition is responsible for as much as 90% of some toxic chemicals entering the Great Lakes. I support the recommendation (R14-14) that the USEPA, states and watershed groups explore regional approaches for managing atmospheric deposition, particularly when it affects water bodies in states far from the source.

Given the human health risks associated with mercury contamination, particularly for pregnant women and children, I strongly support the Commission's finding that reducing mercury emissions will require immediate international action (Rec. 14-14). I urge Congress and the President to make this a high priority.

The Great Lakes Water Quality Agreement between Canada and United States directs each state and province to develop Remedial Action Plans (RAPs) to restore beneficial uses of the water and protect ecosystem health. The United States and Canada have designated the most degraded areas of the Great Lakes as "Areas of Concern" and

have agreed that restoration of these areas be given priority attention. Michigan encourages Congress to authorize adequate funding to distribute to the Great Lakes States via program grants for RAPs and Lakewide Management Plans (LaMPs); including full funding for Great Lakes Legacy Act implementation.

Managing Sediments and Shorelines

Michigan strongly supports the recommendation for the U.S. Army Corps of Engineers (USCOE) to ensure that its selection of the least-cost disposal option for dredging projects reflects a more accurate accounting of the full range of economic and environmental costs and benefits for options that reuse dredged materials. (Rec. 12-2) This is a critical issue in Michigan. While Congress considers funding of the Great Lakes Legacy Act to pay for dredging and removal of contaminated sediments from the Great Lakes, the USCOE in fulfilling its responsibility to maintain the navigability has formally proposed to dump contaminated dredge materials into the open waters of the Great Lakes. In May of 2004, I signed an Executive Directive prohibiting state agencies from approving the open water disposal of contaminated dredge materials in Michigan Waters.

Michigan agrees that the USACE, MPAA, USEPA and the U.S. Geological Survey should develop a strategy for enhanced sediment management and improved assessment, monitoring, and research to better understand how contaminated sediment is created and transported, and to develop technologies for better prevention, safer dredging of such sediment, and more effective treatment after it is recovered. (Rec. 12-4)

Aquatic Nuisance Species

Michigan's Great Lakes waters, wetlands, and coastal areas host a wide array of fish and wildlife. However, the Great Lakes are also home to a growing number of unwelcome non-indigenous, invasive species, and Michigan is acutely aware of the havoc aquatic nuisance species wreak on the environment, economy, and quality of life. I strongly support efforts to control current problems and prevent introductions of additional aquatic nuisances

The costs for managing current species within the system are large and those species that are not manageable (such as the round goby, spiny water flea, zebra mussel, etc.) pose significant challenges to the food web structure. In addition to causing billions of dollars in direct economic harm, invasive species result in ever-changing, destabilizing lake dynamics, posing formidable challenges in establishing the biological impacts of the species and then analyzing overall ecosystem responses. Much of this scientific process of investigation takes decades and poses continuous threats to plans for rehabilitation and recovery of Great Lakes aquatic resources. I suggest strengthening the language in Chapter 17 for increased collaboration with the shipping industry as working partners in addressing ballast water management. Secondly, increased international cooperation must

occur in the Great Lakes region to fully realize the benefits of aquatic invasive species management. Lastly, the report should recognize the National Aquatic Invasive Species Act (NAISA) that is currently pending. Passage of this Act would address many of the issues outlined in this section and thus the report should call for passage, implementation, and full funding of NAISA.

Michigan believes that national ballast water management standards should apply to all ships, including those that declare they have no ballast on board. Further, the NOAA periodically reviews ballast water treatment research and consequently, is well positioned to commission the recommended scientific review of ballast water management research and demonstration projects rather than the NOC (Rec. 17-2). This review should be expanded to address the development of standards for evaluating ballast water treatment and management practices. The standards development should be flexible to accommodate emerging technologies.

Ballast water is not the only vehicle for aquatic nuisance species introductions, and Michigan supports the recommendation to control other pathways to introduction. I propose a measure that goes beyond the Commission's recommendations, and suggest establishment of national lists of species that present a high risk of entering U.S. waters, and species that should be banned from the transport or possession.

The Commission proposes a number of responsibilities related to the aquatic nuisance species for the NOC. The Aquatic Nuisance Species Task Force, established under the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, is currently responsible for coordinating public outreach and education. This responsibility should remain with the task force. Additionally, the task force is the appropriate agency for coordinating and reviewing state and federal plans and programs related to aquatic nuisance management, monitoring, and research. Michigan supports the recommendation for international cooperation to control the spread of non-native aquatic species.

Sustainable Fisheries

The Commission has done an admirable job of addressing Great Lakes concerns throughout most of the findings and recommendations, with one exception. There is a heavy emphasis on "fixing" the management of marine fisheries with almost exclusive focus on those under the National Marine Fisheries jurisdiction. It is not clear what role a new Great Lakes Regional Commission would have in this context.

(Rec 19-11). While we do not maintain Regional Fishery Management Councils, the Great Lakes state, tribal, provincial, and federal agencies operate through *A Joint Strategic Plan for Management of Great Lakes Fisheries* and this is coordinated through the Great Lakes Fishery Commission (GLFC). The GLFC is a tremendously useful body for coordinating consensus based management in the Great Lakes and will soon be celebrating its 50th year of existence. The approach is exemplary and focuses on each lake basin as an

ecosystem for research and management and then combines management agency representation for all the basins as a Council of Great Lakes management authority.

I view favorably the recommendations “to enhance opportunities for state, territorial, tribal, and local entities to develop regional goals and priorities, improve responses to regional issues, and improve coordination.” The report calls for increased effort of ecosystem management to better link policy incorporating fisheries, water quality, habitat, and other interconnected areas. Michigan is pleased to point out that the Department of Natural Resources is striving to work within an ecosystem context. Initiated under a CZM grant from NOAA, the Michigan Department of Natural Resources (MDNR) has developed EcoUnit Teams organized around significant ecosystem landscapes in the states. Coordination among the natural resource management agencies is the focus of these teams that are currently working to identify measurable biological, social, and economic metrics that serve as a basis of ecosystem integrity when measured through time. Significant work has gone into incorporating metric development as a public process. Additionally, the Fisheries Division within the MDNR is organized around the 4 Great Lakes Basins (Michigan, Huron, Superior, and Erie) and within each basin, regional management units are organized around and responsible for watershed management of the aquatic resources. This connects the responsible aquatic resource managers with their local watershed groups and allows for a comprehensive insight for comment throughout the Division’s participation in the MDEQ permit review process. Fisheries management decisions are thus made from the context of watershed productive capabilities and cumulative impacts. Furthermore, restoration/rehabilitation efforts and their connection with the respective Great Lakes basin are identified and prioritized accordingly.

The report is correct in keeping Great Lakes governance issues separate from the governance that takes place in the marine coastal areas. I caution against any recommendations that would alter the successful approach to aquatic resource management in the Great Lakes, particularly the Joint Strategic Plan.

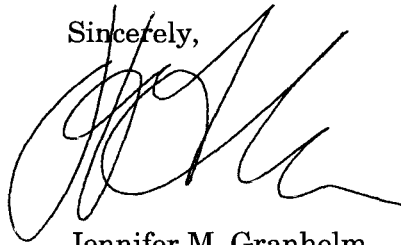
Conclusion

Overall, the Commission’s report is a positive and necessary step forward for directing coordination among the federal agencies and for incorporating an ecosystem approach in coastal and aquatic resource management. While the document outlines additional funding required to accomplish this task, I believe efficiencies can be gained and productive actions accelerated by reducing duplicity, increasing coordination, and outlining roles and responsibilities for each entity through reorganization. Furthermore, I caution against creating additional layers of bureaucracy under the guise of coordination. It is incumbent upon the federal agencies (through the NOC perhaps) to be accountable for coordination and leadership under their defined roles and responsibilities. Increased funding should be dedicated to management efforts through regional, state, or local constituencies and not redirected to the creation of additional national level committees.

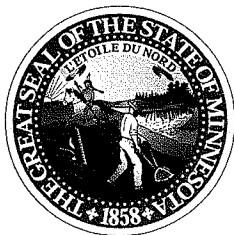
Most importantly, explicit recognition that the Great Lakes Region is vital to the nation's ecological and economic health and welfare is a categorical imperative. The final report must be strengthened to acknowledge the importance of the world's largest freshwater seas and to articulate the need for a strategy to provide the Great Lakes with resources commensurate with the challenges we face.

Thank you for the opportunity to review and comment on the Commission's Preliminary Report.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Granholm', written over the word 'Sincerely,'.

Jennifer M. Granholm
Governor



STATE OF MINNESOTA

Office of Governor Tim Pawlenty

130 State Capitol ♦ 75 Rev. Dr. Martin Luther King Jr. Boulevard ♦ Saint Paul, MN 55155

May 20, 2004

VIA E-MAIL to
comments@oceancommission.gov

Dr. Thomas R. Kitsos, Executive Director
 US Commission on Ocean Policy
 1120 20th Street NW
 Suite 200 North
 Washington, DC 20036

Dear Dr. Kitsos:

Thank you for the opportunity to provide Minnesota's perspective on the April 2004 Governors' draft of the *Preliminary Report of the U.S. Commission on Ocean Policy*. The importance of protecting our Nation's coastline and waters cannot be minimized. Minnesota applauds the work of the Commission and hopes the report is a call to action on the significant challenges we face.

Minnesota generally agrees with the vision and principles enumerated in the Oceans Report. However, it is important to more clearly show that the Great Lakes are included in the scope of the Oceans Report, and that this vast freshwater system is not subsumed and forgotten by the references to only oceans. With 10,000 miles of coastline, the Great Lakes are recognized in law as America's fourth sea coast. The Great Lakes should be specifically included in the executive summary as well as mentioned in the body of the report.

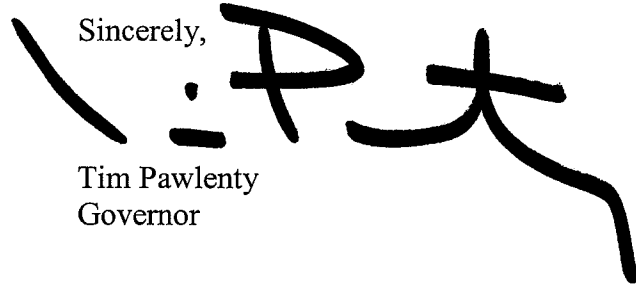
There are several other issues that I wish to emphasize, which are also enumerated in greater detail in the attached comments.

- We support the report recommendation to reauthorize the Coastal Zone Management Act.
- We do not support the report recommendation to merge the Coastal Non-point Program 6217 with EPA's 319 program, as this would limit Minnesota's management tools.
- We support a watershed approach, if adequate Federal funding is provided. Otherwise, it is preferred to have flexibility in determining boundaries contained in the existing coastal resources program.

We also share the desire to avoid new bureaucracy and the need to easily and effectively share data between the state and federal partners.

Minnesota remains committed to comprehensive management of Lake Superior and its watershed and we welcome the opportunity to help shape the nation's ocean and Great Lakes policy.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Pawlenty', written in a cursive style.

Tim Pawlenty
Governor

Minnesota's Comments on the Preliminary Report of the U.S. Commission on Ocean Policy 2004

Minnesota applauds the work of the U.S. Commission on Ocean Policy in its Preliminary Report of April 2004. The report draws attention to significant challenges we face and is a call to action. The report is very thorough and detailed while remaining well written and concise. We appreciate the work done by the Commission to pull together the diverse pieces that make up the federal ocean and Great Lakes policy picture. The vision for the Oceans and Great Lakes identified in Chapter 3: Setting the Nation's Sights, as well as the guiding principles to reach that desired future are well articulated and on the mark. We agree with the vision and guiding principles and support actions to achieve that vision.

As documented in the report, coastal, Great Lakes and ocean resources are national assets. The report clearly and correctly identifies the importance of managing complex natural resources such as the oceans and Great Lakes with an ecosystem focus. We support an increasing utilization of ecosystem-wide approaches to managing resources at the federal level. Minnesota has adopted such an approach through integrated resource management. This approach recognizes that partnerships and interdisciplinary cooperation are critical to achieving results, and acknowledges the interconnectedness of resource management targets. The economic and social benefits generated by the Duluth-Superior Harbor, the shipping and mining, recreational and commercial fishing industries, tourism along the North Shore of Lake Superior and in the City of Duluth, and our ability to ensure these benefits for future generations will depend on better understanding the impacts and interactions of our actions and taking actions now to support sustainable development and conservation of coastal, Great Lakes, and ocean resources. The true measure of our success will be how we improve the quality of life in coastal communities, ensure the nation's long term economic and ecological well-being, and affect positive outcomes "on the ground" at the state and local level. Minnesota is committed to the following priorities:

- Standardize and enhance the methods by which information is collected, recorded and shared within the Great Lakes region.
- Stop the introduction and spread of non-native aquatic invasive species.
- Enhance fish and wildlife by restoring and protecting habitats and coastal wetlands.
- Control pollution from diffuse sources into water, land and air.
- Promote programs to protect human health against adverse effects of pollution in the Great Lakes ecosystem.
- Ensure the sustainable use of our water resources while confirming that the States retain authority over water use and diversions of Great Lakes waters.
- Restore to environmental health the St. Louis River Area of Concern (AOC) as identified by the International Joint Commission as needing remediation.
- Adopt sustainable use practices that can protect environmental resources and that may enhance the commercial and recreational value of our Great Lakes. (Council on Great Lakes Governors letter to Congress April 2004).

We support the Commission's recommendations that work is needed to better understand the relationship between coastal economies, communities and coastal resource protection. Efforts are needed to maintain and support an ongoing Coastal and Ocean Socioeconomic Assessment System, including a standardized national reporting system among states and across regions that enables us to measure the value of these resources to the nation including recreational, social and natural resources values, and the values of people

and communities who rely on those resources. This will provide the information needed to make the most effective and efficient management and investments decisions. (Recommendation 25-3.)

We support the call to dedicate funding for ‘on-the-ground’ action. There is a need to provide sustained and dedicated funding and establish incentives to address priority management issues identified at the state and regional level. Funding should include a fair return to states and territories of OCS revenues and other revenues generated from use of coastal and ocean resources to the states for conservation of coastal, Great Lakes, and ocean, fish and wildlife, historic and land and water resources, as well as for reduction of impacts from OCS development and other activities. (Recommendations 24-1 and 30-1.) In addition, in order to proactively and aggressively fulfill the state-related activities in the report, there should be a strong effort to minimize the state/local funding match requirement and to recognize the investment by states and local governments for existing programs that should qualify to meet match requirements.

Minnesota strongly supports the need to maintain support for current programs and assess future needs. For example:

(i) Dedicated funds should be in addition to the current level of support for coastal and ocean programs including, but not limited to, state fisheries, coastal zone and watershed management, water quality protection, and habitat and wildlife conservation and should seek to build on the successes of current state efforts. Minnesota’s Lake Superior Coastal Program (CZM), the Lake Superior Beaches Program, and a variety of other monitoring, research, and educational programs could benefit from this type of increased focus at the watershed level. However, while we support such an expansion, there should be a corresponding increase in the amount of funding made available to reflect this increase (sometimes substantial) in scope/size.

(ii) The Administration should, as soon as possible, undertake a needs analysis of resources necessary to support state, regional and national coastal and ocean management goals, and coordinate Federal budget and program efforts to focus on achieving those goals most efficiently. (Recommendations 4.2, 7.2, and 30.1.)

(iii) While awaiting the needs assessment and Congressional action, the Administration and Congress should take action to assess the FY05 and FY06 budgets to provide increased support for key coastal, Great Lakes, and ocean management, research, monitoring and science programs to the extent possible given current budget constraints so that we can begin taking action under current authorities.

Minnesota recommends that the report explicitly include the Great Lakes. We would like to see more explicit mention of the Great Lakes and the coastal and aquatic resources associated with the Great Lakes throughout the report. The Great Lakes are mentioned in a few places and it is implied that they are included in most of the findings and recommendations. However, it is likely that the Great Lakes will get overlooked as parts of the report get brought forward for legislative action unless the language more directly addresses the Great Lakes as a vital resource on par with other ocean and coastal resources. Adding the words “and Great Lakes” throughout the report where the terms “ocean” or “marine” are used would appropriately and explicitly place the Great Lakes along side the other aquatic resources addressed in the report. The Great Lakes should also be mentioned explicitly in the Executive Summary. Because of the importance of the Executive Summary, it is very important to emphasize here that the Great Lakes are a vital part of the coastal and aquatic systems that are addressed by the report.

An example of this issue can be seen from the map inside the report’s front cover. The U.S. waters of the Great Lakes should be shown in dark blue, similar to the waters of the Exclusive Economic Zone (EEZ). Otherwise, the reader gets the impression right from the beginning of the report that the report excludes the Great Lakes. It is gratifying to see the text regarding the Great Lakes as the “Fourth Seacoast.” The message it conveys should be integrated more fully into the text of the report rather than isolated in a text box on its own and separate from the body of the report in its own box.

As noted throughout the Report, “the federal government is only one actor - and often not the important actor – at regional, state, and local levels.” While Minnesota supports increased integration at the federal level, the report should be amended to clarify throughout that a primary objective of these efforts is facilitation and support for implementation of coastal, Great Lakes, and ocean management plans and strategies developed at the local, state and regional level consistent with national goals. Improved government efficiency and responsiveness to state and public concerns can benefit from the integration of the myriad of federal coastal, Great Lakes, and ocean program efforts to improve support for ecosystem management and sustainable development “on-the-ground.”

To this end, Minnesota supports the following key recommendations in the report:

1. Increase federal agency coordination around the goal of ecosystem-based management: By Executive Order, direct all federal agencies to begin implementation of an integrated National Coastal and Ocean Policy that (i) incorporates ecosystem-based management approach to the extent possible under current law; (ii) promotes partnership with the states reflecting shared public trust and economic interests; (iii) improves regional coordination; (iv) supports ecologically sustainable use, incorporating a precautionary approach, and; (v) coordinates research, mapping, assessment and monitoring of coastal, Great Lakes, and ocean resources to support adaptive management and increased public understanding. (Recommendations 4-1 to 4-3, 4-11, 5-2, 5-3, 15-2; and 28-2.)
2. Establish a lead agency and clear lines of responsibility for coordination with states: Pending Congressional action, the Administration should designate the National Oceanic Atmospheric Administration (NOAA) as the lead agency to work with the Minerals Management Service, the US Army Corps of Engineers, other federal agencies and the states to coordinate review of current and foreseeable uses of federal waters. The review should ensure full consideration of the public interest and ecosystem-based management principles, as well as the coordination of research, assessment and monitoring of offshore activities. Any new offshore management regime for the EEZ should be consolidated within the lead agency, geographical linked to ecosystems and avoid single purpose governance structures that would create new stovepipes. It is important that the offshore management regime includes mechanisms for consultation with the states and seeks their review and consent for proposed actions or activities, including consistency under the Coastal Zone Management Act. (Recommendations 6-1 and 6-2.)
3. Avoid new bureaucracy and encourage innovation at the regional and state level:
 - i. Recommendations for the establishment of National and Regional Ocean Councils (NOC and ROC) should be amended to include a requirement that Governors be included as principals on the Councils, not simply as members of advisory committees. (Recommendations 4-1 to 4-3, 4-10, and 6-2.) In establishing a NOC, it should be clear that it is not another level of bureaucracy. The NOC should focus on its core responsibilities to “provide high level attention to ocean, Great Lakes, and coastal issues, develop and guide implementation of appropriate policies, and coordinate...” federal agencies. The recommendations should be amended throughout to clarify that appropriate lead agency or agencies with statutory responsibility is vested with necessary authority (and resources) to implement their programs, in consultation with other agencies and coordination with NOC. (Recommendation 11-2, 11-4, 6-3, 24-5, and. 25-5.)
 - ii. Clarify that proposed ROCs be flexible, build upon current efforts, and do not conflict with Fisheries Management Councils and State Commissions or other existing regional efforts such as the Great Lakes Commission and the Council of Great Lakes Governors. The principle role of the ROCs is to bring the collective resources and expertise of the federal agencies together with states and stakeholders to address significant issues that are identified at the state, local and regional level (Recommendations 4-11, 5-1 and 6-4,) not only issues identified by federal agencies at the national level. (Recommendation 4-2.) Links to the regional information programs should be clarified and strengthened. (See discussion below.)

4. Minnesota sees a need for additional support for major regional initiatives. The report should be amended to recognize that there are numerous regional restoration and conservation initiatives at a variety of scales such as Great Lakes Restoration that will require significantly more resources than identified in this report. The NOC and ROC's should be given the responsibility of working with the states to assess these additional needs and work with federal agencies, states, private sector and non-governmental organizations to identify funding sources and innovative financing for these regional and placed-based management initiatives.

We support the implementation of Adaptive, Ecosystem-Based Management. The report stresses throughout that there is a need for integration of watershed, coastal, Great Lakes, and ocean management that reaches from the hilltops to the seas and is capable of addressing problems at the ecosystem scale, and supports increased support for coastal zone management, watershed protection programs, land conservation and restoration. It also recognizes that in order to do this successfully we need a much better understanding of the coastal and ocean resources and the consequences of our actions on those resources. The report also recommends doubling the nation's investment in research and science and establishing an Integrated Ocean Observing System. As noted in the Report however, many development and land use decisions that can have the greatest impact on coastal, Great Lakes, and marine ecosystems are made at the local level; therefore, it is essential that support be provided for information and tools for states to use to assist in community planning efforts that will assist them in addressing broader ecosystem and regional objectives. In addition, current federal infrastructure programs, funding, and development incentives are often inconsistent with state coastal and growth management plans. As a result, the impacts of these projects in many cases can overwhelm local coastal and watershed planning efforts.

Within the report there are several key recommendations relating to ecosystem-based management that we support, including the following:

1. Increase support for integrated coastal, watershed and shoreline management. As recommended in Parts IV and V of the Report, we agree that it is important that coastal management and watershed management programs should be strengthened and better integrated with enhanced EPA point and nonpoint pollution control programs, particularly efforts to reduce nutrient loading in coastal waters.
 - (i) Minnesota strongly supports the recommendation for reauthorization of the Coastal Zone Management Act (CZMA), particularly the call for coastal resources assessments and increased incentives for state and community support for land conservation grants, as well as grants to be provided for coastal restoration, modeled on the Great Lakes restoration grants program, and increased funding for states to address community assistance on a watershed basis focused on hazards, land use, and growth management (Recommendations 9-1, 9-4, 10-3, 11-1, 11-2, 14-2.)
 - (ii) Pending reauthorization of the Clean Water Act, it is important that funding continue to be provided for grants to states to implement coastal nonpoint pollution control programs, and that NOAA, EPA and the states continue to work cooperatively to increase effectiveness and increase focus on efforts to reduce coastal nonpoint pollution to assure prevention of degradation, as well as restoration of impaired watersheds (Recommendations 14-8 and 14-10.) We support the existing structure of keeping the Section 6217 Coastal Nonpoint Program within NOAA and encourage additional funding and support for the program's coordinating efforts with the state's Section 319 program. We do not support merging of the Section 6217 program into the Section 319 program.
 - (iii) Specific programs to protect coastal resources from emerging threats such as aquatic invasive species, air deposition, and vessel pollution should also be reauthorized and strengthened and deserve more support. (Recommendations in chapters 14, 16, and 17.) The Administration and Congress should work with states to include appropriate recommendations in reauthorization of the National Aquatic Invasive Species Act and other

relevant pending legislation to support state and regional plans and support implementation of local action strategies.

- (iv) Minnesota supports the development of an integrated National Coastal Hazards and Shoreline Management Strategy among the Corps, FEMA, NOAA, NRCS and other appropriate agencies that would be designed to improve management of sediments, dredged material and erosion, and to reduce risk from coastal hazards. Among the issues it should provide for a uniform definition of shoreline and a commitment to mapping of the nearshore and coastal floodplains; regional sediment and dredged material management on a systemwide basis; enhancement of the storm protection and recreational benefits of beaches and wetlands as well as other natural features; and reduction of incentives for development in high hazard areas and increased assistance for hazard mitigation plans and relocation of at-risk property (Recommendations 10-1 to 10-4, and 12-1 to 12-5.)
2. Increase federal commitment to make data and information readily available to managers at the proper scale, and to support technical assistance and stronger links between the management and science communities. The state strongly supports the call for regional information programs to conduct regional ecosystem assessments based on state coastal assessments (see above), research and outreach plans, and links with integrated observing systems. We particularly support the recommendation that regional programs include state representatives, an enhanced role for Sea Grant, as well as inclusion of other marine and Great Lakes labs, academic and nongovernmental and private sector institutions, and “ensure that product development, dissemination, and user feedback” be integral components...” of the program. (Recommendations 5-3 to 5-5.) A specific mechanism should be provided to assure regular feedback from and surveys of state managers and other user group’s needs. (Recommendations 23-1 to 23-3.) These requirements should be included as an essential element of all the science and research recommendations of the report and the regional programs should be integrated with other science and research strategies, including the coastal water quality monitoring network (Recommendations 15-2 to 15-4), assessment mapping and charting activities, including an explicit commitment to map the near shore and coastal zone (Recommendation 25-5), and Integrated Ocean Observing Systems (Recommendations 28-1 to 28-2.)
 3. There is a need to assure consistency of federal infrastructure investment with ecosystem-based and state growth management plans. As previously noted, the new efforts to increase focus on ecosystem-based management will not be successful unless existing federal infrastructure and incentive programs are held accountable to ecosystem plans and are consistent with enhanced state coastal, watershed ocean and growth management plans. We support the recommendations in the report in this regard, including the following:
 - (i) Recommendation 14-7, which directs USDA to better align its conservation programs to reduce nonpoint source programs, Minnesota supports this recommendation and its intent to assure that those funds are used efficiently to provide important incentive to the agricultural community;
 - (ii) Recommendation 10-3 that proposes reducing incentives for building in high hazards zones;
 - (iii) Recommendation 9-3 which recommends development of guidance to discourage federal funding and infrastructure programs in fragile or hazard prone areas and ensure consistency with state, regional and national sustainable development goals; and
 - (iv) Recommendation 5-4 that calls for amendments to NEPA guidelines to require that environmental impact statements take into account regional ecosystem assessments to both provide an incentive for development of plans and provide increased project accountability to ecosystem concerns.

In addition, we have the following detailed comments:

1. The Commission recommends the development and use of regional structures and approaches for integrating and implementing management of Ocean and Great Lakes resources. We agree that regional

approaches will be critically important for implementing the recommendations in this report. It is essential, however, that these regional approaches and organizations are developed in close coordination with and with extensive input from state resource management agencies, and build on work that has already been done to address resource management challenges within and across political jurisdictions.

For example,

- a. National and regional goals for habitat conservation and restoration should be developed based on the goals already identified in the states' Coastal Programs and, for the Great Lakes, in the Lakewide Management Plans developed for each of the Great Lakes with state, federal, tribal and Canadian partners.
 - b. Likewise, coastal states are in the process of developing Coastal and Estuary Land Conservation Plans (CELCP) based, in part, on these on-going efforts. Funding made available to support acquisition from the CELCP program should be targeted to support the state priorities identified through the development of these plans.
 - c. Coastal resource inventories and assessments, identified in Chapter 11, should also build upon the work being done at the state level. In Minnesota, the Minnesota County Biological Survey is nearing completion of a comprehensive, systematic survey of natural plant communities on the coast of Lake Superior. Coordinated federal efforts and funds should be directed at supplementing these and similar efforts as well as integrating them into federal decision-making processes.
 - d. Regional structures and organizations need to be crafted carefully to ensure that within region differences are accounted for and addressed. For example, on page 156, Figure 14.1 illustrates a report card for regional coastal conditions. Overall Great Lakes water quality is described as "poor" despite the fact that water quality in Lake Superior, the largest of the Great Lakes has water quality conditions that are significantly better than other parts of the region.
2. Recommendation 11-4 calls for a major overhaul in federal wetlands law and oversight. Given the lack of detail presented in the report regarding specific changes that need to be made, a more appropriate recommendation would be to call for a national assessment of existing wetland regulations and an evaluation of those programs to develop an action plan designed to develop specific recommendations to protect and restore wetland habitats by federal agencies.
 3. The Great Lakes states and several federal agencies have initiated a wide-ranging and aggressive approach to managing aquatic nuisance species. We are concerned that an overhaul of the existing program might cause delays and divert resources away from implementation of necessary actions to prevent the introduction and spread of exotic species. Any new structures implemented in this arena should be carefully crafted to improve coordination and reduce the fragmentation of management rather than increasing them. In this as well as other issues, improvements in coordination at the federal level should result in recognizing effective, on-going programs and assisting them through providing additional resources and facilitation and should avoid causing disruption to these on-going efforts.
 4. Fisheries management councils, established through Congress exist elsewhere, but not in the Great Lakes. There needs to be a discussion of how the recommendations related to these councils will apply and be implemented in the Great Lakes. The Great Lakes Fishery Commission has a history of integrating resource management issues across political jurisdictions. It is not equivalent to a Fishery Management Council in a legal sense. The report should address, in greater detail, the differences between these structures and how those differences might affect implementation. (Chapter 19)
 5. Sport fishing was not thoroughly addressed in the report. It is a major issue for resource management and economic sustainability. We feel that it should be addressed in the report.
 6. We support Recommendation 24-1 and the use of OCS revenue for conservation of coastal resources. The discussion on funding activities through Outer Continental Shelf revenue needs to more strongly ensure that coastal states that do not generate OCS revenue, including the Great Lakes, are not left out of the picture simply because they do not generate OCS revenue. The distribution of money generated from OCS activities should be evaluated to ensure that it is based on resource management priorities and needs rather than on factors based solely on its source. There is a need to ensure that the generation of OCS based revenue does not become an incentive to over-develop those resources in a way that is counterproductive to the protection of coastal resources.

7. The report suggests establishing NOAA as the overarching, coordinating agency for policy in the Great Lakes. This should be approached with caution. NOAA does not have the same degree of history, regulatory oversight, and management authority here as perhaps it does in other areas. There is a long history of high-level involvement from other agencies with more direct regulatory and management roles in the Great Lakes. Because of this, we think that it is particularly important that NOAA create a regional, Great Lakes presence through the development of offices in the western and eastern ends of the Great Lakes Basin.
8. There should be a process identified for a 3 – 5 year review of progress and implementation of the recommendations in the report.
9. The Great Lakes typically does not get an equitable share of federal research money from sources such as NSF. Research and monitoring efforts should seek to resolve this inequity.
10. The report proposes to expand the number of Centers for Ocean Sciences Education Excellence (COSEE) – recommendation 8-5. There are currently no COSEE's located in the Great Lakes region. Minnesota recommends that this expansion include a Western Great Lakes Regional COSEE. This would be appropriate given the relationship between the Great Lakes watershed and the water that drains to the Atlantic Ocean. This would provide an opportunity to strengthen understanding of the relationship of watersheds and their impact on ocean and marine coast conditions. Additionally, with the headwaters of the Mississippi River in Minnesota, there would be an opportunity to provide linkages with the watersheds of the middle of the continent to the Gulf of Mexico.
11. The State of Minnesota appreciates the awareness and supports the position that no new mandates should be placed on states, and that in many cases, the role of the federal government can best be enhanced by supporting state efforts through additional funding and coordination of programs.
12. An important feature of any program to bring ocean education to the classroom should be the expansion of “remote-access technologies.” Federally supported programs should provide these opportunities to Minnesota students.
13. Great Lakes management needs to recognize the importance of working cooperatively with Canada and our vision, principles, structures and policies should be developed cooperatively with them in a way that helps accomplish shared goals.
14. Minnesota appreciates and supports the report's reaffirmation of the need for greater communication between the federal and state levels of government especially regarding OCS revenue and coastal states management needs.
15. Appendix C – Living Near...and Making a Living From...the Nation's Coasts and Oceans – Points out the need for more research on the socio-economic factors influencing coastal and ocean use. We agree that despite the importance of coastal communities to the nation's economy, funding for economic research is significantly less than that spent on the agricultural industry as an example. The report includes Great Lakes census data in its conclusions and makes several direct observations about the region, such as the relative slight increase in population but the large increase in housing in Great Lakes coastal areas. The report also makes mention of the increase in the importance of tourism and services in coastal economies, something especially true along Minnesota's North Shore. We support the need for more research related to this vital sector of our economy.
16. Recommendation 9-1 shifts the focus of the coastal programs to one of record keeping. Conducting meaningful work is replaced by additional bureaucratic requirements. The recommendation also removes the flexibility built into the Coastal Zone Management Act for states to determine their own coastal boundary by the requirement to use a watershed approach. We do support the watershed concept. However, adopting a watershed boundary would increase the area within the coastal program from 741,916 to 3,936,294 acres (1159 to 6148 square miles), a 530% increase in area. This would necessitate a substantial increase in the funding for the program even assuming that no other increased program requirements were adopted. Without increased funding, the effect of adopting a watershed boundary would be to substantially dilute the ability of the program to achieve its resource management goals. We would support a watershed approach if adequate funding is provided, and the approach gives the states flexibility, within a watershed concept, to determine their boundaries as resources are available.

- a. This recommendation places additional burdens on the state coastal program in the form of additional reviews, audits, and reports – implementation of a recommendation that includes the entire great lakes watershed must be accompanied by a substantial increase in funding to both the state program and NOAA to administer these additional burdens.
 - b. Minnesota’s Lake Superior Coastal Program distributes the majority of its federal grant (~75%) to local organizations in the form of grants. This money goes to fund selected projects dedicated to the mission of the CZMA – preserve, protect and enhance. Recommendation 9-1 will reduce the amount of funds available for these projects by requiring greater amounts to be spent on proving compliance with government standards.
 - c. The use of disincentives creates a spiral of inaction. Funding is already tight. Removing funding for poor performance that may be attributed to under-funding is a recipe for failure.
 - d. We do support the development of measurable outcomes and performance measures but need to be assured that the flexibility of the program is maintained and that there is not an increase in the burden of record keeping.
17. The report underscores the obstacles we face in operating our coastal program. We concur with the list of issues identified in the section on multi-layered decision-making on page 109. In particular, the lack of shared values consistent with program objectives, or the lack of political will to implement actions designed to reach those goals, particularly in small coastal communities, may limit the ability of the coastal program to achieve its goals.
 18. We support Recommendation 9-2 to consolidate the other area-based coastal management programs with those of NOAA.
 19. Recommendation 14-9 suggests the merger of the Coastal Non-point program with section 319 of the Clean Water Act. This merger is not supported by Minnesota for a variety of reasons. This action may result in a duplication of administrative functions and may undermine the availability of statewide Section 319 funds for addressing specific coastal issues. If the programs were merged the funds would be subject to the stringent standards that currently make it difficult to meet program goals. The restrictions on funds available for monitoring, administration and a burdensome match requirement results in a challenge to implementing the existing 319 program.
 20. Minnesota appreciates the Commission’s recognition that the meaningful changes proposed in the report will require meaningful investment. In order for states to be full participants and fulfill the broad comprehensive changes proposed in the report, there must be a substantial financial investment in each of the coastal states. The report works to portray that fact. Funding issues that are critical to Minnesota, include:
 - a. We would like more explicit mention of the principle that funding should be considered an augmentation of existing baseline program funding and should not be used to replace or supplant current federal funding of state programs. This principle is mentioned in a couple areas of the report, but only implied in others.
 - b. In order to proactively and aggressively fulfill the state-related activities in the report, there should be an effort to minimize, to the extent practical, the state/local funding match requirement. State and local governments have seen significant funding reductions over the past several years. Therefore, where a sizable match is required, it can significantly impede the ability of many states to use their allocation of funds. This is especially true in many coastal states, including Minnesota, where the coastal area represents a small fraction of the geographic area of the state and there is a broad range of competing statewide demands for diminishing and limited funds for new state initiatives.
 - c. Funds should be provided directly to the states via a baseline grant program that provides flexibility for state variability based on on-going identified needs. At times, states are in more need of funding for staff in order to develop, design, administer, and manage necessary programs and projects (especially during program start-up or enhancement) and, at other times, we are in more need of funds to pay for the contractors or services required to complete projects or program activities. However, federal grants oftentimes are made available to states for project implementation costs only and not for the staff necessary to develop, design, administer, and manage the projects. In these cases, we don’t have the staff necessary to even apply for or utilize the funding that is being made

available to us. Therefore, both the required staff and project implementation resources should be defined as eligible costs under the grant program. The actual amount and uses of the funds can be negotiated and defined in a work plan from grant-period-to-grant-period based on a current needs assessment for each state. In return for more flexibility, the states could provide mid- and end-of-grant reports summarizing their activities based upon the agreed upon work plan and the use of grant resources.

21. Watershed and Ecosystem Based Programs. Minnesota supports the increased utilization of watershed and ecosystem based management approaches in current federal programs and activities. Many of the current coastal-related programs do not cover the entire watersheds that drain into and affect the resource, but rather a much smaller boundary closer to the coast. Minnesota's Lake Superior Coastal Program, the Lake Superior Beaches Program, and a variety of other monitoring, research, and educational programs could benefit from this type of increased focus at the watershed level. However, while we support such an expansion, there should be a corresponding increase in the amount of funding made available to reflect this increase (sometimes substantial) in scope/size.

These comments were prepared with the help of staff from the Minnesota Department of Natural Resources, The Minnesota Pollution Control Agency and Minnesota Sea Grant. Questions and requests for clarification should be directed to the following persons:

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June 3, 2004

Admiral James D. Watkins
Chair, U.S. Commission on Ocean Policy
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Dear Admiral Watkins,

Congratulations to your U.S. Commission on Ocean Policy for producing an outstanding Report, one that will benefit this Nation for years to come. I look forward to contributing to the implementation of this Report and am anxious to help support it on all levels. In addition to the national and international implications, the recommended new programs and policies will result in substantial benefit on the state level. From Mississippi's perspective, I offer the following suggestions intended to ensure we achieve the goals outlined in your Report:

1) The Stennis Space Center, located on the Mississippi Gulf Coast, hosts one of the greatest concentrations of oceanographers and ocean-related activity in the world, including the Naval Oceanographic Office (NAVO), the Naval Research Laboratory (NRL), the National Aeronautics and Space Administration (NASA), several divisions of the National Oceanographic and Atmospheric Administration (NOAA), and a campus of the University of Southern Mississippi (USM). Numerous improvements (e.g., strengthening NOAA, improving ocean education and research, and coordinating information management) cited in the Report are natural extensions of programs already in place with the Navy, NOAA, NASA, U.S. Geological Survey (USGS), and the twenty-two ocean-related programs of Stennis. The Commission's Report emphasizes the necessity of coordinating and integrating the various federal, state, and local coastal and ocean programs. The facilities and activities at Stennis make it the ideal place to begin this process in earnest for both regional and national programs. I strongly encourage the Commission, the President and the Congress to make Stennis central to the implementation of the Commission's recommendations.

- a. The coalitions and shared facilities at Stennis can be further enhanced to create a marine science community that will assume a critical role in the national coastal and ocean infrastructure and technology strategy.
- b. The Integrated Ocean Observing System (IOOS) should be funded through NOAA, including the creation of joint NOAA/Navy ocean and coastal information management and communication program office. This is a natural extension of the extant programs at Stennis and it would build on these successes.
- c. NOAA should create an Office of Technology at Stennis to expedite the transition of experimental technologies into operational applications, an activity that is currently accomplished by NRL and NAVO for the Navy at this site.
- d. NOAA and the Navy should establish a prototype joint ocean and coastal information management system at Stennis to build on the successful programs

already extant there. Specifically, NOAA's National Coastal Data Development Center (NCDDC) and National Data Buoy Center (NDBC), NASA's Earth Science Applications program, as well as the Navy's NRL and NAVO are all currently maintaining and building complementary programs at Stennis and stand ready to develop the synergy that is needed. The only impediments to this success are the difficulty in merging funds from several Federal agencies and the organizational tasking required to do so. I support the Report's specific procedures for eliminating these hurdles.

e. Congress should amend and fund the National Ocean Partnership Act to, among other things, work with existing supercomputer centers, such as the one at NAVO/Stennis, to develop a plan for handling, accessing, and archiving the large amounts of data anticipated from the IOOS.

2) I support the Report's overarching education and outreach recommendations to establish a national ocean education office (Ocean.ED) under the National Ocean Council. I specifically support the recommendations to increase and sustain funding for the ocean sciences education efforts in which Mississippi is a national leader, including the Center for Ocean Sciences Education (COSEE), development of curricular materials for use by the Nation's primary and secondary schools, establishing effective relationships between the science and education communities, and promoting partnerships among public and private institutions. Mississippi's leadership role in this arena includes the following facilities: the Museum of Natural Sciences in Jackson, Biloxi's Seafood Industry Museum, USM's J.L. Scott Marine Education Center and Aquarium (MEC&A) in Biloxi, the Mississippi State University Water Resources Research Institute in Starkville, the National Marine Educators Association (NMEA) "national" office at the MEC&A, the Gulf Islands National Seashore Visitor Center in Ocean Springs, and the science and education center, INFINITY, at Stennis Space Center.

3) As your Report states, due to budget constraints on both State and Federal levels oceanic research infrastructure has been allowed to decline. These facilities are critical to the collection of data and performance of research that are required for the implementation of the Report recommendations. Mississippi scientists and policy makers have contributed significantly to these efforts, and I anticipate increased participation in the future. Mississippi stands ready to continue to build NOAA ships in our shipyards, to provide an educated workforce for Federal laboratories and university research facilities, and to provide expertise associated with the IOOS implementation.

4) In addition to these major issues, the State of Mississippi is poised to contribute to and benefit from the following initiatives:

a. Mariculture: Mississippi is blessed with a variety of natural habitats and access to others beyond our State waters, and Mississippi scientists have been involved in several research efforts to evaluate the potential for aquaculture in our State. Mississippi universities and private firms have established successful programs for raising redfish, shrimp, striped bass, flounder, blackfish, and red snapper.

- b. The Report recognizes the connection between the health and quality of marine waters and the health of the human population. I support investigating these connections and developing viable solutions as recommended by the Commission.
- c. Tourism contributes heavily to Mississippi's economy, as it does in most coastal states. To draw visitors to our coastal attractions and offer them the opportunity to experience our scenic natural resources, the industry relies on a healthy coast and ocean. Mississippi is interested in some of the Report's recommended initiatives aimed at improving water quality.

5) With regard to specific recommendations, I will comment on four below:

- a. I agree that the major recommendation regarding the creation of a National Ocean Council (NOC) is of significant importance. Ocean policy and regulations are currently established and enforced by a maze of federal and state agencies with both overlaps and gaps in jurisdiction. Creation of the NOC will reduce the confusion and enhance our ability to both utilize and conserve our marine resources.
- b. I also agree with your recommended establishment of Regional Councils to support the National Ocean Council, and I suggest that a pilot or demonstration Regional Council be established for the Gulf of Mexico Region. This can build on the organizational efforts currently underway as part of the GCOOS (Gulf of Mexico Coastal Ocean Observing System) initiative but would be expanded to include all areas and relevant expertise.
- c. I agree that strengthening NOAA, the Nation's premier ocean agency, makes sense and is overdue. This funding should include line items for funding the IOOS and other initiatives to be accomplished through partnerships and collaborations as noted above. NOAA will become the lead agency for a variety of issues (e.g. Marine mammal protection) and should be empowered and funded accordingly.
- d. I support the implementation of ecosystem-based management of sustainable fisheries and other resources, a concept that is overdue, yet challenging to achieve. Mississippi has a plethora of agencies, institutions, educational facilities and organizations that are anxious to contribute to the implementation of this policy.

6) Lastly, I have concerns that a few recommendations, if not implemented carefully, might become unfunded mandates and financial burdens to the states. Furthermore, it is crucial that any new or expanded regulatory requirements that may result from the Commission's findings, especially in regard to environmental requirements, be based on sound science with special attention given to honest costs-benefit analyses. Specific concerns are:

- a. The habitat restoration and conservation initiatives included in recommendation 11-2 are classed under the Regional Council responsibilities and could therefore be considered to be a state responsibility unless more precise wording is included.
- b. The security of our Nation's seaports against terrorist activities, as listed in recommendation 13-6 is of vital concern to all citizens both near our ports and beyond. Given the widespread impacts of this problem and its relation to

interstate and international commerce, port security funding should be a primary responsibility of the Federal government.

c. Several of the recommendations relating to the Environmental Protection Agency raise concerns, including the requirement to remove nutrients from wastewater treatment plant discharges and from animal wastes and the stricter enforcement of water quality standards for the reduction of pathogens. If these recommendations are proven necessary, Federal funding should be identified to offset the cost to the states should they be implemented.

d. Recommendations relative to watershed management (14-3,4,5,6,13), where states are required to establish regulatory controls on animal wastes, repair and expand wastewater and drinking water infrastructure, and establish programs to address non-point source pollution, if proven necessary, must have Federal support if they are to be implemented.

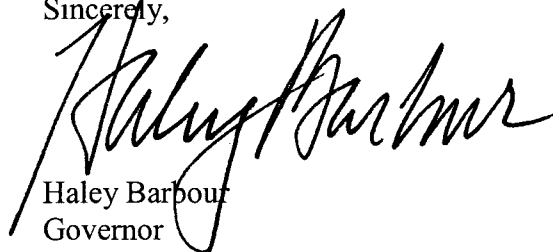
e. Recommendation 16-10 would require stricter standards in the sulfur oxide emissions associated with the combustion of fuel oil under marine commerce. While I agree with the need to protect our atmosphere, I am concerned about the impacts of these restrictions on our port activities.

f. The recommendations in chapter 19 dealing with a regional approach to fisheries management are well founded and necessary, but again, raise the potential for requiring the states to bear the burden of establishing, regulating, and enforcing these policies.

g. Finally, I support U.S. Army Corps of Engineers initiatives suggested by the Report recommending the beneficial use of dredge material, developing regional dredging and disposal plans, and improved overall management of sediments, but again am concerned regarding the assignment of funding responsibility.

In summary, I support the majority of the recommendations of the U.S. Commission on Ocean Policy Report and look forward to working with your Commission and with Congress to implement these beneficial programs. I am pleased to note that Mississippi's abundant capacity and superb capabilities in oceanography have unlimited potential for future enhancements and are available to be fully included and utilized in the implementation process. This Report represents the most significant opportunity for substantive improvement in U.S. ocean policy in over 30 years, and I am strongly interested in the opportunities it presents to our great State and Nation.

Sincerely,



Haley Barbour
Governor

GHB/jr

CC: Mississippi Congressional Delegation

Jim
I'm personally interested in this, and my State is committed to helping all we can - Haley

KENNY C. GUINN, *Governor*

STATE OF NEVADA

SHARI BUCK, *Commissioner*RICHARD W. BUNKER, *Chairman*OSCAR B. GOODMAN, *Commissioner*JAY D. BINGHAM, *Vice Chairman*ACE I. ROBISON, *Commissioner*GEORGE M. CAAN, *Executive Director*ROLAND D. WESTERGARD, *Commissioner*MYRNA WILLIAMS, *Commissioner***COLORADO RIVER COMMISSION
OF NEVADA**

May 28, 2004

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

Re: Preliminary Report of the U.S. Commission on Ocean Policy

Dear Admiral Watkins:

At the request of Governor Kenny Guinn, I would like to thank you for the opportunity to review and provide comment on the above-mentioned report. As an inland state, Nevada has no direct geographic connection to the oceans of the United States. However, Nevada does feel a sense of stewardship to the nation's oceans and a vested interest in the oceans' resources.

From a resource preservation perspective, we support the federal government's policy objective of protecting coastline assets such as wetlands, marshes, sounds, and embayments.

From a resource utilization perspective, we feel that the oceans adjacent to the United States should be used for the benefit of the nation as a whole and not only of the states that border the oceans. For some time water representatives from the State of Nevada have, for example, espoused the idea of creating multi-state/agency, multi-funded seawater desalination facilities to be used for the benefit of both coastal and inland states. This opportunity allows for the consideration of conjunctive use of a national resource for the betterment of coastal and inland states.

The State of Nevada supports the protection and enhancement of the nation's oceans and supports the idea of multi-state inter-agency cooperation for the better utilization of ocean resources by the nation as a whole.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. M. Caan'.

George M. Caan
Executive Director

P04-0005

555 E. Washington Avenue, Suite 3100, Las Vegas, Nevada 89101-1065

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STATE OF NEW JERSEY
OFFICE OF THE GOVERNOR
PO BOX 001
TRENTON
08625

JAMES E. MCGREEVEY
GOVERNOR

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

Dear Admiral Watkins:

I would like to take this opportunity to acknowledge the substantial effort of the United States Commission on Ocean Policy in its Preliminary Report, and to offer New Jersey's perspective. The ocean and coastal areas are critical to New Jersey's quality of life and economy. Good water quality and healthy beaches are essential to sustaining coastal ecosystems, providing abundant recreational opportunities, and attracting visitors. New Jersey actively works to improve its stewardship of the coast and ocean and is a national leader in coastal and ocean resource protection.

The report properly recognizes America's oceans and coasts as priceless assets, the health of which is fundamental to our prosperity and quality of life. The Commission's Preliminary Report furthers our understanding of the problems confronting ocean and coastal managers. The Report clearly describes the toll that human activity has taken on our coastal and ocean waters, from depletion of resources and habitat loss to impaired water quality, and identifies the issues of concern requiring reform. These findings document the need to take immediate action to protect and restore our coasts and oceans.

The core proposals of the Commission's Preliminary Report that concern ecosystem management, research, and education warrant our strong support. We concur with the recommendation that research and management of coastal and ocean resources must be based on an ecosystem approach to understanding the inherent complexity of ocean resources. We also strongly support the recommendations concerning education and outreach as fundamental to achieving the report's objectives.

The Preliminary Report calls for the deployment of a sustained National Integrated Ocean Observing System. Currently, New Jersey actively employs data from the Rutgers Long-term Ecosystem Observatory (LEO) to assess the health of and manage our waters. Based on our experience with the benefits of LEO, we concur that a sustained national Integrated Ocean Observing System would provide valuable data for implementation of effective ocean management measures. The Commission should urge the Administration and Congress to fund and support this effort fully.

The Preliminary Report's recommendations for fisheries management, particularly those concerning improved fisheries stock assessment and separation of stock assessment from allocation, are sound and have New Jersey's strong support. Fisheries management must address key species at all trophic levels, not just those at higher levels. Furthermore, when harvest limits are employed, they must be based on sound science and must provide for a sufficient buffer to allow for species rebound rather than setting limits that merely maintain the fishery at the edge of collapse. Stock assessments should be supported by providing Federal funds to states and increased Federal funding to the National Oceanic and Atmospheric Administration (NOAA), rather than mandating that states impose salt water fishing license fees to fund the assessments as the Preliminary Report proposes.

The Coastal Zone Management Act (CZMA) now serves as the principal comprehensive coastal management tool through partnerships between states and federal agencies. I strongly support the Commission's call for reauthorization of the CZMA. The Final Report should emphasize that reauthorization must not weaken the CZMA, but rather should strengthen each coastal state's role in managing coastal and ocean resources through the federal consistency provisions. Specifically, the CZMA should be amended to ensure that coastal states have the right to regulate or prohibit offshore development, including offshore energy development, in areas offshore as far as the outer limit of the exclusive economic zone (EEZ). This principle of deferring to state preferences on these issues has been honored by successive presidents in the moratorium on California offshore energy development, and more recently by President Bush in the balancing of state interests at stake in offshore leasing in the Gulf of Mexico. The Commission should urge codification of this principle in the CZMA.

Strong coastal management programs require sufficient financial resources. Current funding levels are inadequate if state fisheries, coastal zone, watershed, conservation, and water quality programs are to implement the measures called for by the Commission. There is a need for robust and reliable federal funding for existing programs as well as additional funding for new initiatives.

As discussed in the Preliminary Report, ports are an indispensable component of the American economic engine. Both the Port of New York and New Jersey and the Port of Philadelphia and Camden are engines of the regional economy and the entry points for a broad range of goods distributed to millions of people throughout New Jersey and the nation. It is essential that the Federal Government continue to support the vitality of our ports and expand its investment in improving road and rail infrastructure that connects the ports with the nation, while at the same time protecting and enhancing the estuarine

ecosystems in which the ports are located. In this light, the recent directive prohibiting the funding of new construction starts by the United States Army Corps of Engineers (USACE), which would affect both development and restoration projects, warrants the Commission's attention and strong opposition.

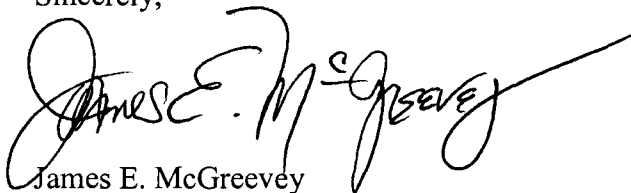
The Commission recommends development of a national strategy for sediment management that addresses impacts on marine environments due to agriculture, dredging, pollutant discharges and other activities that affect sediment flows or quality. We agree. The Preliminary Report focuses too narrowly, however, on in-water placement and disposal alternatives. The final report should look more broadly at beneficial use of dredged material, to include use in the remediation of brownfield sites and closure of landfills.

The Preliminary Report recommends a National Ocean Policy Act to create a National Ocean Council that reports directly to the President. The Commission contends that a National Ocean Council is desirable to coordinate existing and future ocean programs and initiatives among agencies. We disagree. New Jersey believes that the same objectives could be achieved by giving NOAA the significant increases in funding and regulatory and enforcement authority that will be necessary to achieve the Commission's vision. Conversely, a National Ocean Council would be of little use if adequate resources and authority for NOAA are not forthcoming.

Recommendations concerning global climate change, with attendant increases in sea level and more frequent extreme weather events, are conspicuously absent from the Preliminary Report. For coastal states, these threats have significant implications for coastal development and for meeting our obligation to protect lives and property in coastal communities. Given the scientific consensus concerning the timing and probability of these impacts, the Commission has a responsibility to identify appropriate changes in national policy to prevent or adapt to these anticipated changes.

On behalf of the citizens of New Jersey, I applaud the U.S. Commission on Ocean Policy for providing me and my fellow governors with the opportunity to comment on the Preliminary Report. I also am grateful to Lillian Barrone and Vice Admiral Paul Gaffney USN (Ret.) for personally devoting time for a recent public meeting in New Jersey on coastal policy. Please call upon me or our Commissioner of the Department of Environmental Protection Bradley M. Campbell, if New Jersey can provide additional support in seeking prompt implementation of the Commission's fine work.

Sincerely,



James E. McGreevey
Governor



STATE OF NEW YORK

GEORGE E. PATAKI
GOVERNOR

June 3, 2004

Dear Admiral Watkins:

Thank you for the opportunity to provide comments on the United States Commission on Ocean Policy (Commission) *Preliminary Report of the U.S. Commission on Ocean Policy, Governors' Draft*. This report provides a comprehensive evaluation of our nation's ocean resources and, as a member of the Pew Oceans Commission, I am pleased that many of the recommendations coincide with those of the Pew Oceans Commission Report entitled *America's Living Oceans*.

New York State enjoys the third longest coastline of all of our Nation's coastal states, and over three quarters of our eighteen million citizens live within the State's coastal region. Accordingly, federal ocean policy is a high priority to this State. New Yorkers treasure our State's coastal area for its beauty, recreational opportunities, quality of life, and economic vitality. Our Atlantic Ocean, Hudson River Estuary, and Great Lakes regions have distinct attributes, and each face unique environmental and economic challenges. For this reason, New York appreciates the complexity and diversity of the issues addressed by the Commission.

The Commission's report strives to present a vision, guiding principles and concepts for ocean and Great Lakes coastal policy and management. The organizational structures, including the short-term transition to be directed by the National Oceans Council and a strengthened National Oceanic and Atmospheric Administration as well as the long-term Cabinet-level commitment, show great promise for the future use and stewardship of our coastal resources. The Commission's initiatives provide the framework to address problems which coastal states face, thereby enhancing and ensuring the long term sustainability and public benefits that our coastal environment provides.

New York State strongly supports the report's ecosystem-based approach to solve coastal concerns, supported by solid objective science and relying on a comprehensive monitoring program. The recommendations as well are cognizant of the important interplay among the social, economic and ecological factors and supportive of ocean and Great Lakes education and stewardship. The report recognizes important new tools for ecosystem management such as marine protected areas, but the report could be strengthened in its discussion of habitat conservation and restoration, especially in highly urbanized states such as New York.

Our experience demonstrates that the principles on which the Commission based its report are vital for good environmental stewardship. For instance, we have used ecosystem-based management to develop and implement estuary plans for Long Island Sound, Peconic Bay and South Shore Estuaries on Long Island, New York Harbor and the Hudson River. Solid objective science justifies New York State's leading role in a consortium of the eleven Northeast states in the Regional Greenhouse Gas Initiative to reduce carbon dioxide emissions from power plants and the benefits this effort will have for coastal waters. The balance of social, economic and ecological factors are reflected in New York's recent Superfund and Brownfields law aimed at the restoration and revitalization of New York's contaminated sites, many of which are located on waterfronts. Finally, through the Center for Rivers and Estuaries on the Hudson, New York is developing a world-class site to further collaborative research, education and stewardship of water resources.



Admiral James D. Watkins, USN
June 3, 2004
Page Two

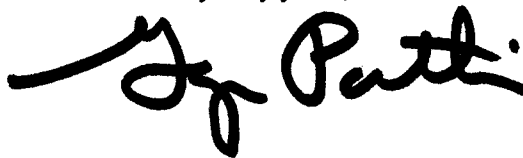
The Commission's recommendations generally support an effective overall strategy and direction for the future preservation of our Nation's coastal resources. I believe, however, that the report overlooks a central concept that is vital to build on and leverage existing efforts and relationships that are already in place at the state and local level. Although the Atlantic and Pacific Oceans clearly are national and international resources, the states and local governments ultimately bear the responsibility for effective land use and resource management and pollution control in the coastal zone. The states need a greater commitment of institutional, technical and financial support from the federal government to address the urgent issues addressed in the report. I urge the Commission to provide greater recognition of this concept in their final report.

The significant redirection of federal policy that the report advocates will not come without substantial federal investment. Absent specific details of the level of funds to be made available to states, I am concerned that funding will be insufficient for states to carry out the many positive recommendations of the Commission. There are also financing opportunities for many state programs that go beyond the report's proposed Trust Fund, such as enhancing and expanding the use of existing Land and Water Conservation Fund revenue, raising the cap on funding for State Coastal Management Programs, funding the Wet Weather Quality Act of 2000 and increasing appropriations for the Clean Water Revolving Loan Program that the report has not explored. The Trust Fund resource allocation proposed in the report will not adequately address the needs of states with longer shorelines and greater coastal populations.

In general, the Commission should be applauded for its recognition of the essential role which the states play in shaping and implementing regional and national policy for ocean resources. At the same time, I encourage you to strengthen the report's recommendations by better taking into account the needs of the states for adequate federal funds and appropriate federal direction in the implementation of actions that will ensure the long-term health and viability of our ocean resources.

I have enclosed for your consideration additional detailed comments on the report. Thank you again for providing New York with the opportunity to offer comments on this visionary and comprehensive report and if you have any questions, please contact New York State Environmental Conservation Commissioner, Erin M. Crotty, at (518) 402-8540. Together, we can secure a sustainable future for our oceans.

Very truly yours,

A handwritten signature in black ink, appearing to read "J. Watkins". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Admiral James D. Watkins, USN
Chairman - U.S. Commission on Ocean Policy
1120 20th Street, N.W., Suite 200 North
Washington, D.C. 20036

Enclosure

Comments of New York State on the U.S. Commission on Ocean Policy

Chapter 1 - Recognizing Ocean Assets and Challenges

New York State Recommendation: The Commission's report effectively describes oceans and coastal waters as national assets. It is particularly strong in its description of the economic, environmental and social benefits resulting from the natural resources of our oceans. However, for a fully balanced approach, as envisioned in the federal Coastal Zone Management Act of 1972 (CZMA), the report should also look on the coastal urban centers as assets, not only as a potential causes of degradation to coastal resources. The older, established cities and villages are an important part of the coastal economy. Ports, working harbors, recreational access and tourism are found in existing centers. The existing centers also are often marked by brownfields and underused waterfront land, wasting past public investment. The report should consider the environmental and economic benefits that could accrue to the nation's oceans and coasts by reclaiming and recycling underused or abandoned urban land, including lessening pressure for the development of open coastal lands.

Chapter 2 - Understanding the Past to Shape a New National Ocean Policy

New York State Comment: The historical overview leading to the advocacy of a new national ocean policy is persuasive. New York State concurs with this assessment and the need to shape a new national ocean policy.

Chapter 3 - Setting the Nations's Sights

New York State Comment/Recommendation: Overall, the Vision, Guiding Principles and Concepts establish a sound and visionary foundation for the report. The report's definition of sustainability as "meeting the needs of the present generation without compromising the ability of future generations to meet their needs" is simple and elegant, and should be considered in an environmental policy context beyond this report.

The State strongly supports an ecosystem-based management approach that considers the interaction of the human-made and natural environments. This approach recognizes that marine ecosystems cannot be managed as if composed of separate entities. Human impacts are of many kinds and have multiple and inter-related effects. A comprehensive, ecosystem-based approach is the only way to proceed toward solutions to these types of problems.

The research agenda proposed by the Commission is heavily weighted toward natural sciences as a foundation for decision-makers. In addition to the natural sciences, greater understanding of community and coastal economics is also needed, as is more refined and sophisticated institutional arrangements for interstate and inter-municipal cooperation to protect and restore shared resources. New York State recommends expanding the report to include research to support a greater understanding of community and coastal economics.

Chapter 4 - Enhancing Ocean Leadership and Coordination

New York State Comment: A National Ocean Council and a Presidential Council of Advisors on Ocean Policy would better coordinate multi-issue overlapping areas of responsibilities and issues among Federal agencies. These councils would elevate coastal issues to a more visible and active Executive level. New York State agrees that this type of attention and direction is needed to enhance ocean leadership and coordination, but not create new bureaucracies.

Chapter 5 - Advancing a Regional Approach

New York State Comment: The report recommends the realignment of federal agency regions with ecosystem boundaries. In principle, this option is appealing, but the State urges caution to avoid having numerous federal offices/points of contact within a single state that encompasses multiple major watersheds. Consolidation must be considered at the same time as realignment to reduce the number of points of contact for the federal-state interface.

Recommendation 5-1. State, territorial, tribal, and local governments and nongovernmental participants should use the broad, flexible process developed through the National Ocean Council to begin the establishment of regional ocean councils.

New York State Comment/Recommendation: New York State endorses the Commission's recommendation for a voluntary, rather than a mandatory, regional ocean council process, and is pleased that the Commission recognizes that the regional councils should support, not supplant, existing issue-specific and sub-regional ocean and coastal programs. A model already exists through Coastal America's regional teams (e.g., the Mid-Atlantic Regional Implementation Team which is made up of representatives from all of the involved federal agencies, the states, the aquariums, and other interests). Coastal America is recognized later in the report (page 130) but there is no consideration of using this existing organization and its regional components for ocean policy initiatives beyond habitat restoration and education projects. The Estuarine Habitat Restoration Council is also recognized in the Commission's report, but it is not offered as an existing option for expanded ocean coordinating functions. The State recommends carrying the charge to the regional councils a step further, so that the councils can provide active support and enhancement to ongoing sub-regional initiatives, particularly National Estuary Program (NEP) Management Conferences and state or regional estuary and watershed management partnerships.

Recommendation 5-3. Each regional ocean information program, with guidance from the National Ocean Council, should coordinate the development of a regional ecosystem assessment, to be updated periodically.

New York State Comment/Recommendation: New York State supports the proposal to establish periodic regional ecosystem assessments. Later in the report, the Commission suggests that state Coastal Zone Management programs provide state assessments to feed into these regional assessments. New York State recommends recognizing in the final report that this positive concept will require significant financial investment at the state level.

Recommendation 5-4. Congress should establish regional boards to administer regional ocean information programs throughout the nation. Program priorities should be carried out primarily through a grants process.

New York State Comment/Recommendation: New York supports this recommendation. The State further recommends that the Port Authority of New York and New Jersey (Port Authority) be included as a member of the regional board for this region.

Chapter 6 - Coordinating Management in Federal Waters

Recommendation 6-2. Congress, working with the National Ocean Council and regional ocean councils, should establish a coordinated, ecosystem-based offshore management regime that sets forth guiding principles for the balanced coordination of all offshore uses. It should recognize the need, where appropriate, for single-purpose ocean governance structures that are comprehensive and fully integrated with and based on the principles of the new offshore management regime. The regime should also include a process for planning for new and emerging activities and a policy that a reasonable portion of the resource rent derived from such activities is returned to the public.

New York State Recommendation: New York State notes the importance of this recommendation. The Commission is advised to separate the planning and directing of resource rent issues into separate recommendations and provide a more detailed description of the process it envisions for making decisions among competing uses of offshore areas.

Recommendation 6-3. The National Ocean Council should develop national goals and guidelines leading to a uniform process for the effective design and implementation of marine protected areas.

New York State Comment: New York State supports this recommendation. Federal leadership on this issue is needed. National goals and guidelines, based on scientific information, with input from state and local interests, would help facilitate the appropriate design and implementation of marine protected areas.

Chapter 7 - Strengthening the Federal Agency Structure

New York State Comment: New York State agrees that, in general, consolidation (and additional coordination) of responsibilities across federal agencies would provide real reform and eliminate redundancies. In fact, all levels of government would benefit by considering some efforts to provide better focus and clarity of responsibilities necessary to manage the coastal resources. However, while the consolidation of major ocean and coastal functions and programs of federal agencies is laudable, moving all national ocean and coastal functions and programs might undermine the well-established balance currently provided through multi-purpose roles in some agencies. Rather than consolidating several agencies in a primarily single-purpose natural resources agency, the federal government's approach might be modeled on the objectives of the CZMA and the successes of networked multi-agency management structures provided through several State Coastal Management Programs.

Chapter 8 - Promoting Lifelong Ocean Education

New York State Comment: In order to improve ocean related education the Commission should consider opportunities to improve ocean science based education programs developed with local school district involvement identifying the need for coastal-ocean professional training. Formal and informal education for K-12, undergraduate, graduate and continuing adult learners will be critical

for creating a concerned and knowledgeable public, sophisticated decision-makers, motivated workers and dedicated and expert natural resource scientists. Sea Grant could supplement its current collective focus and expertise toward this additional educational requirement with one or more educational specialists added to each state Sea Grant office and activities for K-12, graduate student fellowships and distinguished professorships.

While citing national-level ocean education programs of particular significance in the Participants in Coastal Education section, the report makes no mention of two exemplary national initiatives which the National Oceanic and Atmospheric Administration (NOAA) administers with well developed and excellent ocean education efforts: the National Marine Sanctuary Program, with 13 programmatic sites in the Atlantic and Pacific oceans and Gulf of Mexico; and the National Estuarine Research Reserve System (NERRS), with 26 individual programmatic sites on the Atlantic, Pacific and Gulf coasts.

NERRS, as a partnership between NOAA and individual coastal states, has well-developed formal education programs, and holds great potential to grow ocean education, especially in light of the report's statement that ocean-related education is essentially a state responsibility. The report neglects to adequately acknowledge or represent the existing effort and future potential of the education programs of the NERRS, its efforts to bridge the gaps between scientists and educators, its exemplary Coastal Training Program, and Estuary Live (an interactive live feed estuary science program available to schools nationwide).

The State strongly supports the report's discussion in the sections on Science Literacy and Future Ocean Leaders.

Chapter 9 - Managing Coasts and their Wetlands

New York State Comment: As mentioned earlier, New York supports adoption of a watershed or ecosystem focus for a national oceans policy, recognizing that marine ecosystems cannot be managed as if composed of separate entities. A comprehensive, ecosystem-based approach is the only way to proceed toward solutions to the issues outlined in the report. The Coastal Nonpoint Pollution Control Program (Coastal Zone Act Reauthorization Amendments of 1990 Section 217) has been very successful in restoring and protecting water quality through the broad application of cost effective management measures for watershed protection.

Recommendation 9-1. Congress should reauthorize the Coastal Zone Management Act to strengthen the planning and coordination capabilities of coastal states and enable them to incorporate a coastal watershed focus and more effectively manage growth. Amendments should include requirements for resource assessments, the development of measurable goals and performance measures, improved program evaluations, additional funding to adequately achieve the goals of the Act, incentives for good performance and disincentives for inaction, and expanded boundaries that include coastal watersheds.

New York State Comment: The report contains a clear account of some of the barriers to better coastal management. The discussion properly highlights the problem of insufficient appropriations dedicated to protecting coastal resources. The State also strongly supports the recognition of the Coastal Zone Management Program as a principal tool for fostering comprehensive management. We concur with the recommendations for strengthening the ability of state Coastal Management Programs to more comprehensively manage coastal resources, including the ideas for resource

assessments, a coastal watershed focus, and growth management. However, a significant increase in staff resources and funding level would be necessary to conduct such resource assessments, and extend the reach of the program – the coastal zone boundary – to the upstream extent of tidal influence. In New York this would include the tidally influenced portions of tributaries of the Hudson River, and the entire area that drains to the Great Lakes.

The need to better manage and guide growth away from sensitive areas is an appropriate goal, but the challenge represented by home rule in states such as New York, where land use decisions are largely the purview of local governments, cannot be ignored. The State also agrees that federal funding and infrastructure programs which provide incentives leading to the degradation of coastal environments should be revised to be more in line with ecosystem-based goals and plans.

New York State strongly advises the Commission to be cautious about creating disincentives for states which do not meet their goals. If the Commission's desired result is better assessment and management, this report language could be counterproductive to achieving those goals. This dilemma points to the need for proper funding and additional technical support to states.

Recommendation 9-2. Congress should consolidate area-based coastal management programs in a strengthened NOAA, capitalizing on the strengths of each program. At a minimum, this consolidation should include the Coastal Zone Management, National Estuarine Research Reserve System, and National Marine Sanctuary programs currently administered by NOAA and additional programs administered by other agencies: the Coastal Barrier Resources System; the National Estuary Program; and the U.S. Fish and Wildlife Service Coastal Program.

New York State Comment/Recommendation: New York State has benefitted from the designation of three of its major estuaries – Long Island Sound, the Peconic Estuary and New York/New Jersey Harbor – under the NEP. We and our partners are actively implementing the Comprehensive Conservation and Management Plans (CCMPs) at costs exceeding one billion dollars to the state and local governments. From our very positive experience and track record, New York understands that it is essential to use the enforceable mechanisms of the Clean Water Act to successfully implement our CCMPs, and particularly to secure the necessary investment of state and local government revenue to do so. We have adopted Total Maximum Daily Loads (TMDLs) for nitrogen inputs to estuaries and have amended State Pollutant Discharge Elimination System (SPDES) permits, and initiated enforcement actions to assure the municipal dischargers stay on schedule to achieve the TMDLs. We are initiating TMDLs for pathogens and toxics and have worked with EPA to establish vessel no-discharge zones. The partnership with EPA and incorporation of the NEP CCMPs under the Clean Water Act are essential to maintain the progress we have made in cleaning up our estuaries. We support a significantly increased NOAA role and investment in the NEP partnership, and the strong support of a regional ocean council (see above). Given the success of the NEP in New York, we are concerned with the recommendation to move the NEP to NOAA.

Similarly, New York State also has reservations about relocating the United States Fish and Wildlife Service (USFWS) Coastal Program to NOAA. This program integrates the expertise of the fish and wildlife experts with a coastal focus that are not part of NOAA's mission. The work that the USFWS Coastal Program has performed for the NEPs in New York has been excellent and incredibly cost-effective.

Recommendation 9-4. Congress should amend CZMA, the Clean Water Act, and other federal laws where appropriate, to provide better financial, technical, and institutional support

for watershed initiatives. Amendments should include appropriate incentives and flexibility for local variability. The National Ocean Council (NOC) should develop guidance concerning the purposes, structures, stakeholder composition, and performance of such initiatives.

New York State Comment: New York State support this recommendation that would incorporate a watershed focus into federal laws, and that recognizes the need for Congress to provide better financial, technical, and institutional support for watershed initiatives. Many activities, such as the removal of contaminated sediments associated with dredging operations, are impacted by what takes place upstream. This recommendation recognizes the need for the tools and resources to prevent the migration of contaminated sediments from uplands into the coastal waters.

Chapter 10 - Guarding People and Property against Natural Hazards

Recommendation 10–1. The NOC should review and recommend changes to the U.S. Army Corps of Engineers (Corps) Civil Works Program to ensure valid, peer-reviewed cost-benefit analyses of coastal projects, provide greater transparency to the public, enforce requirements for mitigating the impacts of coastal projects, and coordinate such projects with broader coastal planning efforts.

New York State Comment: In regards to cost/benefit analysis studies, traditional economic analysis discounts future benefits and costs compared to immediate benefits and costs. As a result, future benefits associated with long term risk reduction compare poorly with shore defense construction. This economic discounting is important and many "smart growth" options compare unfavorably to structural options even though the structures may be overwhelmed by storm conditions exceeding design standards, and even though the structures have a limited life span which necessitates additional future projects.

New economic analysis should be developed to favor long term adaptive re-development when funding is available and conditions warrant. Non-structural options benefit natural resources and provide permanent risk reduction that is not adequately valued in traditional cost/benefit analysis. In addition, natural resource restoration in high risk areas adds value to adjacent properties, benefiting both owners and the local property tax base. Traditional cost/benefit analysis does not recognize this ancillary benefit. Finally, the cost of structural measures must include the costs associated with necessary future measures in a meaningful way, and probably should include costs associated with limited future management options as a result of structure construction and associated a t-risk development.

Our experience in New York also suggests that there could be significant improvements in Corps projects where peer review of the science/engineering has occurred. Peer review of the science/engineering will also lead to greater public acceptance of the results. The State believes that the science and engineering analysis performed for Corps studies should also be peer-reviewed.

Finally, the enforcement of project mitigation requirements should extend to projects already constructed. There are many examples of Corps projects in New York which have had dramatic and adverse impacts on coastal habitats and coastal processes. Mitigating those impacts would be an important first step in returning the coastal system to a more natural condition.

Recommendation 10–3. The NOC should recommend changes in the National Flood Insurance Program (NFIP) to reduce incentives for development in high-hazard areas.

New York State Comment/Recommendation: Regarding changes in the NFIP, the report accurately and candidly discusses structural problems with the NFIP and management of development in coastal hazard areas, and should be endorsed. The Commission also should establish disincentives to building or rebuilding in coastal high-hazard zones by requiring actuarial insurance rates.

Recommendation 10–4. The NOC should encourage Congress to increase financial and technical assistance to state and local entities for developing hazards mitigation plans consistent with requirements of FEMA. The NOC should also identify opportunities for conditioning federal hazards-related financial and infrastructure support on completion of FEMA-approved state and local hazards mitigation plans.

New York State Comment/Recommendation: The NOC should encourage Congress to provide additional funding, technical assistance and incentives for States and local governments to formulate mitigation plans is sound but mitigation plans can be improved. Currently, municipalities are free to choose from a menu of items to include in mitigation plans. Instead, risk should be identified for a participating community and targeted levels of risk reduction should be required to complete a satisfactory plan. This should include measures to address flood and erosion risk areas.

Chapter 11 - Conserving and Restoring Coastal Habitats

New York State Comment: The recommendations in this chapter emphasize federal agency coordination, as well as increased and focused federal funding sources. The recommendations are generally sound, but the State is concerned regarding the tendency to overly bureaucratize the system, creating oversight agencies that may have little impact on how other federal agencies operate or coordinate habitat-related activities.

The emphasis on assessing coastal habitat conservation needs within a regional context, in coordination with other regional needs and issues, is particularly encouraging. We agree that a baseline ecosystem assessment is a necessary prelude to any conservation planning. New York State would strongly support this concept, in combination with the recommended increased funding for project monitoring. Recommendations for better science and technologies related to restoration are also important, and promotion of a comprehensive national wetlands protection program (beyond the fragmentary Clean Water Act coverage) is a welcome suggestion.

Potential gaps in the report's recommendations include a very limited discussion of the habitat values that provide the reasons for supporting a substantial public investment in protection and restoration of coastal habitats and landscapes and a lack of discussion concerning community/volunteer efforts. Given the magnitude of the problem, future funding will not likely be sufficient to meet public need without the assistance of substantial volunteer effort. This issue, in turn, relates to increased need for public outreach and education for this and many other aspects of ocean policy. The Commission should consider some discussion of the relationship, in terms of prioritization, between restoration and protection. Finally, with the emphasis on top-down coordination, there is little recognition in the chapter that many coastal resource protection decisions are made at the local level and consequently are not adequately addressed in this report.

Recommendation 11–1. Congress should amend CZMA to authorize and provide sufficient funding for a dedicated coastal and estuarine land conservation program

New York State Comment/Recommendation: New York State strongly supports this recommendation, and notes that New York's Open Space Conservation Plan is fully consistent with the Commission's recommended planning process. This recommendation could provide funding to augment the Habitat Protection Plan that the Port Authority has with the states of New York and New Jersey, in which the Port Authority provided \$30 million to each state for the purchase of environmentally valuable land, identified by the state, for the purpose of preserving property, saving critical animal habitats and creating areas for public access to the waterfront. The Commission is urged to more specifically address the source and magnitude of funding to be provided for the proposed program. For example, the Commission should consider recommending increasing funds and dedication of a portion of the Land and Water Conservation Fund for this purpose. New York State also urges the Commission to broaden this recommendation to include the provision of funds for improving access to the coast.

Recommendation 11-4. The NOC should coordinate development of a comprehensive wetlands protection program that is linked to coastal habitat and watershed management efforts and should make specific recommendations for the integration of the Clean Water Act Section 404 wetlands permitting process into that broader management approach.

New York State Comment/Recommendation:

The State believes that a program such as that recommended in the report is essential to incorporate the states as full partners in development of a comprehensive wetlands protection program. The State would like to note, however, that the report highlights crises in the Everglades, Louisiana and San Francisco regarding wetlands losses. The accelerated rate of wetlands loss in Jamaica Bay that may result in loss of all wetlands in the bay in the next 20 years should similarly be highlighted. While not as extensive as Louisiana, it is occurring for reasons not yet well understood and in the Gateway National Recreation Area – next to one of the largest urban populations in the country.

Chapter 12: Managing Sediment and Shorelines

New York State Comment/Recommendation: The report's discussion of navigational dredging highlights problems with handling dredged material, source management, and the impacts of dredging and contaminants. The report then goes on to recommend streamlined regulatory processes without recognizing that the permit reviews are long because difficult issues must be addressed. Any initiative to streamline the dredging process must be careful to include resolution of these issues, which is not discussed in this section.

Maintenance of navigation channels causes recognized impacts to adjacent areas. In particular, projects that allow dredging to below the authorized channel depth for "advance maintenance" and "over-dredging" reduce the frequency of maintenance (and costs), but incur environmental impacts as a result. The report should consider recommendations to identify these extra dredging depths as potential problems and require them to be included in advance analysis of the project, to advocate reducing channel depths to the minimum necessary to maintain safe navigation, and to formulate plans for more frequent maintenance if necessary.

Regarding the discussion of beach nourishment, the report recognizes opposing views on this subject without resolving them. At a minimum, the report should note that the use of beach fill often does nothing to reduce the long term potential for damages because it allows development to remain in high risk locations vulnerable to future erosion. This continuing risk dictates a commitment to fill maintenance and more shore protection projects in the future. Beach fills may also encourage more

investment in high risk locations due to the perception that government is committed to long term shore protection.

Recommendation 12-1. The NOC should develop a national strategy for managing sediment on a regional basis, taking into account both economic and ecosystem needs. The strategy should: consider adverse impacts on marine environments due to agriculture, dredging, pollutant discharges, and other activities that affect sediment flows or quality; ensure involvement of port managers, coastal planners, and other stakeholders in watershed planning; and require that ecosystem-based management principles serve as the foundation for permitting processes for activities that affect sediment.

New York State Comment/Recommendation: New York strongly supports this recommendation. Currently, the federal government continues to treat performance requirements for dredged material placement in the ocean and estuaries differently across the nation, at significant disadvantage and costs to some locales. Even within New York, the federal view of open water disposal between the Atlantic Ocean and Long Island Sound are directly contradictory. Coordination of sediment management plans on a scale equivalent to regional ocean council areas will benefit the process, particularly in regards to evaluating and implementing large-scale regional alternatives to open water disposal. However, sediment is generated and becomes contaminated within a watershed, and planning to minimize the generation of sediment or to implement local solutions to disposal needs must be done at the watershed level, using regional dredging teams where possible. We suggest that regional sediment management teams be organized at the major watershed level, and develop and implement comprehensive, cooperative Dredged Material Management Plans.

Recommendation 12-2. The Corps should ensure that its selection of the least-cost disposal option for dredging projects reflects a more accurate accounting of the full range of economic and environmental costs and benefits for options that reuse dredged materials, as well as for other disposal methods.

New York State Comment/Recommendation: New York State supports the recommendation, but notes that there is a need to develop improved methods for quantifying the environmental costs of inexpensive disposal options. The report should consider advocating revision of the Corps mandate to dispose dredged sediment in the least cost manner (often ocean dumping) and suggest instead that the Corps fund the placement of dredge material in a manner which best supports restoration of natural processes. In particular, if it can be shown that the least-cost disposal option has significant detrimental impacts, it should be replaced with a more beneficial option.

Recommendation 12-3. The National Dredging Team and regional dredging teams should begin to implement more ecosystem-based approaches. The National Dredging Team should implement the recommendations of the 1994 report to the Secretary of Transportation, *The Dredging Process in the United States: An Action Plan for Improvement*, with a priority of developing and implementing a streamlined permitting process. Regional dredging teams, working with regional ocean councils, should establish sediment management programs that include watersheds, coastal areas, and the nation's shoreline.

New York State Comment/Recommendation: New York State supports the recommendation. The recommendations of the 1994 report to the Secretary of Transportation call for establishing teams, holding pre-application meetings, creating application checklists, improving federal interagency review and a Corps/EPA Memorandum of Understanding. These measures were supposed to be

implemented some time ago, but continue to be plagued by two fundamental problems – timing and information. These concerns are of particular importance in coordinating federal proposals with state 401 Water Quality certification.

Regarding timing, the federal schedule for project development and bidding does not provide state regulatory staff with sufficient notice of the project or request for state water quality certification. Potential environmental obligations for contractor operations, equipment and ultimate dredge material management are also not adequately considered during the bid process. Once those obligations become known, the complaint is that the bid award did not contemplate the additional time or costs of these requirements and a conflict is guaranteed. All state requirements expected from the state 401 certification should be reflected in the request for bids before a bid award is made.

Regarding information, federal resistance to state environmental windows for doing work is premised on poor information about actual conditions and risks. A baseline study of target species of concern in specific areas would provide certain justification for all future project schedules. Such a baseline study approach, suggested elsewhere in the report for state and regional ecosystem assessments, is appropriate here as well.

In addition, this recommendation cites a number of reasons why dredge permitting is slowed, including problems disposing of contaminated material. As noted previously, it would be unwise to "streamline" the permit process at the expense of proper disposal of contaminated material. Proper review and safe handling of contaminants must be part of the permit approval process.

Recommendation 12-4. The Corps, NOAA, EPA, and United States Geological Survey (USGS) should develop a strategy for improved assessment, monitoring, research, and technology development to enhance sediment management. Congress should modify its current authorization and funding processes to encourage the Corps to monitor outcomes from past projects and study the cumulative, regional impacts of its activities within coastal watersheds and ecosystems.

Recommendation 12-5. EPA, working with other appropriate entities, should develop a coordinated strategy for assessment, monitoring, and research to better understand how contaminated sediment is created and transported, and to develop technologies for better prevention, safer dredging of such sediment, and more effective treatment after it is recovered.

New York State Comment: New York State supports these recommendations calling for an interagency strategy to enhance sediment management; funding to encourage the Corps's monitoring and study activities; and a proposal for EPA to develop a coordinated strategy to assess, monitor and research the contamination, transport and management of sediment. Development of the strategy called for in these recommendations would serve to complement the ongoing Contaminant Assessment and Reduction Program (CARP) in which the Port Authority, the states of New York and New Jersey, the Corps and EPA are partners. Additional science on how to clean contaminated material, and funding sources for doing so, is badly needed.

The Commission may want to review recent programs at US Army Engineer Research and Development Center and the work of Great Lakes Dredge Team. These programs would show the Corps's ability to consider the beneficial use of dredged material and regional dredge management policies. However, limited funding for Corps maintenance dredging in major waterways limits the exploration of beneficial use options. The funding issue should be addressed in the report.

Chapter 13 - Supporting Marine Commerce and Transportation

New York State Comment/Recommendation: Sustainable inter-modal marine transportation will require a reliable vehicle for federal assistance for infrastructure improvement projects. Congressional action to sustain and grow a viable inter-modal transportation infrastructure is warranted, as supported by the Commission's report. Support for marine commerce and transportation should also include facilitating coordination with international partners (i.e. through the International Joint Commission (IJC)).

Although this chapter goes into substantial characterizations of the values and operations of ports, there is no mention of the prospect of operating "Green Ports" such as the Port of Houston initiative and others. Environmentally sound management of port operations on a holistic basis via the use of environmental management systems or other tools is critical to ensuring the viability of these ports as natural resources as well as economic engines. The Commission should consider some discussion of "Green Port" initiatives.

Recommendation 13–2. Congress should codify the Interagency Committee for the Marine Transportation System and place it under the oversight of the National Ocean Council.

New York State Comment: New York State supports the recommendation and the call for the Interagency Committee for the Marine Transportation System to recommend strategies and plans for alternate funding scenarios to meet short and long-term demands on the marine transportation system. Specifically, for the Port of New York and New Jersey cargo volumes are projected to increase, with high costs associated with port and intermodal infrastructure improvements. Alternative funding sources will be required to ensure that enhancements to regional marine transportation system elements, which are needed to accommodate the anticipated growth in maritime commerce, are completed.

Recommendation 13–5. The U.S. Department of Transportation (DOT), working with other appropriate entities, should establish a national data collection, research, and analysis program to provide a comprehensive picture of freight flows in the United States and to enhance the performance of the nation's intermodal transportation system. DOT should periodically assess and prioritize the nation's future needs for ports and intermodal transportation capacity to fulfill the needs of the nation's expected future growth in marine commerce.

New York State Comment: Given the expected growth in maritime commerce at the Port of New York and New Jersey, the states of New York and New Jersey should be included among the appropriate entities to provide input into the development of this program and the prioritization of future needs for ports and intermodal transportation capacity.

Recommendation 13–6. In developing a national freight transportation strategy, DOT should work closely with the United States Department of Homeland Security and FEMA to incorporate port security and other emergency preparedness requirements. The strategy should focus on preventing threats to national security and port operations and on response and recovery practices that limit the impacts of such events, including an assessment of the availability of alternative port capacity.

New York State Comment: This recommendation recognizes the importance of ports to our national security and the need to prevent, respond and manage the consequences of a terrorist attack as well as identify alternative port capacity to maintain the flow of maritime commerce. Other unanticipated events such as those affecting labor, groundings and spills, strife and other potential disruptions anywhere within the inter-modal commerce and transportation continuum need to be considered as well. Technological advancements in security screening, cargo movement and tracking, and traffic management may be required in a shorter time frame than anticipated or perceived. Maritime academies, and the research and development of innovative technologies for handling increasing volumes of cargo (and personnel) movement should be included in the stakeholder interests schedule. Federal funds to address the emergency preparedness needs identified by this strategy should be provided.

Chapter 14 - Addressing Coastal Water Pollution

New York State Comment/Recommendation: Conventional wastewater treatment is not capturing pharmaceuticals, home care products, industrial chemicals, insecticides and flame retardants, some of which are found to be endocrine disruptors to aquatic organisms and possibly other organisms up the food chain. Early United States Geological Survey (USGS) sampling work in New York is revealing some of these same findings. Later in the report (page 181) there is some discussion of this issue. Federal support for both sampling capability and pollution prevention programs to help manage sources is needed.

The discussion of non-point source pollution gives relatively short treatment of the role of local land use planning and stormwater system management in addressing the issue, yet in non-agricultural areas such as the population centers of the Northeast, this is absolutely critical. This chapter of the report does not address issues related to withdrawal of water from coastal watersheds and the associated impacts from modified hydrographic regimens, impingement/entrainment of aquatic organisms and modified salinity and temperature conditions in estuaries and coastal waters. The Commission is urged to evaluate these problems and discuss them in its final report.

In the first paragraph under “Increasing the Focus on Nonpoint Sources of Pollution” (page 162) the list of pollutants is fairly limited. The listing of categories of pollution should be expanded to include hydrologic modification, among others.

Recommendation 14–2. EPA and states should increase technical and financial assistance to help communities improve the permitting, design, installation, operation, and maintenance of septic systems and other on-site treatment facilities. State and local governments, with assistance from EPA, should adopt more effective building codes and zoning ordinances for septic systems and should improve public education about the benefits of regular maintenance.

New York State Comment: In the report, septic systems are placed under point sources, although not all septic systems are classified as point sources. The discussion makes no reference to EPA's guidelines for decentralized systems or its proposal for voluntary guidelines. This EPA action makes it difficult for individual states to advocate for implementation of the guidelines. Management measures for new and operating septic systems continue to prevent full approval of many state Section 6217 programs, despite the provisions in the 1998 administrative changes which authorized voluntary programs with back up enforcement authority.

Recommendation 14–3. Where necessary to meet water quality standards, states should issue regulatory controls on concentrated animal feeding operations in addition to those required by the federal government. EPA and the U.S. Department of Agriculture should fund research on removal of nutrients from animal wastes and should develop improved best management practices that retain animal waste-derived nutrients and pathogens on agricultural lands.

New York State Comment/Recommendation: New York State supports the recommendation, but suggests that the Commission incorporate a further recommendation for additional funding for Agriculture Environmental Management Programs such as exists in New York.

Recommendation 14–14. EPA, states, and watershed groups should explore regional approaches for managing atmospheric deposition, particularly when it affects water bodies in states far from the source.

New York State Comment: The Commission's report correctly highlights atmospheric deposition as a significant pollution source affecting watersheds and ultimately the marine environment, but, we believe, places too much emphasis on international attention to this issue, ignoring the current national debate on controls of air pollutants, including mercury, carbon dioxide, nitrogen oxides, and sulfur dioxide. In addition, many states, including New York, have taken steps to control these harmful pollutants. For example, the consortium of the eleven Northeast states who have formed the Regional Greenhouse Gas Initiative to reduce carbon dioxide emissions from power plants. The credibility of the report demands some recognition of the necessity for strong federal action.

Recommendation 14–5. EPA and states should experiment with tradable credits for nutrients and sediments as a water pollution management tool and evaluate the ongoing effectiveness of such programs in reducing water pollution.

New York State Comment: New York State cautions that moving forward with experimental trading of credits for nutrients and sediments as a water management tool may pose significant risks to local environmental resources. There are many issues to be addressed. If such a trading scheme is developed, criteria must be developed with close interaction by states.

Recommendation 14–9. To improve and strengthen federal efforts to address nonpoint source pollution, Congress should amend the Clean Water Act to merge NOAA's enforceable nonpoint source pollution program, created under Section 6217 of the CZARA, into EPA's incentive-based program, created under Section 319 of the Clean Water Act. To support these efforts, Congress should provide adequate federal resources to enable states to implement best management practices.

New York State Comment: New York State does not support this recommendation that Congress amend the Clean Water Act to merge the NOAA's enforceable nonpoint source pollution program (Coastal Nonpoint Pollution Control Program), created under Section 6217 of the CZARA, into EPA's incentive-based program, created under Section 319 of the CWA. A mix of measures are necessary to better manage nonpoint pollution including land use controls. No evidence has been presented to come to conclusion that the Section 6217 program, jointly developed and administered by EPA and NOAA, would be more effective if moved entirely to EPA. The close connection between land use and water quality is the basis for the Section 6217 program, and Coastal Management Programs, which fall under NOAA's responsibilities, are an extremely effective tool to

guide land use. Rather than severing the strong ties between the state Section 6217 programs and the Coastal Management Programs, the ties should be strengthened. The Commission should reconsider its recommendation for relocation of the Coastal Nonpoint Pollution Program to EPA.

Recommendation 14–10. Congress should provide authority under the Clean Water Act and other applicable laws for federal agencies to impose financial disincentives and establish enforceable management measures to ensure action if a state does not make meaningful progress toward meeting water quality standards on its own.

New York State Comment: As noted in comments on Recommendation 9-1 above, New York State has reservations regarding disincentives. Our reservations are even more pronounced when state performance is, as discussed in this recommendation, largely dependent on federal funding support. Program effectiveness requires appropriate funding and support. The State also disagrees with the Commission's belief that the issue of concern is relaxed oversight on the part of EPA with respect to Section 6217 activities. Rather, it is EPA's change in position that has introduced uncertainties and hindered long range planning by the states. The Commission should appropriately address this concern.

Recommendation 14–11. State and local governments should revise their codes and ordinances to require land use planning and decision-making to carefully consider the individual and cumulative impacts of development on water quality, including effects on stormwater runoff. EPA and other appropriate entities should increase outreach programs that provide local land use decision-makers with the knowledge and tools needed to make sound land use decisions that protect coastal water quality.

New York State Comment: New York State notes that revising codes and ordinances to accommodate this recommendation is an enormous undertaking that calls for substantial and long overdue federal support. The same recommendations have been proposed since the federal 205G planning studies of the 1970s, particularly for Long Island – yet full implementation has not been achieved. Financial incentives and enforcement disincentives must be strengthened in order to drive changes in land use and development practices.

Phase II Stormwater regulations now mandate that state and local governments in urbanized areas revise their codes and ordinances to require land use planning and decision making to carefully consider the cumulative impacts of development on water quality by 2008. In addition, given the mounting volume and complexity of municipal responsibilities, the need for municipal outreach programs that facilitate coordination, integration, communication and efficiency is apparent. The report should recommend outreach programs to municipalities that address efficient delivery and implementation of municipal policies, services and procedures.

In fact, the role of local governments in protecting water quality goes far beyond their land use decisions. The Phase II Stormwater program is only one example of a broad range of municipal policies, practices and programs which are pivotal to ensuring the sustainable use of our nation's coastal resources. These include public education and outreach, public involvement and participation, pollution prevention and good housekeeping, illicit detection and elimination, construction site runoff control and post-construction runoff control.

The University of Connecticut Project NEMO (Nonpoint Education for Municipal Officials) program has grown to become the coordinating hub for a nation-wide network of over 30 NEMO

programs across the country. The New York Sea Grant NEMO Program has provided Long Island municipal officials with educational training and support to assist them in protecting their coastal resources for the past four years, and is now being expanded to include some upstate areas. The discussion regarding Project NEMO should be updated to reflect the broader geographic scope of the program.

Recommendation 14–12. EPA, working with state and local governments, should ensure that stormwater management programs are based on a comprehensive approach that includes: codes or ordinances requiring best management practices; increased enforcement of legal requirements; monitoring to determine whether goals and state water quality standards are being met and to identify ongoing problems; an adaptive management approach to ensure that efforts are effective and that best management practices are modified as needed; improved public education; and funding and personnel sufficient to implement and enforce stormwater management programs.

New York State Comment: New York State supports this call for EPA to work with state and local governments to ensure that stormwater management programs are based on a comprehensive approach. This recommendation would lead to better management of stormwater discharges with less contamination reaching our waterways and be of ecological benefit while also reducing the cost to dispose of contaminated sediment resulting from dredging.

Recommendation 14-13. The NOC and regional ocean councils should strengthen the ability of collaborative watershed groups to address problems associated with nonpoint source pollution by developing and implementing strategies to provide them with adequate technical, institutional, and financial support.

New York State Comment: New York State supports the call for technical, institutional and financial support to collaborative watershed groups to address non-point source pollution. In addition to the innovative New York City Watershed Agreement, New York State has done important work with numerous stakeholders in its Watershed Restoration and Protection programs, particularly in the Upper Susquehanna River Watershed. This interior waterway ultimately supports the coastal waters of Chesapeake Bay. These programs are very staff intensive over long periods of time in order to be successful but they provide unprecedented results at a watershed scale that cannot be achieved otherwise. Federal funding for these programs needs to be restored to do precisely the kind of work envisioned in the report.

As noted above, New York recognizes the value and supports the efforts of watershed groups working in partnership with local governments. New York has worked in partnership with these groups and local governments, providing technical assistance and matching grants, and plans to continue to do so. Efforts of any regional ocean councils established should be closely coordinated with existing regional and state programs including National Estuary Programs and state coastal management programs.

Recommendation 14–14. EPA, states, and watershed groups should explore regional approaches for managing atmospheric deposition, particularly when it affects water bodies in states far from the source.

New York State Comment: The Commission’s report correctly highlights atmospheric deposition as a significant pollution source affecting watersheds and ultimately the marine environment, but, we

believe, places too much emphasis on international attention to this issue, ignoring the current national debate on controls of airborne mercury. The credibility of the report demands some recognition of the currently outstanding obligations and proposals of EPA to address airborne toxics such as mercury.

Chapter 15 - Creating a National Water Quality Monitoring Network

Recommendation 15-1. NOAA, USGS, and EPA, working with other appropriate entities, should develop a national water quality monitoring network that coordinates existing and planned monitoring efforts, including monitoring of atmospheric deposition. The network should include a federally funded backbone of critical stations and measurements needed to assess long-term water quality trends and conditions.

New York State Comment: New York State supports the creation of a National Water Quality Monitoring Network. Because of the limits on available funds, a coordinated effort is necessary to effectively monitor the Nation's waters, both the oceans and the upland freshwaters that feed into them. As mentioned in the report, efforts already undertaken by groups such as the National Water Quality Monitoring Council (NWQMC) could be expanded to address this need. The National Methods and Data Comparability Board, which is a workgroup for the NWQMC, is developing the Water Quality Data Elements which are a core set of parameters that should be included in monitoring projects to identify the issues surrounding monitoring, so that a comparison of data between projects can be accomplished. We also support the recommendation for the network to include adequate coverage of coastal areas and upland areas affecting them and for a linkage to the Integrated Ocean Observing System.

The report does not, however, adequately acknowledge or represent the existing effort and future potential of the National Estuarine Research Reserve's system-wide monitoring program, which focuses on monitoring in coastal waters. The program reflects a coordinated effort by the NERR system's 26 sites on the Atlantic, Pacific and Gulf coasts to monitor physical and chemical water quality indicators, nutrients and the impact of weather on estuaries. The report should include discussion of NERR's system-wide monitoring program.

New York and other states rely heavily on data compiled and assessed by USGS. Cuts in funding to USGS have resulted in the elimination of numerous stream gage sampling stations, thereby hampering the ability of states to effectively manage nonpoint pollution to coastal waters at a time of rapidly changing land use. Continued collection and assessment of data is critical to the long term protection and restoration of watershed hydrology and water quality. Cumulative impacts of multiple small rivers discharging to estuaries cannot be effectively assessed in the absence of such data.

Recommendation 15-3. NOAA, USGS, and EPA, working with other appropriate entities, should ensure that the national water quality monitoring network includes the following elements: clearly defined goals that fulfill user needs and measure management success; a core set of variables to be measured, with regional flexibility to measure additional variables where needed; an overall system design that determines where, how, and when to monitor and includes a mix of time and space scales, probabilistic and fixed stations, and stressor- and effects-oriented measurements; technical coordination that establishes standard procedures and techniques; and periodic review of the monitoring network, with modifications as necessary.

Recommendation 15-4. NOAA, USGS, and EPA, working with other appropriate entities, should ensure that water quality monitoring data are translated into timely and useful information products that are easily accessible to the public and linked to output from the Integrated Ocean Observing System.

New York State Comment: As noted above, New York State is a partner in three NEP programs. In addition, the state has implemented State laws regarding the protection of two in-state estuary management programs for the Hudson River and the South Shore Estuary Reserve. Each of these programs is adopting specific targets that are derived from its management plan. To track and assume accountability for our progress toward achieving the outcomes reflected in these targets, it is essential to carry out monitoring programs specifically designed for that purpose. Such programs, carried out by EPA (page 176) and the states, should be recognized as an essential part of a national network, and should be provided with access to the scientific support, funding and data management and information delivery system support available to the national network.

Chapter 16 - Limiting Vessel Pollution and Improving Vessel Safety

Recommendation 16-7. EPA should conduct a thorough assessment, including field inspections, to verify the availability and accessibility of functioning pump out facilities in existing no-discharge zones and prior to the approval of any new no-discharge zones. EPA, working with other appropriate entities, should increase voluntary installation of pump out facilities.

New York State Comment: New York State supports the recommended assessment by EPA. However, New York State does not support a moratorium on new No-Discharge Zones designations until the recommended assessment by EPA is complete.

Recommendation 16-11. Congress should create an incentive program for boat owners to install or use less polluting engines in recreational boats.

New York State Comment/Recommendation: The State believes that this recommendation will have significant benefits. The Commission also should provide incentives for installing improved on-board waste treatment, particularly for holding tanks.

Recommendation 16-12. DOT, the U.S. Coast Guard, EPA, and MMS should conduct a risk-based analysis of all oil transportation systems, identify and prioritize areas of greatest risk, and develop a comprehensive plan for long-term action to reduce the threat of significant spills.

New York State Comment/Recommendation: It is essential to include the states in risk-based analysis efforts. The Commission should include NOAA in this activity as well.

Recommendation 16-14. EPA, NOAA, the U.S. Coast Guard, and other appropriate public and private entities should support a vigorous research program on the impacts of all types of vessel pollution. Research results should be used to guide management priorities, develop new control technologies, determine best management practices, and create more effective regulatory regimes.

New York State Comment: The report advocates research on vessel air pollution in ports, particularly those ports with existing air quality problems. This is relevant to the Port of New York and New Jersey, where New York State has been negotiating air emission reductions with the Corps from ferry services and other sources in the Port area to meet New York State air quality conformity requirements. These air emission reductions are part of the compliance and compensatory measures required for the Corps with respect to the comprehensive Port channel deepening project.

Chapter 17 - Preventing the Spread of Invasive Species

Recommendation 17–1. The U.S. Coast Guard’s national ballast water management program should: apply uniform, mandatory national standards; incorporate sound science in the development of a biologically meaningful and enforceable ballast water treatment standard; include a process for revising the standard to incorporate new technologies; ensure full consultation with EPA, both during and after the program’s development; and include an interagency review, through the NOC, of the policy for ships that declare they have no ballast on board.

New York State Comment: This recommendation will assist the U.S. Coast Guard in developing a nationwide ballast water management program with standards that are based on sound science and are enforceable, and also subject to revision to incorporate new technologies. The states should have an input into developing these standards.

Recommendation 17-2. The NOC should commission a credible, independent, scientific review of existing United States ballast water management research and demonstration programs and make recommendations for improvements.

New York State Comment/Recommendation: There is increasing concern about the potential introduction of human pathogens via ballast water discharges. The Commission should consider human pathogens in ballast water in its recommendations here and in Chapter 23.

Recommendation 17–4. The National Invasive Species Council and the Aquatic Nuisance Species Task Force, working with other appropriate entities, should establish a national plan for early detection of invasive species and a system for prompt notification and rapid response. Congress should provide adequate funding to support the development and implementation of this national plan.

New York State Comment: The states must be fully involved in developing the proposed national plan, and the plan must identify a strategy for funding state implementation efforts.

Chapter 18 - Reducing Marine Debris

Recommendation 18–2. The NOC should re-establish an interagency marine debris committee, co-chaired by EPA and NOAA. The committee should work to expand and better coordinate national and international marine debris efforts, including: public outreach and education; partnerships with local government, community groups, and industry; monitoring and identification; and research.

New York State Comment/Recommendation: The proposed committee’s work should be expanded to include coordination of abatement activities for sources of marine debris.

Recommendation 18–4. NOAA should promote a public-private partnership program and implement strong incentives for removal and disposal of derelict fishing gear.

New York State Recommendation: Additional federal funding assistance may be required to develop acceptable disposal options. Gear component recycling and reuse should be included in this program.

Chapter 19 - Sustainable Fisheries

New York State Comment: The Commission has made a number of important recommendations which, if implemented, will make important contributions towards the success of fisheries management, improvement of the health of fisheries resources and ecosystems. New York strongly supports the expansion of a regionally-based cooperative research program in NOAA which collaborates with commercial and recreational fishermen, affirmation that fishery managers are authorized to institute dedicated access privileges, repealing legislation and programs that encourage overcapitalization in fisheries, changing the designation of essential fish habitat from species-by-species to multispecies and ultimately to ecosystems, developing regional bycatch reduction plans, and supporting enhanced enforcement capabilities including use of the Coast Guard and Vessel Monitoring Systems.

Recommendation 19–1. Congress should amend the Magnuson–Stevens Fishery Conservation and Management Act and related statutes to require Regional Fishery Management Councils (RFMCs) and interstate fisheries commissions to rely on their Scientific and Statistical Committees (SSCs), incorporating SSC findings and advice into the decision-making process. In keeping with this stronger role, SSC members should meet more stringent scientific and conflict of interest requirements, and receive compensation.

Recommendation 19–2. SSCs should be required to supply RFMCs with the scientific information necessary to make fishery management decisions. Such information could include reports on stock status and health, socioeconomic impacts of management measures, sustainability of fishing practices, and habitat status. In particular, the SSCs should determine allowable biological catch based on the best scientific information available to them.

Recommendation 19-3. Each RFMC should be required to set harvest limits at or below the allowable biological catch determined by its SSC. The councils should begin immediately to follow this practice, which needs to be codified at the next opportunity in amendments to the Magnuson–Stevens Fishery Conservation and Management Act.

Recommendation 19–4. NMFS, working with the RFMC and the interstate fisheries commissions, should develop a process for independent review of the scientific information generated by the SSC in all regions.

Recommendation 19–5. Each RFMC should set a deadline for its SSC to determine allowable biological catch. If the SSC does not meet that deadline, the NMFS Regional Science Director should set the allowable biological catch for that fishery.

Recommendation 19–6. Once allowable biological catch is determined, whether by the SSC or the NMFS Regional Science Director, the RFMC should propose a fishery management plan in

time for adequate review and approval by NMFS. If the plan is not presented in a timely fashion, all fishing on that stock should be suspended until NMFS can review the adequacy of the management plan.

New York State Comment: The Commission recommends a fairly detailed process whereby RFMC and Interstate Fisheries Commissions (Commissions) establish SSCs that will independently determine harvest levels that are binding on the RFMCs/SSCs. New York State urges the Commission to reconsider these process recommendations, and focus instead on improving the scientific basis of fishery stock assessment.

Our objection is based on two principal issues. First, the recommendations imply that current fishery stock assessment advice is definitive and certain. Stock assessment advice, including advice on total allowable catch (TAC), is a result of a process that must incorporate and resolve often differing opinions on which models to use, model input parameters, assumptions, which data sets to use, how to modify or smooth data to best fit the model requirements, etc. The results may eventually result in a peer-accepted best estimate within a range of estimates, but never results in the single “correct” calculation of TAC.

Accordingly, the second issue is the question of where a decision should be made to set a TAC from the range set forth in the scientific advice. New York State’s view is that the members of the councils and commissions, which include senior state fishery management officials, are the proper parties to make, and to be held accountable for, those decisions.

New York State further urges the Commission to formulate recommendations on how stock assessments can be improved to achieve more reliable outputs with a more narrow range of uncertainty that remain stable over time. Investment in enhanced research into stock assessment and modeling techniques, training new stock assessment scientists, and most importantly, enhancing data collection programs needed for stock assessments should all be addressed.

Recommendation 19–8. NMFS, working with states and interstate fisheries commissions, should require all saltwater anglers to purchase licenses to improve in-season data collection on recreational fishing. Priority should be given to fisheries in which recreational fishing is responsible for a large part of the catch, or in which recreational fishermen regularly exceed their allocated quota.

New York State Comment: New York State agrees that licensing of marine anglers should be considered in order to facilitate data collection and to provide revenue to support fishery conservation and management. However, the decision to license anglers and the implementation of licensing programs is one that has been, and must remain, with the states. The Commission also should be aware that, under the Federal Aid to Wildlife and Sport Fish Restoration Programs, USFWS has worked with states to ensure that angler license revenues have remained dedicated to fish conservation programs.

Recommendation 19–10. Congress should develop new statutory authority, similar to the Atlantic Coastal Fisheries Cooperative Management Act, to support and empower the Gulf States and Pacific States Fisheries Management Commissions. All interstate management plans should adhere to the national standards in the Magnuson–Stevens Fishery Conservation and Management Act and the federal guidelines implementing these standards. States should participate in guideline development to ensure they are relevant to interstate plans.

New York State Comment: The Atlantic States Marine Fisheries Commission's Interstate Fishery Management Program (ISFMP) has operated very effectively with standards adopted and supported by all the east coast states, that differ from the national standards in the Magnuson-Stevens Act. It is not necessary to revise those standards, and in fact, we believe the ISFMP would be less effective, less efficient and less flexible if it were so burdened. Most importantly, the current ISFMP standards are supported by the states; it would be counter-productive and confrontational to suggest unilateral imposition of the national standards on this state program.

Recommendation 19–11. When a fish stock crosses administrative boundaries, Congress should clearly assign fishery management jurisdiction and authority. For each fishery management plan, a state, RFMC, interstate fisheries commission, or NOAA should be established as the lead authority. That designation should be based primarily on the proportion of catch associated with each management authority. However, once designated, management authority should not shift based on annual changes in landings.

New York State Comment: This recommendation effectively calls on Congress to tell states which fisheries they can manage (via the ISFMP) and which they cannot. Such an action potentially disenfranchises states from managing the fisheries in their own waters. New York State urges the Commission to recognize the states' authority to develop fishery management plans applicable to state waters and reconsider this recommendation. We agree that the process of jointly managing fisheries (between Councils and between a Council and an Interstate Commission) has, at times, been frustrating and inefficient. However, the joint process also ensures equity among participating jurisdictions and stakeholders and ordinarily results in broader buy-in to the resultant management plan.

Recommendation 19–12. Congress should amend the Magnuson–Stevens Fishery Conservation and Management Act to require governors to submit a broad slate of candidates for each vacancy of an appointed RFMC seat. The slate should include at least two representatives each from the commercial fishing industry, the recreational fishing sector, and the general public.

New York State Comment/Recommendation: New York State supports efforts to broaden Council membership. Governors should be encouraged to nominate qualified candidates from a variety of backgrounds for appointment to states' obligatory seats. If a requirement on the composition of slates of nominees is to be considered, it should only be applicable to at-large seats. We also urge the Commission to reconsider calling for a minimum of six nominees per seat; states are more and more frequently encountering difficulty finding three persons willing to be nominated. Lastly, candidates from the general public should possess knowledge or experience related to marine science, marine conservation, marine product marketing or consumerism, etc. New York encourages the Commission to incorporate these revisions regarding the composition of the RFMC to this recommendation into the final report.

Recommendation 19–17. Congress should increase funding for Joint Enforcement Agreements to implement cooperative fisheries enforcement programs between NMFS and state marine enforcement agencies. The United States Coast Guard should be included as an important participant in such agreements.

New York State Comment: We applaud the Commission's recommendation to strengthen Joint Enforcement Agreements and to provide more funding for their implementation by the states and the federal fisheries enforcement agencies. We urge the Commission to recommend increasing funds for other facets of the state-federal fishery management infrastructure including appropriations for basic statistics programs, including the Atlantic Coastal Cooperative Statistics Program, in particular, and reauthorization of an expanded and better funded Interjurisdictional Fisheries Act to support cooperative state/federal research, data collection, and management.

Recommendation 19–22. NMFS and the RFMCs should develop regional bycatch reduction plans that address broad ecosystem impacts of bycatch. Implementation of these plans will require NMFS to expand current efforts to collect data on bycatch, not only of commercially important species, but on all species captured by commercial and recreational fishermen. The selective use of observers should remain an important component of these efforts.

New York State Comment/Recommendation: New York State supports the development of regional bycatch reduction plans. We further suggest that the states and interstate commissions should be included as full partners in development of regional bycatch reduction plans.

Chapter 20 - Marine Mammals and Endangered Species

New York State Comment/Recommendation: The clear emphasis on increased and focused research to inform management and recommendations for more ecosystem-based management is very important. However, the Commission should work with the states to develop specific recommendations to accomplish this goal.

Chapter 22 - Marine Aquaculture

Recommendation 22–2. NOAA's new Office of Sustainable Marine Aquaculture should be responsible for developing a comprehensive, environmentally-sound permitting, leasing, and regulatory program for marine aquaculture.

New York State Comment: New York State supports an expanded role for NOAA in developing and administering a leasing and regulatory program for ocean aquaculture in coordination with state requirements. New York State believes that the role of the EPA to regulate discharges of pollutants from aquaculture facilities under the Clean Water Act should be maintained and strengthened under such a coordinated interagency regulatory program. While New York State has had long standing local strategies to address shellfish aquaculture, addressing finfish aquaculture proposals (e.g. off East End of Long Island) has been a challenge, particularly regarding effective management of impacts, competing interests for affected areas and regulatory jurisdiction. Also, marine zoning, as a principal means of managing the legal and regulatory environment surrounding the offshore aquaculture, is not explored in the draft report.

Chapter 23 - Connecting the Oceans and Human Health

Recommendation 23–2. NOAA, National Science Foundation, National Institute of Environmental Health Sciences, and other appropriate entities should support expanded research efforts in marine microbiology and virology.

Recommendation 23–3. NOAA, National Science Foundation, National Institute of Environmental Health Sciences, and other appropriate entities should support the development and implementation of improved methods for monitoring and identifying pathogens and chemical toxins in ocean waters and organisms.

New York State Comment/Recommendation: While New York State supports recommendations 23-2 and 23-3, the United States Food and Drug Administration (FDA) and the Interstate Shellfish Sanitation Conference (ISSC) are in the lead for implementing the National Shellfish Sanitation Program, which is significantly concerned with microbiological pathogenic contamination of bivalves. Here and throughout the chapter, the Commission should include the FDA and the ISSC among the entities to be involved in this issue.

Recommendation 23–4. Congress should establish and fund a national, multi-agency Oceans and Human Health Initiative to coordinate, direct, and fund research and monitoring programs.

New York State Comment/Recommendation: New York State supports this recommendation. We further suggest that such an expanded monitoring program include funds for the FDA and states to undertake expanded monitoring of contaminants, toxins and pathogens in domestic and imported seafood, particularly in shellfish. Contaminated seafood and fish and shellfish diseases are important issues that need new monitoring tools to measure toxins, contaminants, bacteria and viruses. For example, we have seen the devastating impacts that these diseases can have on fisheries, the local economy, and public perceptions here in New York. There is also a need for technology transfer efforts to ensure that local, state and federal monitoring programs can effectively use these tools. Perhaps this could be handled in the section in Chapter 23 on public education and outreach. Currently that section focuses on pollution, but does not recognize the need to communicate effective messages on these other issues to stakeholders such as the seafood industry, recreational fishermen and the seafood consuming public.

Chapter 24 - Managing Offshore Energy and Other Mineral Resources

New York State Comment/Recommendation: Given recent experience, New York State concurs with the need to better address offshore wind energy proposals. Funding support for comprehensive state and regional planning for wind farm development is needed. However, the Commission needs to carefully consider the “permit streamlining” proposals suggested in the report that may supersede state authority to regulate any aspects of these facilities, given that the impacts of these operations tend to affect individual states the most.

For example, federal Consistency Requirements for Outer Continental Shelf (OCS) Lease allocation by the MMS is clearly addressed in the existing codified regulations of the CZMA (15 CFR Part 930). The rule-making proposed by NOAA for changes to outer continental shelf exploration would undermine the original legislative intent of the CZMA. It would also deny states their jurisdiction, granted through the consistency provisions of the CZMA, to issue decisions regarding the consistency of OCS lease and exploration activities, which may impact coastal uses and resources. Limiting the appeals process by confining the Secretary of Commerce to an appeal decision for OCS activities, as currently proposed in the Notice of Proposed Rulemaking (NPRM), also diminishes states’ jurisdiction for consistency decision-making to the interests of OCS exploration interests and the federal government. This abrogation, as currently written and proposed in the NOAA NPRM,

would also compromise State's abilities on appeal for other activities unrelated to OCS activities and should not be advanced.

Chapter 27 - Enhancing Ocean Infrastructure And Technology Development

New York State Comment: The report calls for significant interagency coordination guided by the national strategy outlined in Chapter 25. Maximizing resources through collaboration; continued partnerships among public and private entities; cost-effectiveness; and the need for international partnerships are all things on which New York State has actively been working, and which we support.

The State suggests, in addition, that the proposed NOC act as an advocate for interagency initiatives before Congress so that Congress recognizes that funding for facilities/research in one agency's budget may rely upon funding related to items in a separate agency's budget. The NOC can make Congress aware that a project funded through multiple federal sources is one interrelated project, not separate initiatives.

Recommendation 27 - 2. NOAA should create, and Congress should fund, an Office of Technology to expedite the transition of experimental technologies into operational applications. This office should work closely with academic institutions, the regional ocean information programs, the National Science Foundation, the United States Navy, the National Aeronautics and Space Administration, and other relevant agencies to achieve its mission.

New York State Comment: This is an excellent recommendation, and the office could start with investigation of beneficial uses of contaminated dredged materials.

Recommendation 27 - 3. Congress should establish a modernization fund for critical ocean infrastructure and technology needs. Spending priorities should be based on the NOC's ocean and coastal infrastructure strategy.

New York State Comment: New York State supports the report's call for the creation and funding of a Federal Modernization Fund (updating obsolete facilities including vessels) and a national virtual marine technology center. The State believes, however, that the Commission needs to specify how much funding will be needed, and the time period for which it will be needed.

Chapter 28 - Modernizing Ocean Data And Information Systems

New York State Comment: Efforts to modernize ocean data and information systems is a tremendous idea that deserves support. In many cases today, data exists to answer a particular question or solve a particular problem, but its location is either unknown to the person needing it, or it is unretrievable in a useable format. A concerted effort to modernize and integrate the various data systems could reasonably be expected to result in a reduction of duplicative monitoring projects. One thing the Commission does not recommend that should be considered is return of value added data. That is, the Commission addresses the issue of collecting raw data, massaging it, disseminating it, using it in models and analyses, but does not discuss a mechanism for getting back data that has been improved. This should be part of any data sharing agreement.

Chapter 29 - Advancing International Ocean Science and Policy

New York State Comment: Of all of this Chapter's recommendations, the most substantive are those recommending acceding to the United Nations Convention on the Law of the Sea and the United Nations Convention on Biological Diversity. Implementing those two Conventions would provide for the greatest immediate and long-term protection, restoration, and appropriate uses of national and international ocean and coastal areas and resources. Both of these Conventions would lead to improved international relations and management of resources of ecosystem-wide and global proportions.

Chapter 30 - Funding Needs and Possible Sources

New York State Comment : Revenue sources to fund the recommendations of the report include lease payments for outer continental shelf marine extraction, mariculture and renewables energy development. If these revenues were approved, the Commission's acknowledgment of the essential future role of the states in the delivery of ocean and coastal programs and the need for additional federal financial support is strongly supported by New York. New York State recommends, however, that the Commission provide a detailed analysis of the estimated future state cost and proposed support in its final report.

New York also recommends that the Commission support the distribution of funds based on need within the coastal states. States with greater coastal populations to service, and greater resource impacts, should be given a greater share of the funding to address coastal issues. NOAA should develop a formula to distribute the funding that guarantees the application of the funds where they are needed most.

Finally, Chapter 30 presents estimates of the costs of the various recommendations made in the text of the report. Chapter locations in the text are cited for each estimate; in some cases there are no estimates in the chapters, in others, the estimates in the chapters and Table 30.1 do not agree. Estimates should be consistent wherever they occur in the document. Where they do not appear in the text, they should be added along with data supporting the estimate.



**STATE OF NORTH CAROLINA
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MICHAEL F. EASLEY
GOVERNOR

June 4, 2004

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

Dear Admiral Watkins:

I am pleased to submit the following comments on behalf of the state of North Carolina in response to the *Preliminary Report of the U.S. Commission on Ocean Policy*. Our state has long been a leader in comprehensive coastal and fisheries policy. We are committed to protecting our coastal and ocean resources as an integral part of North Carolina's economy and culture. The preliminary report underscores the seriousness of the problems facing our oceans, and we are supportive of many of the recommendations calling for swift and focused efforts to address these problems. We applaud the commission's finding that major changes in U.S. ocean and coastal policies are needed and that reform needs to start now. It is within this context that North Carolina offers the following comments.

Reauthorization of CZMA

As a state that has participated in the federal Coastal Zone Management Act (CZMA) program since 1974, we are particularly interested in the reauthorization of the CZMA (Recommendation 9-1). North Carolina's coastal counties have seen unprecedented growth over the past 20 years. While we have increased the scope of our CZMA programs within the state, federal funding has remained stagnant for 10 years. After factoring in inflation, we have actually experienced a reduction in federal dollars for our program. This makes it increasingly difficult for our state to expand on the goals of the national program, implement new initiatives and effectively manage the coastal area as envisioned by the CZMA.

The CZMA should be reauthorized without delay and with adequate funding to achieve the goals of the Act. North Carolina strongly opposes any amendments to CZMA that weaken the federal consistency provisions or the federal-state partnership. We recognize that revisions to the CZMA may be necessary to provide a more efficient and predictable consistency process, but these revisions must not undermine the ability of states to manage and protect coastal resources. The reauthorization amendments should also maintain a focus on federal-state partnerships, while retaining the states' flexibility to implement programs in a manner that recognizes unique ecological, geographical and political circumstances.

North Carolina supports the development of measurable goals and improved program evaluations and agrees with the language calling for a more performance-based management approach (Recommendation 9-1). However, this recommendation should acknowledge the increased costs associated with performance-based management. Consequently, adequate funding and incentives for good performance should be closely linked with this recommendation.

Regional Efforts

North Carolina supports the establishment of a National Ocean Council and Regional Ocean Councils (Recommendations 4-1 and 4-10). A National Ocean Council could best serve as an administrative body ensuring integration of national ocean policies by federal agencies and the regional councils. The National Ocean Council should not serve as policy-making body nor as a body charged with setting priorities for the regional councils. Rather, these priorities should be set at the regional level in coordination with the states.

Coastal Water Pollution

North Carolina is strongly supportive of those recommendations addressing coastal water pollution. Polluted runoff, including stormwater, is the leading cause of North Carolina's water quality problems and is responsible for a significant portion of coastal water quality problems. Our state is focused on reducing runoff pollution through a comprehensive approach to stormwater management as outlined in Recommendation 14-12.

Recommendation 14-11 suggests that local governments require land use planning to consider the cumulative impacts of development on water quality. Our state's Coastal Area Management Act (CAMA) Land Use Planning Program currently requires local governments to make connections between land use and water quality problems. Additional funding would assist local governments with implementation of land use planning policies to address those connections and problems. This recommendation should include additional financial support for the land use planning component of the CZMA.

North Carolina supports watershed collaboration (Recommendation 14-13) as a way to address problems associated with nonpoint source pollution. For example, North Carolina has seen a significant positive impact from the collaboration made possible through the Albemarle-Pamlico National Estuary Program (APNEP). Stakeholders in this watershed work together to identify problems in the region, develop specific actions to address those problems, and create and implement a formal management plan to restore and protect the estuary. We strongly encourage the expansion of such collaborative efforts with sufficient federal funding. As the report indicates, the lack of federal funding and assistance has become a constraint on the effectiveness of the National Estuary Program.

Fisheries

North Carolina strongly supports the report's guiding principle of implementing an ecosystem-based approach to fisheries management, and those recommendations that further this

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approach. North Carolina also supports the emphasis placed on Marine Protected Areas (MPA) as a tool for ecosystem-based management. MPAs have proven effective at maintaining biodiversity, protecting habitat and advancing sustainable fishery management. Specifically, we support the identification of the Regional Ocean Councils as the lead in designing and implementing MPAs in federal waters (Recommendation 6-4). MPAs should be located in areas where they can be enforced and monitored and the expected benefits of MPAs should be measurable before locations are selected.

North Carolina endorses the commission's support for federal initiatives that partner with states in a number of areas, such as improving data collection, identifying critical data needs and enforcement.

Stewardship and Conservation

North Carolina supports sufficient funding for the Coastal and Estuarine Land Conservation Program (CELCP) as called for in Recommendation 11-1. Our state is in the process of developing plans for its 20 coastal counties through One North Carolina Naturally and the development of a statewide conservation plan. Additionally, the North Carolina Coastal Habitat Protection Plans call for the conservation of lands and habitats critical to the maintenance of fisheries. Increased funding for CELCP will advance these efforts that are currently under way at the state level.

A dedicated fund is also needed to support research and conservation efforts for states to assess the environmental impacts of proposed or ongoing development of ocean resources, particularly oil and gas. Consequently, North Carolina supports Recommendation 24-1. We do suggest that coastal states should have more input and control in the federal Outer Continental Shelf leasing program. In addition, funds should be made available for regional studies on the effects of oil and gas exploration activities, including environmental and socioeconomic impact studies on coastal areas.

Science and Education

North Carolina strongly supports the commission's call for strengthened ocean science funding and enhanced ocean education. Lack of adequate federal funding is impeding efforts by researchers, educators and resource managers to understand the complex interrelationships of our coastal and marine resources and to develop better management strategies. Improved policy and information systems are valuable only if the public and elected leaders are able to understand and utilize them.

North Carolina has a long tradition of excellence in the marine sciences, with several of our universities leading the way in the development and management of state and local level programs. Graduate training is critical to preparing teachers and leaders to understand ocean issues and to providing manpower to support broader educational activities, but sustained graduate student support is increasingly difficult to maintain as available research funding

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decreases. Recommendations 8-13 and 8-14 propose positive steps for addressing existing funding shortfalls.

North Carolina also supports the commission's efforts to tie educational activities to many of the existing and planned operational programs in an effort to integrate marine sciences into the main stream of K-12, undergraduate and graduate science studies. North Carolina strongly endorses the recommendations in the report focused on science education funding and program support and agrees with those recommendations calling on Congress to significantly expand its investment in research in this area.

In conclusion, we commend the commission's work. North Carolina appreciates the opportunity to provide comments on the report, and we look forward to working to implement many of the policy actions detailed in the report.

With best regards, I remain

Very truly yours,

A handwritten signature in black ink, appearing to read "Mike Easley". The signature is written in a cursive, flowing style.

Michael F. Easley

MFE: sw



BOB TAFT
GOVERNOR
STATE OF OHIO

June 4, 2004

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

Dear Admiral Watkins:

I would like to commend you and the other Commissioners for the *Preliminary Report of the U.S. Commission on Ocean Policy* released on April 20. The report is thorough, well written and contains many thoughtful recommendations to move towards a new, comprehensive, national policy regarding the use and stewardship of our ocean, coastal and Great Lakes resources.

The message the Commission heard from hundreds of people across the country in written and verbal testimony, that our ocean, coastal and Great Lakes resources are in crisis and major changes are needed, is indeed an urgent message. Ohio's Lake Erie and the other Great Lakes face challenges such as destructive invasive species, harmful algae blooms, beach closures, fish consumption advisories and continued loss of coastal wetlands and habitat. The Commission's conclusion that major changes are needed to improve our existing management approach, governance, science-based decision-making and education efforts are well founded.

Comments I am providing here concern issues that are priorities for me as Governor of Ohio. I have also attached more detailed comments from the Ohio Department of Natural Resources, Ohio Environmental Protection Agency, and Ohio Sea Grant. The Ohio Department of Natural Resources also received comments from the Ohio Environmental Council and The Nature Conservancy in Ohio, which were considered in preparing agency comments. I will be submitting separate comments in my capacity as Chair of the Council of Great Lakes Governors that reflect overarching issues of importance to the region.

Water Quantity

Surface and ground water quantity issues have not been addressed in the preliminary report. Water quantity issues are of critical importance to Ohio and, more generally, the Great Lakes region. About 40 million people in the U.S. and Canada depend on Great Lakes basin

surface and ground water for their drinking water supply. As you may be aware, in my role as Chairman of the Council of Great Lakes Governors, I am leading the effort to develop agreements called for in the Great Lakes Charter Annex to develop a new, enforceable, regional water management regime for surface and ground water including a science-based decision-making standard. The Annex also calls for an improvement in the sources and applications of scientific information, including a better understanding of the role of ground water. My fellow Governors, Premiers and I have appointed a Water Management Working Group, which includes representatives from each of the eight Great Lakes states and the Canadian provinces of Ontario and Quebec. Our goal is to release draft agreements for public review and comment this summer. These historic agreements will provide the necessary framework to help the states and provinces pass legislation that will protect the Great Lakes basin waters.

Beyond the Great Lakes region, water quantity issues may also be of concern. For example, pumping ground water faster than it can recharge has led to saltwater intrusion of aquifers in some of the ocean coastal states.

National Ocean Council

The Governors should be represented on the National Ocean Council rather than on the Presidential Council of Advisors on Ocean Policy as proposed in the report (Recommendation 4-1). The Great Lakes are held in public trust by Ohio and the other Great Lakes states and provinces, with a shared duty to manage the waters and water-dependent natural resources of the basin. As proposed within the Executive Office of the President, the National Ocean Council's responsibilities should include providing enhanced federal and state leadership and coordination for the ocean, coasts and Great Lakes.

Ecosystem Management

The proposed ecosystem-based management approach with explicit consideration of biodiversity is applauded. As described in the report, applying this principle will require redefining geographic management areas based on ecosystem rather than political boundaries. The suggested appropriate boundary for ocean areas in the report is a combination of the large marine ecosystems and the watersheds that drain into them (page 34). It is important to note that watershed boundaries can be defined by both surface and ground water, and although linked they may not exhibit the same boundaries. As described in my comments above regarding water quantity issues, the waters of the Great Lakes basin include surface and ground water.

Federal Agency Structure

The recommended phased approach to changing the structure of some of the federal agencies to enable effective implementation of a national ocean policy is commended. In the long-term, as recommended in Phase III of *Strengthening the Federal Agency Structure* in the report (page 78), a single federal agency or some other structural unification that brings together all the nation's federal natural resource programs is desirable and necessary to successfully implement a national ocean policy. As Chairman of the Council of Great Lakes Governors, I am leading the Great Lakes Priorities Initiative with the goal of protecting and restoring the Great Lakes ecosystem. The region's Governors have identified restoration priorities with the hope and expectation that this collaborative effort will ultimately lead to adequate federal funding to implement our plans for Great Lakes restoration. It is important to recognize that greater federal investment will supplement, not supplant, the significant resources already being committed by

the states, municipalities and private sector. As stated in the principal findings of the General Accounting Office (GAO) Great Lakes Report, April 2003, there are about 200 programs – 148 federal and 51 state – funding restoration activities within the Great Lakes basin. Although there are many coordination efforts and ongoing strategies, there is no single organization that is leading this effort. Although we have realized many successes in Great Lakes restoration efforts, barriers such as the absence of a single federal coordinating agency impede restoration progress.

Aquatic Nuisance Species

Although Chapter 17 of the report addresses aquatic nuisance species, there is no call for stronger federal legislation to guide nationwide prevention and control efforts. The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 with its amendment, the National Invasive Species Act of 1996, is the primary law dealing with aquatic nuisance species and ballast water management, yet this current regulatory regime along with voluntary efforts are not effectively stopping new introductions of aquatic nuisance species in the Great Lakes. I continue to call for passage of reauthorization bills such as the National Aquatic Invasive Species Act and the National Aquatic Invasive Species Research Act. Federal prevention strategies, which are consistent nationwide, will be more effective than independent efforts by the states. If this national concern is not adequately addressed, I would predict you will see more and more state legislatures passing laws targeting sources of aquatic nuisance species in their states and regions.

Beach Closures, Combined Sewer Overflows, Recreational Fishing & Fish Consumption Safety

The final report should provide more attention to other Great Lakes critical issues such as beach closures, combined sewer overflows (CSO), recreational fishing, and fish consumption safety. For example, in Chapter 19, the focus is on marine species and commercial fisheries under federal management. The U.S. and Canadian Great Lakes sport and commercial fishing industry is valued at almost \$4.5 billion annually as noted in the GAO Invasive Species Report, October 2002. Although there are thousands of beach closures in the U.S. every year, including the Great Lakes beaches, there is only one reference to this in Chapter 14 on page 167. CSO discharges impact bathing beaches and other areas of potential health risk exposure in the Great Lakes. There is also a need for consistency regarding beach closures and restriction advisories, and improvement in beach water quality testing methods. Regarding fish consumption advisories, there is a section entitled *Contaminated Seafood* in Chapter 23, but there is no reference to freshwater fish. State governments provide guidance to citizens regarding consumption of sport-caught fish in the Great Lakes.

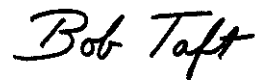
Ocean Trust Fund

The recommendation to establish a dedicated funding source, the Ocean Policy Trust Fund (Recommendation 30-1), using federal revenues generated from offshore activities such as Outer Continental Shelf (OCS) oil and gas development is commended. A dedicated funding source is necessary to prevent unfunded mandates to the states. However, the recommendation that a larger share of the funds should go to OCS producing states for offshore energy impacts needs to be reconsidered. Ohio and the other Great Lakes states have incurred and continue to incur significant costs for beach closures, prevention and control of aquatic nuisance species, and protection of 20% of the world's fresh surface water used as drinking water supply for the about 40 million U.S. and Canadian citizens. As an example, in the Great Lakes, we have been severely impacted by sea lampreys, zebra mussels, round gobies, and many other invading

species. The impacts are real, affecting millions of people and industries that depend on the lakes for water, food, and recreation. The issue includes serious implications to human health, since pathogens are potentially transported to our waterfront communities from around the globe. Although estimates are difficult to make, the continued introduction of aquatic invasive species into the Great Lakes will have significant economic and ecological impacts based on past experience. The International Joint Commission May 2001 report noted that the past and ongoing economic impacts of invasive species to the Great Lakes region cost hundreds of millions of dollars annually.

In conclusion, thank you for the opportunity to provide comments on this important report on our invaluable ocean, coastal and Great Lakes resources. Please consider referencing the Great Lakes in the Executive Summary and using the reference to “ocean, coastal and Great Lakes” throughout the report to ensure that the Great Lakes are acknowledged as being equally important to coastal and ocean issues. If you have any questions or need additional information please contact Kate Barter, Chief Policy Advisor, Office of the Governor, at 614-995-2281.

Sincerely,

A handwritten signature in black ink that reads "Bob Taft". The signature is written in a cursive, slightly slanted style.

Bob Taft
Governor

attachment

Preliminary Report of the U.S. Commission on Ocean Policy
State Agency Comments from Ohio

Executive Summary

The first statement is that oceans affect and sustain all life on Earth. The oceans cannot provide fresh water for drinking, agricultural and industrial use without desalination treatment. It might be more appropriate to state that water sustains all life on Earth.

In the Executive Summary and throughout the report it is not always clear how, or if, some of the recommendations would be applicable to the Great Lakes. For example, use of the phrase “ocean, coast and Great Lakes” as appropriate and “aquatic” in place of “marine” may help clarify this.

Chapter 3: Setting the Nation’s Sights

The call for more consistent terms in Federal law as described on page 43 is important.

Chapter 4: Enhancing Ocean Leadership and Coordination

Recommendation 4-10, which describes the creation of regional councils, is vague on the relationship of the regional councils to state governments and other entities. The Great Lakes states and provinces have responsibility for managing Great Lakes resources. The regional councils could and should offer a forum for coordinating these management efforts across state lines – but only if they are integrated with and enhance the existing state efforts, and are not simply an additional layer of bureaucracy. In addition, there are other existing Great Lakes organizations with varying responsibilities to be taken into account when forming the regional council. It would be helpful if the recommendations could more clearly describe the role the regional councils will play in developing the regional ecosystem assessments described in Chapter 5 and how they will coordinate that process with regional information programs and the governance recommendations.

Chapter 5: Advancing a Regional Approach

Land and freshwater linkages could be further emphasized. The final report could more explicitly recognize that the collection and integration of terrestrial, freshwater, nearshore and offshore information will be necessary to produce regional ecosystem assessments that provide a meaningful guide for managers.

The report correctly recognizes the role that regional councils can play in working with upstream decision-makers on issues (such as nonpoint pollution) that affect the coasts. However, explicit recognition should be given to the fact that many locations cited as examples (including the Great Lakes) are also confronting the problem of freshwater flow management as an ever-increasing threat to estuaries and other nearshore ecosystems.

Chapter 7: Strengthening the Federal Agency Structure

Part of the current problem with ocean and Great Lakes policies is that there are fragmented authorities and funding sources, as identified in the report. Multiple agencies have similar responsibilities and are funded to address the same issues. The report suggests that some reorganization of federal agencies would provide a more effective and efficient approach, better

structured to implement an ecosystem approach to ocean and coastal management. Effective restoration will not be seen until the management structure is altered to support restoration.

It is important to reduce bureaucratic oversight rather than increase it. Whenever a new agency, department or committee is established, another one should be abolished. New committees should have clear charge and deadlines, then be disbanded once they have achieved their objectives. Any management structure reorganization that may affect the Great Lakes should have the input of the International Joint Commission and the Great Lakes Governors.

Chapter 8: Promoting Lifelong Ocean Education

The concept of coordinated and effective education is strongly supported. There are great opportunities through outdoor recreation programs to get pertinent coastal and Great Lakes conservation messages across to the public.

The National Estuarine Research Reserve System (NERRS) has made great progress in developing local formal education programs, i.e., 1) the Coastal Training Program (CTP), which sprang from NERR Coastal Decisionmaker Workshops 2) EstuaryLive (an interactive live feed estuary science program made available to schools nationwide) and 3) the Graduate Research Fellowship Program (GRF), where tomorrow's estuarine researchers receive fellowship support to conduct applied research at NERR sites around the country. All of these national NERRS programs are delivered locally and are designed to improve our nation's understanding of ocean, coastal and Great Lakes science and assist with a comprehensive approach to coastal decision-making. These programs are not mentioned in the report, with the exception of CTP mentioned in Chapter 5 (page 60), and they have something very valuable to offer in the move ahead to link coastal science to coastal management and education.

There is little mention of the need for professional training. Formal programs such as the NERRS CTP are needed to develop user-informed decision-making training. This can only be successful if it is developed at the state and local levels.

From the standpoint of other education programs, it was found at the NERR that science-based education programs must be developed with local school district involvement. Education curricula developed at the federal and even regional level will likely not be applicable to state and local school districts standards. In fact, this can sometimes preclude schools from having the opportunity to participate. Incorporating ocean, coastal and Great Lakes education in schools must be an inclusive process.

Chapter 9: Managing Coasts and their Watersheds

The report calls for a new ecosystem-based approach. The Coastal Zone Management (CZM) programs provide for an ecosystem-based approach to coastal management. According to NOAA, *“the national CZM program is a voluntary partnership between the Federal government and U.S. coastal states and territories authorized by the Coastal Zone Management Act of 1972 to:*

- *Preserve, protect, develop, and, where possible, restore and enhance the resources of the nation's coastal zone for this and succeeding generations;*
- *Encourage and assist the states to exercise effectively their responsibilities in the coastal zone to achieve wise use of land and water resources there, giving full consideration to*

ecological, cultural, historic, and esthetic values, as well as the need for compatible economic development;

- *Encourage the preparation of special area management plans to provide increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas and improved predictability in governmental decision-making; and*
- *Encourage the participation, cooperation, and coordination of the public, Federal, state, local, interstate and regional agencies, and governments affecting the coastal zone.”*

The link between coastal and watershed management should be strengthened and all the recommendations in this chapter are supported. This link needs to be strengthened whether discussing coastal areas or inland waterways. Flexibility for local variability is important to allow support to be directed to inland watershed management programs as well.

Since the CZM programs are voluntary, full state approval and participation should be a prerequisite for additional federal technical and financial assistance related to ocean, coastal and Great Lakes policy.

A more in-depth analysis and recommendations for the Coastal Barrier Resources System would be helpful.

Chapter 11: Conserving and Restoring Coastal Habitat

The recommendations calling for increased coordination in support of restoration activities by various agencies and flexibility in use of available funding is encouraging. However, the report does not include a recommendation for increased funding to support restoration activities. Existing resources are inadequate to the task and demand is growing. Increased funding for habitat conservation and restoration activities should be called for at a scale to meet the need.

As noted in Recommendation 11-1, a sufficiently funded, dedicated program for protection of coastal habitat should be considered in the Coastal Zone Management Act. The Coastal and Estuarine Land Conservation Program (CELCP) was created in 2002, but suffers from many challenges, including not being made permanent. The recommendation that states complete their CELCP plans is a critical step in the development of this program, but this section could be strengthened by enhancing the discussion of what is needed:

- ◆ **Change the matching requirement for grants from a 1:1 to a 75:25 federal/non-federal cost share, comparable to other, similar land protection programs.** Changing the cost share requirement will provide increased flexibility, particularly in poorer communities where a 1:1 match requirement on an expensive coastal property would pose a significant barrier to a conservation project. The proposed 75:25 federal/non-federal match corresponds to the requirement for the USFS Forest Legacy program and the USFWS Cooperative Endangered Species Conservation Fund. The higher federal share provides flexibility and can catalyze increased interest in the program. As the program grows and demand increases, the need to be increasingly competitive will drive most projects to exceed the minimum cost share requirement.
- ◆ **NOAA should develop and implement a clear process for project selection and a mechanism for linking state priorities to a set of national goals for the CELC Program.** Specific priorities for land conservation should be established at the state level, but NOAA

must develop and apply a set of national criteria that provide a credible means of evaluating very different projects. At a minimum, such a national review should select projects that are strategically situated, highly threatened, and important for the protection of federal trust resources.

Chapter 12: Managing Sediments and Shorelines

Regarding sediment management, all the recommendations in Chapter 12 are supported, in particular: watershed planning to control sediment loads; USACE selection of least-cost disposal options for dredging projects that reflect a more accurate accounting of the full range of economic and environmental costs and benefits and movement away from the current policies that favor open water disposal or use of confined disposal facilities; modify current authorization and funding processes to encourage the USACE to monitor outcomes from past projects and study cumulative and regional impacts of dredging projects on coastal watersheds and ecosystems; and continuation of technology development to more effectively dredge and treat contaminated sediment.

Chapter 14: Addressing Coastal Water Pollution

The water quality recommendations are supported that: require advanced nutrient removal for wastewater treatment plant discharge into nutrient impaired waters; increase technical and financial assistance to help communities improve septic systems and onsite treatment facilities; and further controls to reduce nutrient loadings from concentrated animal feedlots.

Recommendation 14-4, to develop a prioritized comprehensive plan for long-term funding of the nation's aging wastewater and drinking water infrastructure is essential. It is also essential that Congress fund the State Revolving Fund Program at or above historic levels to implement the plan.

Recommendation 14-7 for the USDA, USEPA and NOAA to better align conservation programs aimed at reducing nonpoint source pollution is supported.

Recommendation 14-9 to amend the Clean Water Act to merge NOAA's enforceable nonpoint source coastal control programs under Section 319 of the Clean Water Act is strongly supported. This will combine enforceable options with an incentive/BMP program to target nonpoint source pollution issues.

Overall, the nonpoint source issue, including stormwater management, needs to be addressed on a watershed scale to really make a difference.

Chapter 15: Creating a National Water Quality Monitoring Network

The oldest continuous water quality monitoring program in NOAA, the National Estuarine Research Reserve (NERR) System-Wide Monitoring Program (SWMP), is not mentioned. SWMP tracks short-term variability and long-term changes in estuarine waters to understand how human activities and natural events can change ecosystems. It provides valuable long-term data on water quality and weather at frequent time intervals. Coastal managers use this monitoring data to make informed decisions on local and regional issues. As the program expands, plans include adding a biological monitoring component and tracking changes in land use through remote sensing. As the most landward site in a transect, the NERR SWMP should

figure prominently in regional ocean and coastal observing systems, the focus of Chapter 26.

Chapter 16: Limiting Vessel Pollution and Improving Vessel Safety

While there is merit in considering the transfer of the Clean Vessel Act program from USFWS to USEPA, a complete evaluation should be made regarding the effectiveness of the current program. For example, in Ohio, the program is being successfully managed by the state boating authorities who have direct contact with boating industry representatives, including owners and trade associations.

Chapter 17: Preventing the Spread of Invasive Species:

Overall, the chapter is well-developed and inclusive of major issues related to invasive species. It rightly recognizes the primacy of prevention as the major goal of invasive species management, as options for control are limited. Further, Great Lakes issues are acknowledged as being equally as important as coastal marine issues.

A push should be made for more prescriptive regulation regarding ballast water issues. The noted voluntary compliance by private industry is unlikely because of cost and free-trade concerns. The nature of aquatic invasive species is such that partial or compromise regulatory limits are unlikely to provide much actual benefit. Most analyses (including those by the Congressional Budget Office) demonstrate the economic and social costs of invasive species are much greater than the costs of prevention and control efforts. While politically unpopular, strong prescriptive regulations regarding ballast water management and technology adoption are critical to effective prevention of invasive species introductions.

There should be a more explicit emphasis on greater regulatory authority to screen intentional importation of species.

The report calls for research into the effects of invasive species on ecosystem function. There should be some mandate to coordinate these efforts with existing ecosystem research programs, such as those overseen by the Great Lakes Fisheries Commission's (GLFC) Lake Committees. This synergy would improve and quicken efforts to understand the full range of impacts by invasive species. Unnecessarily reinventing the wheel dilutes research resources and potentially blurs the focus from specific issues of invasive species effects.

The chapter correctly notes that research and control programs for aquatic invasive species have been chronically under-funded relative to terrestrial programs. This disparity must be addressed at both federal and state levels.

Chapter 19: Achieving Sustainable Fisheries

This chapter demonstrates a considered evaluation of issues affecting fisheries. A number of factors causing over-exploitation problems on marine fisheries are identified and many useful recommendations are presented that may have application to the Great Lakes as well.

The major focus is on marine species and commercial fisheries under federal management. There is little mention of the Great Lakes except that the Great Lakes Fishery Commission should continue its oversight of fisheries management in that system. Explicit recognition of the Joint Strategic Plan for Management of Great Lakes Fisheries in this report would be prudent and perhaps useful to our marine counterparts.

The report recommends movement away from single-species management to ecosystem-based management with an emphasis on critical habitat identification. This is consistent with the direction of the GLFC Lake Erie Committee.

The recommendation to rename an individual transferable quota (ITQ) system as a dedicated access privilege system is an excellent step because it clearly defines that fishermen do not own a "right" to fish a public resource but are granted a privilege of access to the resource that is not available to everyone (hence, "dedicated"). Although it may seem like semantics, most commercial fishermen believe they "own" the "right" to fish their quota. Unlike rights, privileges can be managed as a term of license.

The report advocates the use of Marine Protected Areas (MPA) as a means to promote fish stock recovery. That concept is popular on the Canadian side of the Great Lakes (Lake Superior, sanctuaries in Lake St Clair and Lake Erie), but does affect fishing opportunity, which is very important to Ohio. The use of sanctuaries should receive careful consideration, utilizing a risk assessment process to weigh the biological need against the loss of human benefits.

Chapter 25: Creating a National Strategy for Increasing Scientific Knowledge

While not doubting the value of scientific inquiry, the recommendation to double the federal ocean and coastal research budget over the next five years, should be carefully targeted. Consideration of the amount of the ocean and coastal research budget going towards Great Lakes research needs to be evaluated. For example, targeting research toward effective Great Lakes restoration activities and monitoring their success is necessary if improvements in restoration ecology are to be effectuated in the future.

There is no reference in the report to the Great Lakes Protection Fund, a private, nonprofit corporation formed in 1989 by the Governors of the Great Lakes States. It is a permanent environmental endowment that supports collaborative actions to improve the health of the Great Lakes ecosystem. To date, the Fund has made 198 grants and program-related investments representing more than \$42.3M in regional projects to improve the health of the Great Lakes ecosystem. This may be a model that could be useful to other ocean and coastal regions.

Chapter 30: Funding Needs and Possible Sources

It is appreciated that there is recognition that states cannot accept unfunded mandates, and that the funds from offshore oil and gas drilling and new uses of offshore waters to support initiatives would not negatively impact the Land and Water Conservation Funds that the state and local conservative agencies use for a variety of outdoor recreation purposes.

Miscellaneous

Consideration should be given to a fixed review period to revisit and reinvigorate the report recommendations, and to keep the pressure on for implementation.



THEODORE R. KULONGOSKI
Governor

June 2, 2004

REVISED COMMENTS ATTACHED

Admiral James D. Watkins
Chair, U.S. Commission on Ocean Policy
1120 20th St. NW Suite 200 North
Washington DC 20036

Dear Admiral Watkins:

On behalf of the State of Oregon, I am pleased to respond to the report of the U.S. Commission on Ocean Policy. I commend the Commission for a most impressive report. The dedication, commitment, and hard work of all Commission members and the staff are evident in the scope, depth, and vision of this report.

Long-term conservation of coastal and ocean resources is a priority for Oregon. The guiding principles articulated by the Commission provide a careful and ambitious context within which to develop policies and programs to promote vibrant coastal communities, healthy and resilient ecosystems, sustainable fisheries, clean and safe shorelines, and enjoyable and inspirational recreational opportunities. Oregonians share these are visions for our coast and ocean.

Oregon has worked for many years to conserve and protect coastal and ocean resources while accommodating growth and development. Oregon's beaches were declared public in 1967 in response to citizen concerns. Oregon's Coastal and Ocean Management Program was approved in 1977. A state ocean management program was created by law in 1991. Our experience confirms that coastal states can--and must--be partners in governing the nation's ocean and coastal environment. I welcome the Commission's recommendations that strengthen and expand state ocean and coastal governance capacity. I offer my strong support to the Commission in working with the Congress, the Executive Branch, and Oregon state agencies to enact the recommendations.

Admiral James D. Watkins
Chair, U.S. Commission on Ocean Policy
June 2, 2004
Page Two

My comments are confined to topics of particular interest to Oregon. I have attached more detailed comments from state agencies and university experts who have assisted me in my review. In addition, Oregon has worked closely with the Coastal States Organization (CSO) throughout the Commission process and I urge you to carefully consider its comments as well.

Sincerely,

A handwritten signature in black ink that reads "Theodore R. Kulongoski". The signature is written in a cursive style with a large initial 'T'.

THEODORE R. KULONGOSKI
Governor

TRK/jeb/sm

Attachments

c: Oregon Congressional Delegation
Lane Shetterly, Director, DLCDC

**COMMENTS FROM OREGON GOVERNOR TED KULONGOSKI
On the Report and Recommendations of the US Commission on Ocean Policy**

June 2, 2004

(Revised June 21, 2004)

Comments are arranged by theme rather than by chapter order. Comments that are underlined indicate support for a specific Commission recommendation. Comments that are *in italics* request or suggest a modification or addition to a recommendation.

1. Reauthorize and strengthen the federal Coastal Zone Management Act (CZMA):

I strongly support reauthorization of the Coastal Zone Management Act (Recommendation 9-1).

No recommendation is more fundamental to Oregon than this. This Act provides the legal, administrative, technical, and financial framework by which Oregon has successfully balanced the conservation and development of coastal and ocean resources at the state and local level for 27 years. It is a logical, integrative, and existing framework by which states, local governments, and federal agencies can cooperate to address an array of critical, crosscutting issues identified by the Commission that link watersheds, the coast, and offshore management.

As the Commission rightly points out, growth and development pressures at the local government level can have the most impact on coastal resources. Thus, it is at the local level where the need is greatest for planning, management, and technical assistance to address these issues. Oregon has focused significant state and federal CZM resources to assist local government in managing growth and development. This assistance should be increased in a systematic way to meet increasing challenges.

I urge the Commission to adopt the recommendation of the Coastal States Organization that the CZMA reauthorization include a Coastal Communities Program focused on assisting local communities to address development activities at a local level through community assessments, planning, and demonstration projects.

Many issues discussed in the Commission's report can be most effectively addressed through strengthened state coastal management programs. These issues include managing urban growth along the coast, protecting and restoring coastal habitats, reducing pollution from watershed land uses and practices into coastal waters, avoiding or reducing natural hazards in coastal shorelands and floodplains, planning and managing ocean resources, reinvesting in port and harbor facilities, providing public access, education, and information, and protecting special coastal and ocean areas. Thus it makes sense to strengthen the CZMA and the state's role within it.

Historically, the CZMA has provided Oregon and other states with the flexibility to meet national goals and objectives through programs tailored to fit the unique legal, geographic, political, and ecological conditions at the state and local level. This flexibility has worked well and should be continued.

I support the need for performance goals and measurable standards at all levels of government but urge caution that these performance standards be balanced against the flexibility required by states to meet unique needs.

And, because solutions work best when developed and applied locally, *I urge the Commission to recommend performance incentives and technical assistance to help coastal states and local communities meet national standards rather than apply disincentives and penalties to achieve compliance.*

2. Funding for Coastal and Ocean Programs:

• Ocean Trust Fund:

The Commission's recommendations form an ambitious agenda that will require a significant increase in federal investment in technical and financial support for programs at all levels. To meet these added funding needs, I support establishment of a National Ocean Policy Trust Fund (Recommendation 30-1) from unallocated revenues from energy leasing and extraction on the Outer Continental Shelf, on the principle that reinvestment in renewable resources and conservation and assistance to states meets significant national interests. These funds should be dedicated and would be separate from the annual appropriations process for the CZMA, below.

However the Ocean Trust Fund must be structured so that it does not create incentives for inappropriate offshore development (e.g., development of energy, aquaculture, or other facilities that conflict with state or regional ocean goals and policies, or that will trigger activities likely to jeopardize the marine and coastal ecosystem) and must not conflict with or jeopardize the existing Land and Water Conservation Fund, which has been very successful.

Among other purposes, these funds will enable states and local governments to build the program and technical capacity to meet the increasing challenges of coastal and ocean management.

• Coastal Zone Management Act Funding

I urge the Commission to recommend that federal Coastal Zone Management Act funding to coastal states be increased through the Appropriations process.

Federal CZMA funding has been crucial to Oregon in enabling state agencies and local governments to carry out a range of coastal planning and management programs that meet national objectives. In addition, special CZMA grants have enabled local governments to complete many small-scale public access projects, including docks, piers, boat ramps, picnic facilities, and trails. The CZMA is the logical vehicle for future funding to local governments through the Coastal and Estuarine Lands Conservation Program (CELCP, Recommendation 11-1) and other related programs to achieve state and local program objectives and priority needs for coastal conservation and restoration projects.

Many of the comments below address the need for funding for specific programs or Commission recommendations, such as the Integrated Ocean Observing System, Coastal Water Quality Monitoring, fisheries research, and Pre-Disaster Mitigation Planning.

3. Watershed and Ecosystem Approaches to Coastal and Ocean Management

I strongly support the Commission's emphasis on watershed and ecosystem approaches to protect, manage, and restore coastal and ocean resources (e.g. Recommendations 9-1, 9-4, 4-3, 11-4). Oregon has long recognized the critical importance of organizing coastal resource management programs to match natural systems. For instance, the Oregon Coastal Management

Program applies to a coastal zone that extends from the crest of the Coast Range Mountains to the seaward extent of the territorial sea and thereby encompasses almost all coastal watersheds, estuaries, and the nearshore marine environment. Our coastal salmon conservation efforts through the Oregon Plan are proving successful because they are based on working with citizens, landowners, and agencies within a watershed framework. Oregon manages its estuaries as a critical link between coastal watersheds and the nearshore ocean. The Oregon Territorial Sea Plan and Statewide Planning Goal 19, Ocean Resources, are based on understanding and conserving marine ecosystems. I believe that a similar approach by federal programs, integrated with state and local programs, is critical to achieving success in conserving our coastal and marine resources. I support embedding the concept of matching ecosystems to governance at the highest levels through the National Ocean Council (Recommendation 4-3).

The Commission should consider expanding the concept of collaboration at the watershed scale (Recommendation 14-13). I believe that better collaboration among programs at the watershed scale will allow more flexibility to address water quality concerns. All too often, limited resources are spent on programmatic activity (e.g., revising codes or improving regulatory aspects of programs in general) that may not provide the technical, institutional, or financial resources that would otherwise address the real problems that are affecting water quality. A watershed approach (e.g. built on a 5-10 year cycle with adaptive management) may be a cost effective way to address water pollution concerns.

4. A National Framework for Ocean Governance:

- **A National Ocean Council, chaired by an Assistant to the President, and a Presidential Council of Advisors on Ocean Policy in the Executive Office of the President.**

I strongly support the Commission's recommendation to create a National Ocean Council (NOC), a Presidential Council of Advisors on Ocean Policy (Recommendation 4-1), and other organizational entities to ensure that ocean issues receive the highest level of Executive Branch support and that ocean programs are coordinated across all federal agencies and missions.

I also urge the Commission to recommend that a coastal state governor be included in the membership of the Council. I believe that this would underscore the role of states in the national coastal and ocean governance framework and strengthen the Council's function in its relations with the Congress and the states.

I support the recommendation that governors and other representatives from coastal states and territories be members of Presidential Council of Advisors on Ocean Policy. I also agree with the Commission that an Executive Order is appropriate to implement these governance entities pending Congressional action. This would ensure that many of the Commission's recommendations would be implemented in the near-term to meet existing and growing needs for action.

I encourage the Commission to recommend a National Ocean Policy Act to provide a vision for how the nation can balance the use and conservation of finite natural resources within a national governance framework composed of goals and policies based on the recommendations and Guiding Principles of the Commission's report. Such an act is missing from the Commission's recommendations but I believe this is key to coherent implementation of the governance changes, including the regional councils and other changes in federal structure that the Commission has recommended.

- **Strengthen NOAA and improve the federal agency structure.**

I support the passage of an “organic act” for NOAA that would codify the establishment and missions of NOAA (Recommendation 7-1). From our experience, the National Oceanic and Atmospheric Administration (NOAA) has tremendous capacity for, and is best positioned to provide, federal leadership in ocean and coastal management, research, and outreach. Such an organic act would help to bring the various missions of NOAA together, particularly through an emphasis on ecosystem-based management and other guiding principles articulated in the Commission’s report and also in the attached comments from the Oregon Marine Science Advisory Panel. Although other federal agencies, such as the Department of the Interior Minerals Management Service and the U.S. Environmental Protection Agency, have important statutory responsibilities in the marine environment, it is essential that NOAA be designated as the principal ocean agency for the United States.

5. Regional Ocean Governance

I am especially pleased that the Commission has recognized the fundamental need for a regional approach to governance, research, and information systems for coastal and ocean issues in order to account for the varying sizes and functions of large marine ecosystems. However, I suggest that the Commission revise the concepts for regional programs to reconcile what appear to be several approaches and uncertainties among the various recommendations (e.g., Recommendations 4-11, 5-1, 5-2, 5-3, 5-5, etc.).

- **Regional Ocean Councils**

In so doing, I urge the Commission to recommend that the Regional Ocean Councils be formally established with affected state governors for the primary purpose of serving as a “big table” to enhance communication among local, tribal, state, and federal interests on an on-going basis, and to maintain oversight of regional research, ocean observations, and information programs to ensure that these programs serve management needs.

Regional Ocean Councils should have no new regulatory authority but should have responsibilities for planning, coordinating, and facilitating state and federal ocean programs within a region, with an emphasis on proactively addressing emerging issues before a crisis is reached. Existing regional organizations (e.g. the Gulf of Maine) should be eligible to be formally established to avoid duplication of effort and take advantage of existing mechanisms. I believe that formal agreements are essential to ensure that all partners maintain a high level of participation and commitment to the regional effort. As noted in my comments on Living Marine Resources, Regional Ocean Councils are the appropriate forums for developing regional guidance for federal and state designation of special management areas.

The Commission should make clear the relationship between such Regional Ocean Councils and the existing regional Fishery Management Councils. I do not support Regional Ocean Councils assuming the duties or responsibilities of the regional Fishery Management Councils.

- **Sub-regional needs**

I suggest that the Commission enable Regional Ocean Councils to form sub-regional efforts as needed to account for sub-regional differences, particularly in a large region such as the Pacific Coast. For instance, as envisioned by the Commission, the Pacific Regional Council would include the three states of Oregon, Washington, and California to match the scale of the

California Current Large Marine Ecosystem. However, Oregon and Washington share a number of mutual coastal management issues, such as the need for regional sediment management at the mouth of the Columbia River that may require extensive sub-regional efforts.

- **Regional Pilot Project**

I believe that existing bi-state efforts around the mouth of the Columbia River and its estuary regarding beneficial uses of sediments, regional sediment management, navigational and fisheries issues, lend themselves to a regional pilot project as outlined in the Commission's report. An existing collaborative process is in place facilitated by the National Policy Consensus Center at Portland State University, supported by intergovernmental agreements at all levels of government in the states of Washington and Oregon and by scientific and technical expertise from the Institute for Natural Resources at Oregon State University. The Columbia River is a superhighway for commerce between the interior of the United States and countries around the Pacific Rim and is of national significance.

I urge the Commission to support a Regional Ocean Council pilot project for the Columbia River region that will help ensure that critical navigational improvements are made and sediment is retained for beneficial uses while protecting essential ecosystem and economic conditions in the local area.

- **Regional Information**

It is essential that regional ocean governance structures be supported by and integrated with regional research and regional information programs, including regional ocean observing systems. Oversight of these systems is an appropriate role for Regional Ocean Councils. I strongly support Recommendation 5-2 to establish regional information programs. Oregon is participating in the formation of the Northwest Area Networked Ocean Observing System (NANOOS), a regional ocean observing system that is aligned with the vision of the Commission for ocean observing systems. See additional comments under Marine Research.

- **Regional Sediment Management**

I fully support Commission Recommendation 12-1 that managing sediment be done on a regional basis. Over the past decade Oregon has developed a grass-roots, stakeholder-driven process for assessing, planning, and managing sediment movement and geologic hazards on a littoral cell basis, which is an essential concept for regional sediment management. I also support Recommendation 12-2 that the U.S. Army Corps of Engineers should broaden its criteria for determining least-cost options to encompass the outcomes of regional sediment planning and management.

I urge the Commission to consider adding a discussion of the "Role of Coastal States and Local Governments in Sediment Management" because it is local communities and state agencies that bear the brunt of federal program decisions regarding dredging and sediment management. For these reasons, *I ask the Commission to include state and local governments in Recommendation 12-4, developing a strategy for improved assessment, monitoring, research, and technology development.*

6. Living Marine Resources

• Fisheries Management

Marine fisheries management is a complex bundle of issues with few easy solutions. The Commission is to be commended for proposing enhancements and reforms that do not require wholesale dismantling of the nation's marine fisheries management structure or to the regional fishery management councils while turning this nation toward sustainable fisheries management. I support recommendations that will, among other outcomes, result in more balanced representation on regional fishery management councils. I believe that this is essential to gain public confidence and to provide a broader range of views in the decision-making process. Oregon has had some experience with non-industry appointments to the Pacific Fishery Management Council and has found this to be beneficial in widening the scope of discussions.

However, I ask the Commission to consider amending Recommendations 9-12 and 9-13 to require Governors to prioritize candidates and to clearly identify the sector for each nominee that the Governor would like to be added to the Council.

This would assist in Department of Commerce review. I also urge the Commission to consider that the categories recommended for gubernatorial nominations (e.g., commercial (2), recreational (2) and general public (2)) may restrict candidate options if there is one sector that is under-represented.

The Commission should consider recommending language to provide governors with more flexibility to submit additional candidates within a needed or desired sector.

Funding support to states should not be driven by the value of the regulated fisheries, as it is now, but by the workload, which is high in any event and far more daunting in attempting to manage declining or recovering fisheries.

I urge the Commission to recommend increased funding to coastal states to enable them to shoulder the immense, complex, and continuous workload generated by the federal regional fishery management councils.

I also believe that these recommendations, when taken together, will strengthen the link between scientific information and fisheries management, make the regulatory process more transparent, address fleet overcapacity, and help transition away from single-species management to an ecosystems approach.

While the Commission may have found it appropriate to recommend new statutory authority for interstate fishery management commissions to develop interstate fishery management plans (Recommendation 19-10), *I want to strongly suggest that the Commission consider either revising the recommendation to make such authority elective by each of the commissions to fit regional needs, or perhaps deleting the recommendation altogether.* The Pacific States Marine Fisheries Commission has played an extremely valuable and effective role in fisheries management in Oregon and along the Pacific Coast precisely because it has no regulatory authority. In this role it has become a trusted broker of fisheries data and facilitator of fisheries enhancement programs among the states and federal agencies. This role is likely to be compromised with the addition of statutory authority for interstate fishery management plans.

I support the Commission's emphasis on cooperative research (Recommendation 19-9) *but ask that the Commission broaden the concept of such an approach to take advantage of many opportunities for collaborative research beyond merely chartering industry vessels.*

I would point out that Oregon has already begun several programs through the NOAA Northwest Fisheries Science Center, Oregon Extension Sea Grant, and the Oregon Cooperative Institute for Marine Resources Studies. Cooperative research is being tested at ports as small as Port Orford where a community-based fisheries organization is helping NOAA and fishermen to work together to better understand fisheries harvest, habitat, and economic value.

- **Ocean Aquaculture**

I commend the Commission for recommending a national strategy (Recommendations 22-1 to 22.4) for marine aquaculture where none exists today.

I have serious concerns about potentially significant negative effects from marine aquaculture on Oregon's marine resources, ocean fisheries, and coastal communities.

This is an issue not to be taken lightly. Oregon's coastal communities have a long history of harvesting wild salmon, groundfish, Dungeness crab and other species in a diversified fishery. Oregon's Native Fish Conservation Policy promotes the conservation and recovery of native fish. In addition, state rules on wildlife integrity, fish management, and hatchery operation take into account the potentially serious adverse impacts of offshore aquaculture on native species and ecosystems, including water quality degradation, invasive species, disease, genetic and chemical contamination, pollution from fish waste and antibiotics, and physical interference with fisheries, research, and shipping.

I urge the Commission to recommend a strong precautionary approach toward marine aquaculture to avoid premature incentives and investments that could result in serious environmental and economic consequences in communities that have traditionally relied on native stocks.

- **Marine Mammals**

As noted in the attached comments from the Oregon Department of Fish and Wildlife, marine mammals are often accorded a legal status that is not aligned with the need to balance their protection with other important marine resources in an ecosystem context. This has led to ongoing problems for local, state, and federal resource managers. I support Commission recommendations 20-1 through 20-8 to make needed improvements in the management of marine mammals, including the marine mammal permitting system which today often impedes important and needed research, changes in the definition of harassment, and increased research and education.

I would point out that the current elevated legal status of marine mammals creates a chronic source of contention in attempting to establish management programs for fisheries and other resources.

I ask the Commission to consider new recommendations to address three specific issues:

- 1.) *Managing marine mammals in the context of managing other important marine species, such as endangered salmonids;*

- 2.) *Negative interactions of marine mammals with humans, fisheries, and the nearshore environment; and*
- 3.) *Management options to resolve specific problems created by individual animals.*

- **Invasive Species**

Oregon, as other coastal states, is vulnerable to introduction and spread of new species through multiple pathways. I support Commission Recommendations 17-1 to 17-8 that will strengthen the nation's ability to limit the introduction and spread of invasive, non-native species.

Although prevention should indeed be the first line of defense against invasive species, I do not believe that the report adequately communicates that prevention is often the only defense against the introduction and subsequent impacts of aquatic invaders. Once established, marine species have almost never been successfully eradicated. To strengthen this first line of defense,

I ask that the Commission recommend better enforcement of U.S. Coast Guard ballast water management rules within the Department of Homeland Security or transfer of the program to another Department that can.

In addition to introduction of invasive organisms from abroad, transfer of such species between domestic ports requires additional emphasis.

Therefore, I urge the Commission to recommend that the U.S. Coast Guard develop regulations to prevent spread of invasive species between domestic ports.

I have attached detailed comments from experts at Portland State University on the prevention and control of marine invasive species.

- **Marine Protected Areas and Marine Reserves**

The Commission uses the term “marine protected areas” (MPA) in the broad sense to mean areas in the ocean that are “protected” for many different reasons. We have long considered Oregon’s state Territorial Sea to be a marine protected area because it is “protected” by coordinated management within a state legal framework to conserve marine resources while allowing for uses. The Commission’s focus on marine protected areas tends to obscure the need to more directly address “marine reserves,” which are more highly or fully protected marine areas. I am keenly aware that marine reserves are of intense interest to many stakeholder groups.

The Oregon Ocean Policy Advisory Council (OPAC) in 2002 advised my predecessor that a limited system of marine reserves should be established along the Oregon coast through a public process to test and evaluate the effectiveness of reserves in meeting state ecological and conservation objectives. The OPAC determined that marine reserves for fisheries management were not warranted at that time. However, the OPAC learned that even if Oregon was to designate such reserves in state waters through a public process, no similar public process, designation criteria, or agency authorities appear to exist for marine reserves in federal waters. It is not clear at all which, if any, federal agency has authority to designate, manage, and enforce marine reserves in federal waters except within a previously designated National Marine Sanctuary.

I ask that the Commission consider recommending that authority to designate, manage, and enforce marine reserves be granted to NOAA through the organic act called for in Recommendation 7-1 but that any such designations be made only through a public process that involves affected coastal states and stakeholders.

I also ask the Commission to consider amending Recommendation 6-4 to focus on marine reserves, rather than marine protected areas, and require that Regional Ocean Councils be charged with developing guidance for federal agencies and coastal states on the location, design, and implementation of marine reserves within the underlying large marine ecosystem, and that this guidance be based on sound science, economic impact analysis, and a public process with stakeholder involvement. I further ask that any federal guidance include consideration of ocean areas already closed to fishing through regulations of regional Fishery Management Councils.

In this way, any reserves that Oregon may designate in state waters would contribute to a broader network of reserves designed to meet conservation objectives across the larger ecosystem, and that coastal states and stake holders would be involved in designation of any marine reserves in federal waters.

7. Coastal and Marine Recreation

I am surprised that although the Executive Summary mentions the economic importance of coastal recreation and tourism, the report does not address the role of tourism and recreation as they relate to the ocean and the coast. Tourism and recreation are key components of Oregon's coastal economy and way of life. These two activities are driving forces in our efforts to manage growth and development while protecting coastal resources. Nationally, coastal recreation is an immense economic engine, and there are significant federal resources spent managing this activity. Oregon's beaches are publicly owned, as are the rocky tidepools. We take seriously our responsibility to conserve these rocky shoreline resources for the benefit of all, whether the visitor is from Oregon, Colorado, Maine, or Germany. Increased visitation and enjoyment of these vulnerable sites could prove damaging to the resources. States could benefit from increased federal assistance in developing and implementing programs to use information, education, and public outreach to increase visitor appreciation of coastal resources and to promote personal stewardship.

8. Marine Water Quality

I appreciate the Commission's emphasis on addressing coastal water pollution and I particularly support the call for developing a prioritized, comprehensive plan for long-term funding of the nation's current aging and inadequate wastewater, drinking water, and on-site treatment infrastructure. The Commission should not only consider funding the State Revolving Fund programs but also construction grants to small jurisdictions and homeowners based on ability to pay. I previously noted the potential for reducing non-point pollution into coastal water bodies by increasing collaboration among programs at the watershed scale.

- **National Water Quality Monitoring Network**

I support the Commission's recommendation that a National Water Quality Monitoring Network be created and that this network be structured with a federally funded backbone of critical stations and measurements to assess long-term water quality trends and conditions

(Recommendation 15-1).

I also ask the Commission to emphasize that coastal states should be active, knowledgeable partners in this effort through a coordinated monitoring strategy that builds on and takes advantage of work already completed by states and federal agencies.

Over the past six years the Oregon Department of Environmental Quality has been a partner in the EPA's Ecosystem Monitoring and Assessment Program (EMAP), which has acquired substantial data and has helped to build much-needed capacity for coastal assessment. This EMAP effort could serve as a model for developing such a monitoring network. In order to make the most effective use of the limited resources, *I would support efforts to integrate the monitoring work of NOAA, EPA and the states through a monitoring network that would address coastal watershed, estuarine, and offshore data needs.*

- **Oceans and Human Health:**

The Commission is to be commended for this important set of recommendations.

I urge the Commission to consider including states among the essential program partners in research, monitoring, and addressing the human health aspects of the marine environment.

As the Commission discussed in Chapter 14 (Coastal Water Pollution), land use practices and patterns in coastal watersheds can significantly affect marine water quality and promote conditions that increase the occurrence of human health risks. Oregon has for many years monitored water quality in estuaries for pathogens that could affect commercial shellfish harvesting. The state has begun water quality monitoring on ocean beaches under the federal BEACH program. I support the recommendations to enhance research and development in the areas of monitoring, methodology, indicators of health and strategies for predicting and addressing pollutant loads and algal blooms.

9. Lifelong Education

I am particularly pleased by the thoughtful and extensive recommendations in Chapter 8 promoting formal and lifelong education related to the ocean. Topics of serious societal issues prompted by science research have received great attention in education such as health issues of smoking, drugs, socially transmitted disease, and diet. Environmental science has long addressed recycling and stewardship of the land; space technology and exploration is now an everyday part of educational curriculum. It is now time to focus education on the oceans.

Although Oregon has outstanding marine education programs at all levels, including Oregon Sea Grant, much more could be done, as the Commission recommends. I support the Commission's recommendation for a national initiative to support ocean education (Recommendation 8-1). Experience in Oregon schools such as those in Seaside, Coos Bay, and Gold Beach, demonstrates the ability of ocean education to capture the imagination of youth, help retain interest in science, and enhance learning in many areas. Teachers statewide are eager to take on the challenge of ocean education with their students. For these reasons I strongly support promoting ocean literacy in the K-12 classroom environment (Recommendation 8-6). In addition to developing and enriching an appreciation of the marine environment, we have learned that educated and informed citizens practice personal stewardship, which is essential to the voluntary conservation of these resources and which, in turn, reduces or avoids the need for governmental regulation.

Oregon has several centers for public outreach and education in marine and coastal science and research. One is the South Slough National Estuarine Research Reserve on Coos Bay and another is at the Hatfield Marine Science Center on Yaquina Bay. Programs at both these institutions are very popular and demand remains strong.

I encourage the Commission to recommend enhanced funding for education and outreach through the National Estuarine Research Reserve System and through the National Sea Grant Program.

I support the emphasis on training at the undergraduate and graduate level for future leaders and managers of our ocean and coastal resources (Recommendation 8-9). The graduate program in Marine Resource Management at Oregon State University, for instance, has contributed immeasurably to the ability of many state and local agencies in Oregon to develop and carry out coastal conservation programs.

10. Increasing Scientific Knowledge and Information

• Scientific Underpinnings of the Report

Many of my comments are based on an expert analysis of the scientific and technical underpinnings of the Commission's report that was conducted by a Marine Science Advisory Panel convened at my request by the Institute for Natural Resources at Oregon State University. Experts in a number of marine scientific and research disciplines in Oregon's University System provided, on tight deadline, a comprehensive evaluation that is attached to my letter and which contains additional comments that I urge you to consider carefully.

• Increasing Support for Marine Research

The Commission is to be commended for clearly recognizing that information about the ocean and coast is essential to informing the policy and management process and helping citizens understand the importance of these resources in their lives. I strongly support Recommendation 25-1, which would double the federal ocean and coastal research budget over the next five years. I especially support the Commission's recommendation to significantly enlarge the capacity of Sea Grant programs nationwide. Oregon Sea Grant plays a particularly vital role in Oregon for marine research, outreach, and education. This investment in funding is fundamental to ensuring that the research priorities identified throughout the report are met.

I ask the Commission to ensure that increases in research funding include enhanced opportunities for coastal states to participate in planning for and conducting research, as well as building scientific and technical capacity, to ensure that research meets pressing state and local management needs (such as in Recommendation 5-2).

In addition, *I ask the Commission to make sure that research funding is increased for a wide range of federal ocean related research programs, such as the Saltonstall-Kennedy program, whose budgets have dwindled or vanished in recent years.* These programs have proven extremely valuable in targeting needed research at particular management issues, such as reduction in fisheries by-catch. Please also review the attached extensive comments from the Marine Science Advisory Panel of Oregon State University's Institute for Natural Resources.

I support the development of a national ocean research strategy coordinated through the National Ocean Council (Recommendation 25-2) for which I would suggest a strong commitment to incorporate and integrate research plans developed at the regional level. I firmly believe that coastal and marine management must be supported by sound scientific information and that the nation has not previously supported management with sufficient scientific research. Scientific research in the marine environment must operate at a different pace and time scale than the time scales required for information to meet management needs.

I ask the Commission to recommend that the strategy incorporate practical, flexible guidance on grant periods to accommodate the practicalities and uncertainties of marine research, especially cooperative or applied research, in a dynamic and unpredictable environment.

I also suggest that the Commission consider adding a component to this strategy that would support the needs of coastal state managers for small scale and relatively short-term research to acquire information to address management needs.

I support an increased emphasis and support for social science research, especially economic research and data collection (Recommendation 25-3). It is clear from the introduction to the report that the coasts and ocean are enormous economic engines for this nation, yet the research and data about economic contributions lag well behind other sectors. Economic research should include understanding the economic contribution of non-market, non-consumptive resource values in the coastal and ocean environment.

- **Marine and Coastal Information Systems**

Policy and management programs for natural resources must be supported with accurate, timely information based on sound science. It is clear that increases in the level and quality of information about the marine and coastal environment, economy, and resources will require concurrent increases in the capacity to deliver this information in ways that are useful and meaningful to decision-makers and the public. Oregon has already begun this work by devoting significant effort to developing an on-line Digital Coastal Atlas to provide maps, aerial photos, monitoring data, marine and coastal scientific information, and other information easily available to the public. This Atlas has proven both popular and very useful.

While I support the mapping and information management concepts in Recommendation 25-5, *I ask the Commission to recommend that states be included in developing national programs and be eligible for technical and financial support to develop robust information management and delivery systems to support manager and decision-makers at the state and local level.*

Regarding making data and information available for coastal and ocean management, *I ask the Commission to add to Recommendation 28-2 to make declassification of existing Navy data and maps a priority, especially to support fisheries management and research where detailed bathymetry and other data do not otherwise exist.*

- **Ocean Observing Systems**

The report makes clear that our oceans and coasts are likely to experience even more stresses from development over time and that government agencies at all levels will be called on to keep pace to protect resources while allowing use. To accomplish this, I believe that society must have two fundamental capabilities to make scientifically sound decisions: one is to comprehensively

monitor ocean and coastal ecosystems and conditions; the other is to predict what will happen to these ecosystems if certain steps are, or are not, taken. For these reasons I support development and deployment of an Integrated Ocean Observing System (IOOS) (recommendations in Chapter 26) to improve real-time and long-term information to support a variety of applications for navigation, coastal hazards planning, emergency response, fisheries, human health, sediment management, watershed planning and management, and other issues.

Oregon has participated closely in the development of the system to date and will benefit enormously from deployment and operation. The attached memo from the Marine Science Advisory Panel provides detailed comments with regard to the IOOS, including the need for and potential costs of significantly increasing the nation's technical capacity and human capacity to develop, deploy, and maintain this critical instrumentation. Oregon's Coastal and Ocean Management Programs will benefit from the implementation of a regional IOOS.

11. Guarding Against Natural Hazards

Over the past decade, the Oregon has focused on obtaining better information and assessments about the potential for a variety of coastal hazards and on providing local governments, where land use decisions are made, with improved standards and information to guide land use decisions. The Department of Geology and Mineral Industries has made significant progress in understanding the dimensions of a variety of hazards in the coastal zone, such as tsunamis, steep slope landslides, ocean shore erosion, dune accretion, and riverine flooding. The state Coastal Management Program has helped local communities to use the results of the geologic investigations to prepare maps and adopt policies and standards in land use plans and ordinances. to ensure that development avoids the likelihood of hazards and disasters.

Yet more must be done. Oregon and the Pacific Northwest face the near-certainty of subduction-zone earthquakes that can result in overwhelming disaster to communities, especially along the coast where tsunamis can send ocean surge miles deep into coastal river valleys. Storms and flooding in river valleys require a strong continued commitment to good land use planning to prevent loss of life and property. Public infrastructure is constantly vulnerable to the forces of a geologically dynamic environment.

I support a task force to improve collection and usability of hazards-related data (Recommendation 10-2) and suggest that state coastal programs be represented on the task force. States are well equipped to assess local coastal hazards and educate the public through coastal management programs.

I also agree with the very common-sense idea that the National Flood Insurance Program should be amended to reduce incentives for development in high-hazard areas (Recommendation 10-3). These steps would support many aspects of Oregon's Coastal Management Program.

Finally, I urge the Commission to add a statement to Recommendation 10-4 encouraging Congress to continue funding the FEMA Pre-Disaster Mitigation Program for mitigation planning and project development. This has been a very beneficial program for Oregon.

12. Offshore Energy and Minerals

Two of the driving issues leading to creation of Oregon's Ocean Resources Management Program in the 1980s were oil and gas leasing and marine minerals development, both of which

were proposed by the Reagan Administration. Oregonians applied the “precautionary approach” to these two activities because of the enormous potential to degrade, if not destroy, the coastal environment and coastal economy. They demand assurance that these activities can be conducted safely and protect living marine resources.

The Oregon Ocean Plan, 1991, and Statewide Planning Goal 19, Ocean Resources, contain basic policies that will guide state response to any proposed leasing or development. Oregon will continue to demand a very high level of information and analysis to demonstrate that these activities can be conducted in a way that protects the marine environment and meets Oregon’s marine conservation objectives.

I urge the Commission to recommend that any proposals for offshore oil and gas leasing or minerals development in areas that do not have existing development must be approved by a Regional Ocean Council as part of a regional ocean management plan.

I am also concerned that any rush to explore or develop methane hydrates must be tempered with extreme caution because these minerals may have not only enormous energy potential, but the potential for catastrophic impacts on the earth’s atmosphere.

Additional Comments

Additional comments are attached



Attachments to Letter of Comment

**From Oregon Governor Theodore Kulongoski
To U.S. Commission on Ocean Policy
June 2, 2004 (revised 21, 2004)**

Oregon Department of Environmental Quality

Oregon Department of Fish and Wildlife

Oregon Department of Geology and Mineral Industries

Oregon Department of Land Conservation and Development

Oregon Parks and Recreation Department

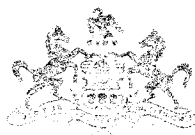
Oregon Department of State Lands

Oregon State University, Institute for Natural Resources, Marine Science Advisory Panel

University of Oregon Ocean and Coastal Law Center (Legal Review)

Portland State University (Invasive Species)





COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR
HARRISBURG

June 1, 2004

THE GOVERNOR

Admiral James D. Watkins, USN (Ret.)
U.S. Commission on Ocean Policy
1120 20th Street, NW
Suite 200 North
Washington, D.C. 20036

Dear Admiral Watkins:

Thank you for the opportunity to respond to the Preliminary Report (Report) of the U.S. Commission on Ocean Policy (Commission). I commend the Commission on the obvious thoughtfulness and hard work that went into preparation of the report and its guiding principles. I am also pleased to note that the Commission responded with creativity and imagination to Pennsylvania's issues regarding ecosystem and watershed management and the need to rationalize federal ocean-related activities.

As you finalize recommendations for institutional management, I want to emphasize that environmental protection of our oceans and Great Lakes is a priority. As you work out the proper institutional relationships in your final report, the roles of states and territories need to be effectively defined, with recognition of issues of sovereignty and stewardship responsibilities for use and protection of our natural resources. Beyond that, an effective response to serious issues will require strong federal leadership as we articulate goals, establish priorities, and implement actions. The Great Lakes water quality efforts provide a useful model of effective federal leadership, state partnership, international cooperation, and public participation.

Partnerships developed among federal, state, and local partners have been key to many of Pennsylvania's economic and environmental success stories. I am concerned that the structure based on Regional Ocean Councils currently being proposed by the Commission bears a resemblance to the Federal Regional Council efforts of the 1970's that failed primarily from lack of recognition of the proper and required roles of states, counties, and municipalities.

Pennsylvania is finding it extremely useful to reorganize our environmental efforts on a watershed basis, with implications for all of our economic and social activities. I applaud the Report's recognition of the intimate connection between coastal resources and the farthest reaches of their watersheds, and that hypoxia, drought, water use, and pollution impacts emphasize this connection. As a commonwealth, we have extensive experience with interstate river basin compacts and cooperative water resources management in our five major watersheds. Based on our experience, I recommend that national ocean efforts be based on as large a watershed scale as possible and all related federal efforts focused similarly on the Pacific, Great Lakes, Gulf of Mexico, and Atlantic basins. This would provide an effective basis for both regional and international cooperation. Regional advisory councils based on these watersheds and structured around state authorities could then further refine their individual focus, transparency and committee structures as appropriate.

Admiral Watkins
June 1, 2004
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In developing regional organizations, primary consideration should be given to membership based on elected principals or their representatives from the states and territories. Use of existing Coastal Management and Sea Grant programs should be maximized to build federal governance, information, and research capabilities. Focusing and clarifying watershed roles within the National Oceanic and Atmospheric Administration is a necessary step, anticipated by the White Water to Blue Water Initiative. The ideas proffered for building new advisory, science, information and education frameworks, with future changes in legislation and organizational structure meant to incorporate or eliminate duplicative activities, need further debate.

The proposal for a National Ocean Council in the Executive Office of the President bears closer examination. The Ocean Council called for seems in fact to be a re-creation of the existing Coastal America Federal Agency Partnership structure. This partnership is already intended to advance ocean issues through the Council on Environmental Quality, which by legislation presently incorporates air and land as well as water issues in its considerations. If this organizational relationship to address the oceans aspects of the Earth's operating systems has been underutilized, then it could be further defined and emphasized to reflect your proposals, instead of increasing structural complexity.

While not strictly meeting the definition of oceans, the Great Lakes (which contain approximately 20 percent of the world's available fresh water and have marine-scale issues of national importance) deserve greater specific attention in the Report, as do the living resources of their basin.

Related to the distribution of funds from the proposed trust fund based on Outer Continental Shelf activities, while priority should go to states with active exploration and extraction programs, major consideration should also be given in any funding formula to states or territories that handle a considerable amount of the resultant vessel and port traffic and refining processes.

Thank you again for the opportunity to respond to the preliminary report. Its emphases on coastal watershed management and rationalizing the organization of federal ocean policymaking, implementation, science, education, and information activities are welcome additions to the dialogue in our joint efforts to manage coastal and ocean resources in a critical time of increasing stresses and demands.

Sincerely,



Edward G. Rendell
Governor



State of Rhode Island and Providence Plantations

State House
Providence, Rhode Island 02903-1196
401-222-2080

Donald L. Carcieri
Governor

June 4, 2004

Admiral James D. Watkins, U.S. Navy (retired)
Chair, U.S. Commission on Ocean Policy
1120 20th Street, NW
Suite 200 North
Washington, D.C. 20036

Dear Admiral Watkins:

I write to submit the official comments of the State of Rhode Island on the Preliminary Report of the U.S. Commission on Ocean Policy. The State of Rhode Island fully endorses the vision and goals of the Preliminary Report. I offer my compliments to the Commission on this important and historic work. We are proud of the contributions of one of our own on the Commission, Dr. Robert Ballard of the University of Rhode Island. The Preliminary Report is both a bold strategic statement and a comprehensive policy prescription. It will guide our nation well in developing an ocean policy for the 21st century.

As its name "The Ocean State" implies, Rhode Island is proud of its ocean heritage, its 420 miles of shoreline, Narragansett Bay, and its extensive watershed. Rhode Islanders have a long and strong tradition of ocean living. From our colonial history as a shipbuilding and trading center to the modern facilities engaged in marine technology research, Rhode Island has relied on its Bay and the ocean to support and sustain economic growth. Commercial and recreational fishing, tourism, research and development, military facilities and marine transportation are important drivers of our economy.

Rhode Island also has a proud history of environmental stewardship. We understand well that the health of Narragansett Bay is inextricably linked to the health and management of the ocean. Improving the vitality of both is a paramount mission of my administration. Narragansett Bay and its watershed are the heart and soul of the State. The Bay is a rich and vibrant natural resource that supports a dynamic ecosystem and defines our cultural heritage. Last year, I formed the Governor's Narragansett Bay and Watershed Planning Commission to develop a broadly-shared vision for the protection and sustainable use of the Bay as both an environmental

Admiral James D. Watkins, U.S. Navy (retired)
Chair, U.S. Commission on Ocean Policy
June 4, 2004
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and economic resource. In the past, weak coordination among state agencies and the private sector has hindered Rhode Island's effectiveness in protecting the Bay. In response to this call for statewide action, more than 160 experts from all walks of life are now serving on my Bay Planning Commission.

Rhode Island is doing its part to invest in our waters. I have recently asked Rhode Islanders to renew their financial commitment to our Bay, its watershed, and the ocean. I have proposed nearly \$50 million in new funds to reduce excessive nutrients in our waters and improve our pollution control systems. It is vital that the federal government also increase its financial commitment to ocean and coastal programs.

In particular, we strongly encourage the federal government to increase funding for ocean exploration and research. We see ocean exploration as an exciting new initiative that will help our nation play a leadership role in educating the public about the ocean environment, conserving and using ocean resources wisely, and building public interest and support for critical ocean research. As you know, the University of Rhode Island is a national leader in the ocean sciences and Commissioner Dr. Robert Ballard leads a world-class ocean exploration program at the University.

Again, Rhode Island will make the financial commitment necessary to support these groundbreaking efforts. I have recently committed that Rhode Island will contribute its share of the costs for a next-generation research vessel commissioned by the National Science Foundation. We strongly encourage the federal government to increase our nation's scientific investment. Ocean exploration is an exciting frontier that promises tremendous scientific and economic benefits.

In almost all cases, we find the vision and goals we are pursuing in Rhode Island mirrored by those of your Commission. These areas include a holistic regional and ecosystem-based approach to natural resource management; specific policy revisions and support for improving water quality; implementing extensive research, monitoring, assessment and evaluation to increase public awareness and promote accountability; promoting fact-based decision-making based upon the best science available; improved habitat conservation and protection; building a constituency for oceans, coasts and watersheds among decision-makers and the general public through increased public education on ecosystem issues; and making a clear call for the funding needed to accomplish these objectives.

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Chair, U.S. Commission on Ocean Policy
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The result of Rhode Island's long history of seafaring is a wealth of expertise in oceans and coasts, including the historic presence of the U.S. Navy. We have drawn upon the knowledge of these experts—representing academic, governmental, environmental, and business interests—in preparing the State's response. The formation last year of my Bay Planning Commission brought together a broad-based collaborative of interested parties to assist in the development of this unified response. They have my sincere thanks for their dedication and diligence. They truly reflect the best of the Rhode Island spirit and love for the ocean.

We have grouped our comments into four major topic areas, which we believe reflect the main issues addressed in the Preliminary Report's executive summary and allow for a logical affiliation with your issues and clarifies our intent. These are: New Policy Directions and Governance Frameworks; Strengthen Science and Research; Ecosystem-Based Management; and Enhanced Education, Outreach and Information Dissemination.

In addition, one specific area of economic interest to coastal regions not included in the major topic areas is the pursuit of technology and industrial development from marine life sciences. The marine life sciences include diverse disciplines such as aquaculture, advanced biomaterials, biopharmaceuticals, biomass energy sources, and numerous yet-to-be-discovered applications. The United States represented a small fraction of this \$60 billion global industry in 2000, however, our potential for growth is vast. Rhode Island intends to be a leader in this emerging field.

I am honored to offer Rhode Island's comments on the Preliminary Report. Rhode Island pledges its full support in the effort the Commission has begun. I look forward to the publication of the final document.

Sincerely,



Donald L. Carcieri
Governor

PS. Sue & I very much enjoyed talking with you and your wife in Mystic. You handled that mouse beautifully -

New Policy Directions and Governance Frameworks

Overview

The U.S. Commission on Ocean Policy report takes note of the slow pace of progress on coastal and ocean protection, restoration, information systems and research which it sees as a result, to some extent, of disconnected and/or overlapping agency and program purviews and a lack of communication and coordination among similar coastal and ocean programs and initiatives. It recommends actions that amend current legislation or agency practice and also proposes that a new ocean and coastal decision-making framework be put into place. Rhode Island comments point to existing federal policies in pollution control and living resources management that hinder the states' ability to manage effectively. The Commissioners' comments support recommendations that target priority issues identified through the R.I. Governor's Bay & Watershed Planning Commission process such as nutrient reductions, managing nonpoint source pollution, fisheries management, impacts of growth/development and the need for coordinated, collaborative action at both the federal and state level. The need to adapt an ecosystem-based management paradigm and to support and sustain watershed-based initiatives at both the federal and state level is a common theme in Rhode Island comments. There is also expressed in the comments a concern about how and why new management frameworks would be developed and that, along with consideration of building new frameworks, the U.S. Commission on Ocean Policy, the federal government and the states examine ways in which the current framework can be improved and made more effective, making it possible to retain processes and programs that work well in their current forms and institutional settings.

Specific Recommendations

Reauthorize or revise federal legislation such as the Coastal Zone Management Act and the Clean Water Act

- Incorporate a watershed-based focus into federal programs and legislation;
- Provide financial, technical, and institutional support for watershed initiatives;
- Address the cumulative impacts of growth and development on coastal and ocean systems.

Improve the operations and planning of the U.S. Army Corps of Engineers, other federal agencies, and states

- Ensure that the selection of least-cost disposal options reflect a more accurate accounting of environment and economic costs and benefits with special consideration of beneficial reuse of dredged material, and;
- Develop disposal options using a better system of rating and prioritizing projects based on net economic and environmental return that is more comprehensive and accurate than current cost-benefit analysis practices.

Strengthen water quality improvement strategies

- The Environmental Protection Agency (EPA) and the states should require advanced nutrient removal for wastewater treatment plant discharges into nutrient-impaired waters after Total Maximum Daily Loads (TMDLs) or other appropriate analyses to determine acceptable nutrient limits are completed;
- Development of a prioritized plan for replacing or repairing aging wastewater and drinking water infrastructure.
- Establish more effective mechanisms to address mercury deposition and its public health impacts including from fish consumption.

Revise federal and state policies that support water quality

- Increased enforcement of existing policies, laws and ordinances to protect ocean and coastal resources;
- Modernized permitting information and tracking systems;
- Development of regional mechanisms to address atmospheric deposition.

Increase effectiveness in addressing nonpoint source pollution through:

- Establishment of national nonpoint source pollution goals and objectives that will result in significant pollution reduction in impaired watersheds, focused on meeting human health-related and ecosystem-based water quality standards;
- Ensuring that stormwater management programs are based on comprehensive, ecosystem approaches that include accurate assessments, best management practices, monitoring, public education, sufficient resources (financial and technical assistance) and an adaptive management approach.

Increase federal and state support for and effectiveness of watershed-based initiatives

- Building the capacity of watershed efforts to address pollution, habitat and growth issues by providing technical, financial and institutional assistance;

Limit vessel pollution and improve boating safety

- The U.S. Coast Guard developing a comprehensive policy guidance and contingency plans for places of refuge for vessels in the United States;
- While requiring improved marine sanitation device technologies, ensure that No Discharge Zone designation is the priority method for reducing pathogen and other waste inputs resulting from boating.

Address the threat of introduced marine aquatic species

- Employing a more vigorous federal response that includes ensuring that federal ballast management law includes uniform, mandatory national standards based on sound science and includes a process for revision as new technologies emerge. The policy on ships with no declared ballast should be subject to an interagency review.

Make progress on the goal of sustainable fisheries

- Improving the federal fisheries management process through elimination of redundant and unnecessary requirements which prolong the development of fishery management plans;
- To reinforce a commitment to using ecosystem-based management, renaming the Regional Fisheries Management Councils as the Regional Fisheries Ecosystem Management Councils;
- Allowing Regional Fisheries Management Councils to set allowable catch limits for each fish stock in order to give the RFMCs some flexibility in considering the social, economic and environmental consequences of fisheries decisions;
- Contrary to the recommendation that saltwater fishing licenses should be federally required, the issuance of recreational licenses should be the exclusive purview of each state, not a federal mandate;
- Opposing any federal requirements that state and interstate fishery management plans mirror the structure and requirements of the Magnuson Act due to the inefficiencies of the federal fishery management process;
- Opposing recommendations that call for Rhode Island to relinquish significant planning responsibility and authority to a regional fisheries council that covers the Atlantic seaboard from Cape Cod to Hatteras.
- Supporting increased funding for multi-jurisdiction Joint Enforcement Agreements.

Reform Ocean and Coastal Governance and/or Create New Governance Frameworks

- Where effectiveness and coordination can be significantly improved, creating new well-planned governance frameworks that defragment both federal and state coastal programs and authorities;
- Recommending that the U.S. Commission on Ocean Policy develop options not only for new institutional frameworks but also for reform of existing systems to improve coordination, communication, joint action and use of resources; an analysis of existing mechanisms for effectiveness should be conducted through a multi-interest effort.
- Contrary to the recommendation that all coastal programs be consolidated under NOAA, the National Estuary Program should remain linked to the Environmental Protection Agency in order to maintain the unique watershed-coast-ocean perspective of the NEP and its history of bringing EPA and other federal resources to address coastal and ocean issues as well as its ability to work in watershed areas beyond the extent of public trust resources;
- Developing alternative funding mechanisms in addition to the proposed Ocean Policy Trust Fund. Reliance mainly on one source and on purely extractive industry revenues may have unintended consequences, potentially leading to a dependency on activities that may cause ecological problems or conflict with stated ecosystem goals.

Strengthen Science and Research

Overview

Impartial, reliable and timely scientific information is the foundation of effective policy. Such information requires investment; there is no shortcut. Return on investment in basic research is commonly greater than 20%. Resources are necessary to develop the necessary infrastructure to collect and manage data and to explain scientific results in practical terms to decision makers, educators, and the general public. Despite the declining health of our oceans and coasts, federal investment in ocean research has decreased over the past 25 years from 7 percent of the total federal research budget to 3.5 percent. As a result, our knowledge about the oceans and our coasts has not keep pace with our impacts on these regions, and the U.S. has slipped as the world leader in ocean research, exploration, and technology development. The present level of funding is below the level needed to take advantage of our academic capacity and to provide information essential to policy makers.

Over the next five years, the annual federal investment in ocean and coastal research should double from today's \$650 million, and additional investments should be made in technology development and ocean exploration.

To meet growing information needs, the U.S. should also implement a national Integrated Ocean Observing System (IOOS) based on an interconnected U.S. regional ocean observing systems and linked to the international Global Ocean Observing System. The IOOS will significantly improve our ability to observe, monitor, and forecast ocean conditions and Earth observing capabilities. The information will have valuable economic, societal, and environmental benefits. Such a system requires investment (\$138 million in start-up costs, and \$650 million annually to maintain and operate the system), but as a nation, we will realize an annual savings of \$1 billion through enhanced weather forecasts, resource management, and safer and more efficient marine transportation.

Specific Recommendations

Beaches

- Entities should develop a coordinated strategy to research, assess, and monitor beach nourishment.

Contaminated Sediments

- Entities should develop a coordinated strategy to conduct research on contaminated sediments, such as how they are created, transported, dredged and treated.

Aquaculture

- Congress should increase support for sustainable marine aquaculture research, development, training, extension, and technology transfer programs. Emphasize on-shore, finfish systems.

Human Health

- NOAA, NSF, and other entities should develop and implement improved methods to monitor and identify pathogens and chemical toxins in ocean waters and organisms.

Basic Research

- The U.S. should double its annual funding on ocean science and a portion should be used to support research directed by the regional information collection programs and to enlarge the National Sea Grant College Program.

Research Infrastructure and Vessels

- The academic fleet is the most crucial resource used by researchers. Without a dependable seagoing capability, we cannot explore new regions and respond to exciting and scientifically important opportunities. The fleet must be maintained to address most acute needs of the marine science enterprise and to deploy and maintain an IOOS. Unless funds are appropriated to construct the next generation of research vessels equipped with cutting-edge technology and instrumentation (to which RI can contribute significantly) our ability to systematically probe the ocean interior will suffer or be surrendered to other nations.

Data Management

- The U.S. should implement an ocean data management system.

Observing and Monitoring

- Congress should fund the IOOS through NOAA, subject to National Ocean Council direction and approval. IOOS funds should be appropriated without fiscal year limitation. NOAA should develop a streamlined process for distributing IOOS funds to other partners. Emphasis should be placed on ocean ecosystem health with attention to coastal watershed and near coastal waters.

Ecosystem-Based Management

Overview

Urgent and immediate action is necessary to arrest and reverse the decline in ocean ecosystem health. Conservation of estuary and coastal resources must be an essential part of any sound strategy to conserve and restore ocean health. A more comprehensive focus on ecosystem-based management will need to involve constituencies from government, universities, the public and the private sector, in order to strengthen the U.S. collaborative ocean research enterprise.

- Watershed management should be integrated into coastal resource conservation. However, there should be recognition that a significantly greater investment in watershed management will be needed to make it optimally effective.
- Habitat restoration needs to be more fully developed as a top-level strategy to conserve the coastal marine environment.
- Support the recommendation regarding the need for states and the EPA to require advanced nutrient removal for wastewater treatment facilities discharging into nutrient impaired waters. This is the most significant report recommendation for Narragansett Bay.

Specific Recommendations

Regional Management

- Support recommendations for a regional scale, ecosystem approach to coastal and ocean management in which priorities and recommended actions are regionally driven and implemented. This recommendation is in keeping with the approach taken by the Governor's Narragansett Bay and Watershed Planning Commission and in support of the efforts of Rhode Island to work with the Governors of Connecticut and Massachusetts on a ecosystem-based approach to coastal and ocean management.

Watershed Funding

- Support the Report recommendations to better fund watershed approaches, especially additional funding to states for watershed-based planning and action, based upon clearly identified performance agreements.

Federal Support for Habitats

- The federal government should commit to stemming the loss of coastal habitat. Habitat goals should be more than just acres and have clear connection to larger objectives such as restoring fisheries, improving water quality, etc. Increase support for state and regional habitat coordination mechanisms: States and regions have used a variety of planning and implementation mechanisms that could be enhanced by federal support. The Rhode Island Habitat Restoration Team is an existing coordination model; with

additional support on a performance agreement basis, it could demonstrate planning, goal-setting, and progress at the state level.

Land Conservation

- Amend the Coastal Zone Management Act to authorize and provide sufficient funding for a dedicated coastal and estuarine land conservation program. Amend the Ocean Commission recommendation as follows “Existing federal conservation funding programs should emphasize the importance of riparian habitat protection, restoration and/or enhancement, with respect to primary tributaries to coastal habitats.”

Wetlands Protection

- A more comprehensive wetlands protection program should be developed that is linked to coastal habitat and watershed management efforts and the integration of the Section 404 permitting process. Specifically, the consideration of cumulative impacts from issuing multiple individual permits must be addressed at both the federal and state level. Suggest strengthening the language here to change the sentence from “the NOC *should* coordinate development,” to “the NOC *will* coordinate development.”

Water Quality Monitoring

- Federal agencies should develop a national water quality monitoring network that coordinates existing and planned monitoring efforts, including monitoring of atmospheric deposition with secure federal funding support. This network should be designed to be consistent with states’ monitoring needs and would not reduce the need to fund and enhance existing state monitoring programs. The monitoring network should include dedicated support for both research and management needs identified through inclusive processes and should include near shore, coastal, tributary and estuarine areas in order to fully represent the human/land/ocean interaction.

Enhance Education, Outreach and Information Dissemination

Overview

Education, outreach and dissemination of information to decisionmakers and the general public is at the core of a successful oceans and coastal policy framework. Fact-based decisionmaking built on the best available science—and constantly increasing knowledge—is a must for making the proper choices in future planning and management. It is also important to share that science with the public in layman’s terms to further build the knowledge base. The cross-societal impacts of any oceans and coastal initiatives must demonstrate how they do not just affect the ecosystem, but involve the economy, society, culture and every facet of day-to-day quality of life, in order to build a constituency for policy decisions and create stewardship among all groups from government to the grassroots. A long-term focus on the education side should include integrating information on ocean and ecosystem issues into informal and formal education programs, including school curriculum. This is designed to extend the reach of the initiative among a new generation to increase its ongoing future impact.

Specific Recommendations

Ocean and Coastal Science Education

- Support for strengthening ocean and coastal science education, especially experiential education connected to applied research, and public education closely integrated with extension and outreach. Rhode Island recommends that the mandate of the NSF COSEEs be expanded to include undergraduate and graduate education in the portfolio of K-12 programs, and that additional funding be made available for greater interactions between universities, NSF, NOAA and ONR to accomplish this mandate.

Regional Ocean Information Program

- Support for the creation of a Regional Ocean Information Program where Congress would establish regional boards to administer regional ocean information programs throughout the nation.

Collaborative Community Strategies

- Community knowledge of the marine environment and problems affecting it needs to be increased. Strategies to address this should include drawing on the expertise of nongovernmental entities, and encouraging and linking informal and informal education initiatives. Education efforts should foster a marine conservation ethic while respecting a diversity of viewpoint on the best ways to achieve conservation and restoration goals.

Accessibility of Data

- Share and make easily accessible all monitoring and research data, and assessment and evaluation results, publicly and widely to increase the knowledge of decisionmakers and the citizenry to guide public policy decisions and ensure public accountability for actions.

Sciences Technology and Industrial Development of Marine Life

Overview

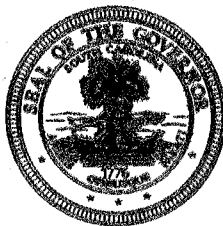
The Preliminary Report of the U.S. Ocean Policy Commission addresses the potential economic benefits of pursuing technology and industrial development from marine life sciences. However, Rhode Island's own investigation into marine life sciences as a potential economic development opportunity identified an important national constraint for the future development of this technological platform: appropriate infrastructure for the inhibitors to company formation (and subsequent economic development) is the lack of facilities, research parks or incubators that can manage pilot-scale or proof-of-concept type testing. The risk is substantial for products requiring a marine environment during the analytic or primary processing stage. Secondly, in some cases, it is our understanding that fermentation of marine microbes that have pharmaceutical or industrial uses can require the use of seawater based processes. These require specialized water treatment and wastewater systems that typically do not exist in most commercial real estate venues.

Additionally, to fully maximize the economic potential of marine organisms requires that attention be paid to both the cultivation techniques and forms of aquaculture in order to protect wild species from overexploitation. Examples of concern in this connection are certain marine plants, sponges and other organisms which have rare chemical compounds difficult to synthesize and recreate. Cultivation and aquaculture techniques for these types of organisms still need to be developed and, in many cases, may require facilities or technologies that are presently not available.

Specific Recommendations

Federal Support

- The Federal Government should develop programs and assist states in providing the type of physical infrastructure required to support commercialization of marine life science technologies.
- Basic research infrastructure alone will not be sufficient to drive the development of these technologies and subsequent commercialization which will create substantial new economic development in the future.



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June 4, 2004

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RE: Public Comment on Preliminary Report

Dear Commissioners:

On behalf of the State of South Carolina, I commend the U.S. Commission on Ocean Policy for its work on the Preliminary Report. In conjunction with the South Carolina Department of Natural Resources (SCDNR), the South Carolina Department of Health and Environmental Control (SCDHEC), and this Administration's Quality of Life Task Force, I have reviewed the report and would like to offer comments for the Commission.

Specifically, I believe many of the findings in this report spotlight the challenges we currently have in trying to address some of the problems we are facing along the coasts. As I pointed out in my August 22, 2003 letter to the Commission, we are already seeing serious signs of coastal distress, which have a negative impact on both the health and economic well-being of this state and our citizens.

There are three general goals that I hope can be accomplished as a result of the Preliminary Report:

1. **A National Plan:** We believe that action goes beyond the borders or coastlines of any one state, and, as a result, we should have a clear and cohesive national ocean policy, coupled with a governance structure and budgeting process to support it.
- Ocean Act: The Report describes the need for improvement in coastal and ocean policies, which would require congressional action. More importantly, the structure of government must be improved to support implementation of the national policy.

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- *Budget Process:* An ongoing Coastal and Ocean Assessment System should be maintained and include a standardized reporting system among states and across regions to give us a clearer picture of the full value of these resources. This would include recreational, social and natural resources values, and assure us that we have the necessary information to make the most effective and efficient management and investments decisions. (See e.g. Recommendation 25-3 and Appendix C, C. Colgan Ocean Economics Report.)

The Administration should begin evaluating the necessary resources to support state, regional and national coastal and ocean management goals, and coordinate the budget and program efforts to better achieve those goals. (See e.g. Recommendations 4.2, 7.2, and 30.1.)

- *User pay funding support:* We believe that those who impact the oceans and coastlines should also provide support for maintaining them. Specifically, we recommend identifying a dedicated revenue stream set aside in a trust fund solely for the purpose of maintaining and supporting oceans and coastlines.

We appreciate the Commission's commitment to avoiding unfunded mandates and the subsequent identification of potential funding mechanisms to implement the ambitious agenda put forth in the Report. Dedicated funds should be in addition to the current level of support for coastal and ocean programs including, but not limited to, state fisheries, coastal zone and watershed management, water quality protection, and habitat and wildlife conservation and should seek to build on the successes of current state efforts such as the ACE Basin and Charleston Harbor projects in South Carolina.

2. **Partnership with States:** While we support increased integration at the federal level, the Report should be amended to clarify throughout that a primary objective of these efforts is support for implementing local, state and regional strategies – consistent with national goals.

Much of the Report addresses the stewardship of our nation's ocean and coastal resources, and there is a great deal of emphasis on the roles of state/local/tribal jurisdictions in guiding future stewardship of these resources. The states have, however, made significant investments to address a host of problems, ranging from scientific studies of fisheries issues to land conservation initiatives at the watershed level (e.g., the ACE Basin project, the Charleston Harbor Project, etc.). As a result, we commend the Commission's recommendations that acknowledge the critical role that non-federal partners play in stewardship of the oceans. Recommendations for the establishment of National and Regional Ocean Councils in the report should be amended to include a requirement that Governors be included as principals on the Councils, not only as members of advisory committees. (See e.g. Recommendations 4.1-3, 4.10, and 6-2.)

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- *Build on local and State models and needs:* We believe a key difference between this Report and that of the earlier Stratton Commission appears to be that this Report places more emphasis on the role of state and local stakeholders and their experience and knowledge in addressing the myriad problems facing our ocean and coastal resources. We agree with this acknowledgement and believe that the federal government should serve as a coordinator and facilitator in addressing these problems.

This approach has been particularly effective in coastal land conservation in South Carolina. In cases such as the ACE Basin, the project partners have each contributed substantially to overall success. However, in our estimation the real success story in efforts such as these is that the “whole is greater than the sum of the parts.” In other words, the collaboration and partnership approach by state, federal, and private entities has resulted in successful landscape conservation that is unmatched in its ability to leverage resources and support. We believe that this is a model approach to natural resources stewardship, and every effort should be made to facilitate similar successes with the nation’s ocean and coastal resources.

3. **Implement Ecosystem-based Management:** Improve the nation’s coastal and ocean science and information. We believe that the best decisions are based on sound science and take into account the natural and socio-economic variables that influence ocean and coastal policy responses. Credible and trustworthy information is the key to accountability in ocean and coastal resources management.

We applaud the Commission’s recommendations that relate to improving the nation’s scientific capacity. We support efforts to bolster our understanding of the ocean and coasts for several reasons: 1. improved understanding can lead to better decisions on use and conservation of the resources of the ocean and coasts; 2. investment in the ocean sciences can lead to an improvement in our scientific literacy, particularly among our school age children; and 3. advances in ocean science have been shown to lead to the development of marine-based products and services, thereby diversifying and strengthening our nation’s economy.

Regional Cooperation: We support the call for regional information programs, linked with monitoring and observing systems, to conduct regional ecosystem assessments based on state needs. We particularly support the recommendation that their regional programs include state representatives, an enhanced role for Sea Grant as well as inclusion of other marine lab, academic and nongovernmental and private sector institutions, and “ensure that product development, dissemination, and user feedback” be integral components...” of the program. (See e.g. *Recommendations 5.3-5.*) A specific mechanism should be provided to assure regular feedback and survey of state manager and other user groups’ needs. (See e.g. *Recommendation 23.1-3.*) These requirements should be included as an essential element of all the science and research

recommendations of the Report. Additionally, the regional program should be integrated with other science and research strategies, including the coastal water quality monitoring network (*Recommendation 15.2-4*), assessment, mapping and charting activities -- including an explicit commitment to map the near shore and coastal zone -- (*Recommendation 25.5*), and Integrated Ocean Observing Systems (*Recommendations 28.1-2*.)

- *Support Management and Decision-making:* Without improvements to the management/decision-making side of the equation, the improved and increased science and information recommended by the Report will be of little value. As recommended in Parts IV and V of the Report, we agree that it is important that coastal and watershed management programs be strengthened and better integrated with enhanced EPA point and nonpoint pollution control programs, particularly efforts to reduce nutrient loading in coastal waters. South Carolina supports the recommendation for reauthorization of the Coastal Zone Management Act (CZMA), particularly the call for coastal resources assessments, habitat conservation plans, and increased incentives for state and community land conservation programs. Additionally, support should be provided to states for habitat restoration and community planning to address hazards, land use and growth management (*See e.g. Recommendations 9.1, 9.4, 10.3, 11.1-2, 14.2.*) These recommendations support the goals of the SC Infrastructure Priority Investment Act and would provide communities with resources to improve their comprehensive plans.

Summary of Priority Recommendations

Part I Our Oceans: A National Asset

This section clearly highlights what we in South Carolina understand very well, there are tremendous economic, social, and environmental benefits generated by ocean and coastal resources. However, we are confronted with a disjointed set of laws and federal agency mandates. We agree with the recommendation that every agency, program, and law associated with this policy should be reviewed and structured to better manage and maintain our resources. I would suggest further, that this should be the first order of business before creating and implementing a series of new programs.

Part II Blueprint for Change: A New National Ocean Policy Framework

Due to the current highly fractured nature of coastal and ocean management at the national level, (140-plus federal laws, 15 federal agencies and departments, p.47), a clear statement of the nation's ocean policy is needed based on the principles discussed in Chapter 3, pp. 32-33. In order to facilitate improvements in the federal agency structure, Congress should work with the President on an expedited agency reorganization as discussed in Recommendation 7-4, p 77. As I stated earlier, I believe this is an important first step towards developing a more thorough national plan.

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Development and implementation of programs and processes to implement the national ocean policy should be driven from the local and state level up to the national level. We strongly support the Report's acknowledgement that "the federal government is only one actor -- and often not the most important actor -- at regional, state and local levels." (p. 58). States, due to their own public trust responsibilities and shared interest in economic opportunity from marine and offshore uses, are critical partners with the federal government in implementing coastal and ocean policy.

As such, we strongly support the inclusion of state representatives in a high-level national coordinating council as discussed in Recommendation 4-5 (p.50). However, it is not sufficient that states be included merely as another stakeholder on the advisory committee, states must be treated as equal partners now and into the future on this issue.

We support Recommendation 4-3, (p. 49), that a new National Ocean Policy be grounded in ecosystem management principles, and move federal agency programs and policies away from sector and activity specific decision-making.

We support increasing incentives and opportunities to leverage resources and address needs and problems at the regional level particularly as described in Rec. 5-2 through 5-6, (pp. 59-62). Specifically we support recommendations for regional ecosystem assessments and information programs to improve coordination and establish regional priorities for research, data collection, science-based information products, and outreach activities. These regional efforts should be based on coastal assessments and information needs identified at the state and local level.

Part III Ocean Stewardship: The Importance of Education and Public Awareness

We are fully supportive of the Ocean Commission's emphasis on using the oceans as a foundation for fostering science and technical K-12 education. In fact, we have several successful pilot projects demonstrating that teachers and students can acquire strong scientific training through the use of ocean and coast-related materials as models. This Administration has placed an emphasis on recruiting high technology business and industry and we are working towards improving and expanding workforce training to implement this goal.

We would suggest that "one size does not fit all" and that states should have flexibility to develop education programs that compliment our education system and unique geographies. In addition, we ask the Commission to be vigilant that these programs do not impose any unfunded federal mandates to the states.

Specifically, we support strengthening the connection between education and research in an effort to expand professional development opportunities for educators (Rec. 8-7, p. 95) and the quality of workforce training (Rec. 8-10, p. 99).

Part IV Living on the Edge: Economic Growth and Conservation along the Coast

We agree with Recommendation 9-1, p. 111, urging Congress to reauthorize the Coastal Zone Management Act (CZMA) in a way that strengthens states' abilities to plan, coordinate and manage on a watershed basis. These improved capabilities will result in more effective growth management. We agree that states should do an assessment of their respective coastal and ocean assets, and develop goals that can be measured to protect this important asset. In addition to goals, states should have performance measures, adequate funding, and incentives for good performance.

In addition, CZMA reauthorization should include support for a conservation and estuarine land conservation program for willing sellers; a coastal habitat restoration program; and a community planning assistance program to assist state efforts in working with local communities to address growth management, coastal hazards, waterfront revitalization, and public access.

We support the following recommendations:

Recommendation 9-3, (p. 113), that urges changes to federal funding and infrastructure programs to discourage inappropriate growth in fragile or hazard-prone coastal areas and that ensures consistency with national, regional and state goals aimed at achieving economically and environmentally sustainable development.

Recommendation 9-4, (p. 114), to amend the CZMA, the Clean Water Act and other federal laws to better support watershed initiatives and to include incentives and flexibility for local variability.

Recommendation 10-1, (p. 120), that supports making the U.S. Army Corps of Engineers projects undergo "valid, peer-reviewed cost-benefit analyses," be more transparent to the public, mitigate for coastal impacts and coordinate with broader coastal planning efforts. In fact, while I served in the U.S. House of Representatives, I introduced the Corps of Engineers Benefit-Cost Improvement Act of 2000, which required a 1 ½ times benefit for every dollar invested in an Army Corps of Engineers project.

Recommendation 10-3, (p. 122), which says the National Flood Insurance Program should reduce incentives for development in high-hazard areas. In my August 22, 2003, I urged the Commission to propose a modification of these policies.

Recommendation 11-1, (p. 127), which recommends Congress amend the CZMA to authorize and provide sufficient funding for a dedicated coastal estuarine land conservation program. The report correctly notes that protecting natural resources is much less costly than restoration.

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Recommendation 11-2, (p. 131), which states we should set national goals for ocean and coastal habitat conservation and restoration, that regional councils should determine habitat conservation and restoration needs, and regional goals should be consistent with national goals.

We do believe, however, these goals should be based on state plans and strategies and be consistent with coastal zone management and other applicable state resource management plans.

Recommendation 11-4, (p. 133), the nation's wetlands protection program should incorporate the CWA 404 permitting process into a broader management approach that considers coastal habitat and watershed management efforts.

Part V Clear Waters Ahead: Coastal and Ocean Water Quality

Recent studies have shown that household chemicals and pharmaceuticals are present in potentially harmful quantities in wastewater. Although South Carolina's estuaries have not experienced serious problems from nutrient over-enrichment, we support Recommendation 14-1 to require advanced nutrient removal for wastewater treatment plant discharges into nutrient-impaired waters. Therefore, we believe that EPA should investigate ways to characterize the extent of the impact of these chemicals as suggested in this recommendation.

Nonpoint sources of pollution represent the most significant contributor to water quality problems in South Carolina. We support the Commission's recommendations related to nonpoint source controls. These recommendations will help establish a more comprehensive approach to reducing nonpoint source pollution.

We also believe that Recommendation 14-8 should be modified to reflect protection of all coastal waters, not just ones that are already impaired. Additionally, this recommendation should clearly reflect state partnership with federal agencies in establishing measurable objectives. The consolidation proposed in Recommendation 14-9 should not reduce the particular focus on coastal and marine pollution of the NOAA program. Funding for all of these programs is critically important for Federal Fiscal Year 2005, and following years, given the scope and impact of nonpoint source pollution on coastal waters.

While South Carolina's coastal water quality monitoring program is among the leading programs in the country, neither the states nor the federal government can afford to collect all the necessary data alone nor in a manner that is consistent enough for regional and national assessments. States must be able to integrate the monitoring efforts for the national program into existing state programs. We believe Recommendation 15-1 should be expanded to clearly integrate the states into both the planning and conduct of a national water quality monitoring program. In addition, the role of National Estuarine Research Reserves system wide monitoring plans should be acknowledged as well as the importance of linking these monitoring programs to the proposed Integrated Ocean Observing System (IOOS).

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We also believe that the Commission should more clearly state that a “water quality” monitoring network should incorporate important indirect measures of water quality, such as sediment contaminant levels (measure of cumulative input) and biological condition and response measures in Recommendation 15-3 and related text. This is especially important since these monitoring components are not recommended in other Chapters or sections. Current coastal monitoring programs conducted by the EPA and other agencies already incorporate many of these measures, which are critical to evaluating the effects of watershed drainage.

Recommendations 16-6, 16-7, and 16-8, (p. 190), related to marine sanitation devices (MSD), especially for recreational vessels, are important to South Carolina. While the cruise ship industry is not significant in South Carolina, recreational vessels and the marinas necessary to support them are. If MSD standards for pathogen reduction are made more stringent, South Carolina’s coastal water quality, especially in tidal creeks, could improve. In addition, better treatment and performance would insure better water quality in waters that have not been designated as no-discharge zones. Since EPA has authority for MSD standards of performance and the designation of no-discharge zones, it makes sense to transfer portions of the Clean Vessel Act grant program related to MSDs to EPA.

With one of the largest commercial ports in the Southeastern United States, we concur with Recommendation 17-1, (p. 204), regarding a uniform national ballast water management program intended to control invasive species. The SCDNR has spent nearly \$350,000 in the last decade controlling invasive species on the Cooper River alone. This is important since ballast water exchange is currently voluntary in most near coastal waters. Better controls on the introduction of non-native species are clearly needed. In addition, support should also be provided for state invasive species management strategies and for state participation in regional and national aquatic invasive species task forces. These issues could best be addressed in reauthorization of the National Aquatic Invasive Species Act.

Part VI Ocean Value and Vitality: Enhancing the Use and Protection of Ocean Resources

South Carolina supports the Commission’s recommendations to require regional fishery management councils and interstate fisheries commissions to incorporate the findings and advice of their Scientific and Statistical Committees (SSC) into the decision-making process, Rec. 19-1, (p. 222). As recommended by the Commission, this process should include independent scientific review, and utilize sufficient data to ensure that allowable catches will not result in over-harvesting of the resource, Recs. 19-2 and 3, (p. 223).

We are particularly supportive of efforts by the federal government to fund state and local entities to conduct fishery-independent monitoring and survey work, which is in many cases the “raw material” that are reviewed by the SSCs. South Carolina has a long history in conducting fishery-independent data collection that is used by state, regional, and federal fisheries managers.

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Where sufficient data are not available, NOAA's National Marine Fisheries Service and the Councils should place a high priority for funding appropriate data collection, Rec. 19-7, (p. 225).

We would also suggest that Rec. 19-5, (p. 224), be clarified. The Councils should determine a deadline for its SSC to review and certify the allowable biological catch (ABC) provided by the stock assessment process, not to actually determine ABC as suggested in 19-5. There is an independent and peer-reviewed process to determine ABC and other stock parameters that is independent from the SSC and which occurs before the SSC carries out its review and certification responsibilities relative to stock assessments.

We also support the recommendations:

Recommendation 19-11, (p. 230), proposing Congressional action and suggesting how this jurisdiction and authority should be determined.

Recommendations 19-17 through 19-20, (pp. 238-240), we also agree that better enforcement of ocean fisheries is a critical need, and we believe that this can best be affected by an expansion of Joint Enforcement Agreements (JEAs) with the National Marine Fisheries Service and the establishment of JEAs with the US Coast Guard.

Recommendation 19-21, p. 243, which calls for an ecosystem-based approach for defining and preserving essential fish habitats, especially those sensitive habitats that support coral and other sessile growth forms. These areas represent essential habitat for most of South Carolina's commercial harvest of ocean finfish species. We believe that protection of essential fish habitat should be addressed as a component of the national habitat conservation strategy discussed in Rec. 11-2.

Recommendation 19-15, (p. 235). We are aware of various approaches that work to eliminate the "tragedy of the commons" associated with public trust resources. Many of these approaches seek to eliminate or curtail the "race for fish" associated with many traditional resource management approaches. We support the concept of dedicated access privileges and will very carefully review proposals to develop dedicated access privileges to ensure that any resulting management systems are efficient and equitable.

With regard to Recommendation 24-5, encouraging Congress to develop comprehensive management of off-shore renewable energy development, we applaud the intent of developing off-shore renewable energy sources. We agree with Commission's conclusion that the current Section 10 process as the primary regulatory vehicle for off shore wind energy development is inadequate. We would suggest that a moratorium be instituted for all projects without a U.S. Army Corps of Engineers Section 10 permit until a more comprehensive federal program is in place which would better manage the private uses of the Outer Continental Shelf. In addition,

we would also suggest the federal management proposal would also address state and local interests as well as maintaining traditional uses of coastal waters.

Part VII Science-based Decisions: Advancing Our Understanding of the Oceans

The emphasis on enhancing the investment in ocean and coastal research is critical to South Carolina Recommendation 25-1, (p. 307). The promulgation and implementation of coastal and marine resource rules, regulations and requirements will increasingly depend upon strong and justifiable science-based information. Considering that the United States as a whole spends only 3.5% of its federal research budget on the coasts and oceans as compared to its expenditures on space programs. However, more than 50 percent of our population pressures exist along our coast and ocean regions, an additional investment in coastal and ocean research is long overdue. We should make this investment based on a long-term vision and value-driven strategy Recommendation 25-2, (p. 309).

We support the Commission's recommendations that call for a larger voice for state and local governments and stakeholders Recommendation 25-2, (p. 309) and Recommendation 26-4, (p. 324) in the development and implementation of federal science and technology programs. All too often, federal efforts are undertaken using a top-down approach that fails to take into account the needs and desires of these constituencies. This "bottoms-up" approach will greatly benefit South Carolina's research institutions, business and industry groups, local communities, and the public at large by directing scarce federal resources at the real needs of these communities.

We believe Recommendations 25-2 and 26-4 should be clarified to specify partnership between federal agencies and states and other stakeholders in development of the national ocean research strategy and the IOOS.

One of the most critical information needs in South Carolina is documenting human uses and the true value of our coast and ocean to the economy, environment, and quality-of-life of the state Recommendation 25-3, (p. 312). The need for scientifically sound social and economic information will not only satisfy this need, but can be used by the state to better plan for infrastructure improvements, business investments, and educational requirements, and by local governments to improve comprehensive planning and address increasing growth issues.

We suggest that Recommendation 25-3 should explicitly recommend an ongoing Coastal and Ocean Assessment System be maintained and include a standardized national reporting system among states and across regions that enables us to understand the full value of these resources to the nation.

The State of South Carolina has jurisdiction over its territorial sea and partial jurisdiction out to 12 miles offshore. Nevertheless, the state has not documented the wealth of natural, cultural and historical assets that lie within these waters. While the Commission's report calls for increased

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coordination of federal ocean mapping efforts (Recommendation 25-5), we would encourage the federal government to undertake a directed and intensive mapping effort of the resources of the nation's EEZ in support of states' needs for this information.

In conjunction, we endorse the recommendations (in Chapter 26) of the Commission on the establishment of an Integrated Ocean Observing System (IOOS) because of the potential significance of IOOS information in saving lives, protecting property, reducing business costs, sustaining fisheries populations, and managing our coastal and living marine resources. The IOOS will provide the capacity to monitor coastal processes and changes, as well as the power to develop predictions of impacts derived from human activities or natural hazards. Such predictive capacity, in turn, creates the potential to offset or prevent damage and costs. The critical sociological and economic importance of South Carolina's coastal regions justifies support for improved coastal observations, (Recommendations 26-1 – 26-3, pp. 322-323, and Recommendation 26-9, p.331). This will greatly improve our ability to manage these important resources, and as a result, enable better management decisions.

We suggest that Recommendation 25-5 should be amended to include an explicit commitment to map the near shore and coastal zone.

To remain competitive in ocean science, we believe the United States should invest in advancing ocean science infrastructure, tools, and technologies. Through the development of a national strategy that considers regional needs and potential partnerships (Rec. 17-1. p. 204) and an assessment of needs (Rec. 27-3, p. 339), appropriate investments can be made to support regional, as well as national, priorities. Of particular importance to South Carolina are coastal laboratories and instrumentation, advanced communications technologies and broadband capabilities, and environmental sensors (Recommendation 27-4, p. 344). Additional federal investment is needed to modernize existing, and often outmoded, infrastructure (Recommendation 27-4).

The amount of environmental information that is and will be available through existing and future technologies is daunting. The capabilities to manage this information and productively transform it into useful knowledge and products must be enhanced. To ensure efficient use of current and future investments, it is essential to coordinate the existing federal agency data centers (Recommendation 28-1, p. 353) and establish the mechanisms to access (Recommendation 28-3, p. 355) and transform data into products that meet needs at state and local levels (Recommendation 28-2, p. 354). South Carolina finds that data collection is abundant; however, large-scale synthesis and dissemination of data into useful formats for resource managers and regulators is lacking.

We would suggest Recommendations 28-1 through 28-3 be amended to require explicit interaction with state and local users in the development and dissemination of information products.

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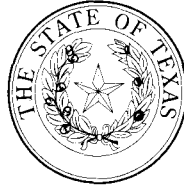
Again, thank you for the opportunity to review the Commission's Report and make comment. We believe this report is an important first step in setting forth a chance to better maintain such an important asset to South Carolina. We look forward to working with both federal and state partners to implement the recommendations detailed above.

Sincerely,

A handwritten signature in black ink, appearing to read 'MS', with a long horizontal flourish extending to the right.

Mark Sanford

MS/se



OFFICE OF THE GOVERNOR

RICK PERRY
GOVERNOR

June 4, 2004

Admiral James D. Watkins, USN (Ret.)
Chair
U.S. Commission on Ocean Policy
1120 20th Street NW
Suite 200 North
Washington, D.C. 20036

Dear Admiral Watkins:

On behalf of the State of Texas, I am pleased to offer comments on the *Preliminary Report of the U.S. Commission on Ocean Policy*. I commend you, the other members of the Commission, and your staff on the comprehensive review of ocean-related issues and quality of the report. Texas welcomes the opportunity to provide input related to the unique, complicated, and diverse issues specific to the Gulf of Mexico.

The guiding principles and concepts delineated in the report reflect ideals that Texas also values. Texas has the third longest shoreline in the U.S., covering 18 coastal counties and including 367 miles of Gulf beaches and 3,300 miles of bay shoreline. With this coastline extending from the vegetation line on the beach to 10.3 miles into the Gulf of Mexico, as well as millions of acres of submerged land in our coastal bays, the management of our waterways and coastal resources is critical.

I laud the report's focus on a strong state role; the need to develop regional goals and priorities, enhanced partnerships between state, local, federal, and market sector stakeholders; and better coordination among federal agencies. Texas has proactively pursued the stewardship of the state's Coastal Natural Resource Areas and developed vehicles for incorporating a statewide management approach. The best way to ensure participation is to delegate authority over public and private resource use to the local level of government. This "bottom-up" management approach allows for the unique and diverse aspects of each coastal community and its resources to be taken into account. For example, Texas created Coastal Texas 2020--a long-term, statewide initiative to unite local, state, and federal efforts to promote the environmental and economic health of the Texas coast. To facilitate the work of Coastal Texas 2020, the coast has

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been organized into five regions, with an advisory committee for each region as an avenue for input and feedback.

Texas is also an active partner in the non-regulatory efforts of the Gulf of Mexico Program and many other federal, state, and local programs established under the Federal Coastal Zone Management Act, the Clean Water Act, and other federal statutes. These initiatives have provided a positive forum for deliberation on key issues and for the development and implementation of voluntary strategies, programs, and actions to preserve the Gulf of Mexico ecosystem. Rather than create new levels of federal and regional structures contemplated in the Commission's report, Texas supports efforts to build on the strong foundations of existing programs and infrastructure.

Considering the financial struggles experienced by most states, continued federal funding is critical to ensuring the sustenance and protection of our natural resources. We applaud your resolve not only to provide solutions for protecting our oceans but to also provide a viable funding source with the Ocean Policy Trust Fund. Additionally, we emphasize the importance of private-public partnerships that extend the capabilities of government by tapping the expertise of industry, as well as academia, since we all share the goal of establishing sustainable resources. Texas is especially supportive of the Commission's recommendation that recognizes the special needs of coastal states adjacent to energy activity in federal waters.

I appreciate the Commission's attention to fisheries management and support of market-based solutions, such as individual transferable quota (ITQ) systems. I remain a strong supporter of efforts to develop an ITQ program in the Gulf of Mexico; for example, the commercial red snapper fishery could utilize such a program. Market-based solutions recognize the fact that stewardship and ownership are intimately related and will serve as an effective tool in improving coordination and conservation practices. However, Texas **does not support** the Commission's recommendation relating to the appointment of members to Regional Fishery Management Councils. I firmly believe that direct appointments made by the states to this council are critical in order to address the unique issues of each state. The states, not the federal government, must have this flexibility to appoint the best candidates who can promote conservation and stewardship of coastal resources.

Education is a major priority of all Texans. I fully support the emphasis made in the report. The recommendation to coordinate ocean education initiatives with existing state educational standards is admirable. Furthermore, Texas supports the need for new and improved science to better understand the complex nature and interactions of our Coastal Natural Resource Areas. As the economy and population grow, additional stress will be placed on the natural resources

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that sustain our coastal communities. Scientific data and methodology must keep pace with this growth in order to assist decision-makers.

Finally, the security of our homeland is vested in the oceans. Whether in commerce, energy resources development, seafood harvest, potable water distillation, or transportation, our ability as a nation to endure has roots in the ocean. We must emphasize the need to sustain the coastal economy while maintaining the productive natural resources which, in part, feed that economy. Improved coordination among the protectors and users of these resources will contribute to a balanced approach for the management of vital coastal resources.

Thank you for this opportunity to comment on the Commission's preliminary report. Please contact Rebeca White in my Office of Budget, Planning, and Policy at 512/463-1778 if you have any questions on these comments. Detailed responses prepared by our experts are enclosed.

Thank you for your service to our great nation.

Sincerely,

A handwritten signature in black ink that reads "Rick Perry". The signature is written in a cursive, slightly slanted style. The "R" is large and loops around the "i" and "c". The "Perry" is written in a similar cursive style.

Rick Perry
Governor

RP:rwk

Enclosure

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THE STATE OF TEXAS

Response to the *Preliminary Report of the U.S. Commission on Ocean Policy*

The following comments address recommendations contained in the *Preliminary Report of the U.S. Commission on Ocean Policy* (Report). These points are organized by commenting agency as each has a unique perspective specific to the programs it manages.

GENERAL LAND OFFICE COMMENTS

General Comments

The General Land Office (GLO) praises the proactive approach taken by the President and Congress to form the U.S. Commission on Ocean Policy (Commission) to develop a new, comprehensive national ocean policy. After approximately two years of dedicated effort, the Commission released the Report on April 20, 2004. This is the first comprehensive review of U.S. ocean policy since the Stratton Commission report was issued more than 30 years ago.

GLO concurs with the stated policy of the Commission to “improve federal leadership and coordination [and] enhance opportunities ... to develop regional goals and priorities.” Enhanced coordination of federal, state, local, and market sector participants in resource management is a productive idea.

However, whether the increased levels of federal and regional governmental structures contemplated in the Report will accomplish these priorities, or reach the ultimate goal of improving stewardship of our ocean and coastal resources, is questionable. Instead, the recommendations in the Report will likely result in the expenditure of more time and money by states on coordination leaving fewer resources available for actual stewardship. Coordination that occurs closest to the coasts, bays, and open waters will be most effective.

GLO recommends that the Commission seeks to simplify the current regulatory system in place and to delegate the appropriate federal authority to the states in matters related to local and regional coastal issues. In addition, we recommend that the Commission look at market-based solutions for improving coordination, in recognition of the fact that stewardship and ownership are intimately related.

The Commission discusses the development of the Ocean Policy Trust Fund to fund their proposed recommendations. State resources are very limited and, to the extent that the Commission recommends new activities and requirements, increased federal funding will be imperative for the Commission's recommendations to be implemented.

Although GLO concurs with many of the recommendations set forth in the report, there are recommendations we do not support as currently written. The Commission has indicated the Report is a work in progress. Therefore, we hope that the Commission realizes the importance of involving state and federal stakeholders as it further develops and refines the report.

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CHAPTER 3

Building Ocean Policy on Sound Guiding Principles (Page 32)

The principles in this section should be enhanced to include recognition that the stewardship of our coastal and oceanic resources is accomplished on the ground. To include this concept in the principles, GLO recommends that the following be added to the principle on Stewardship:

The principle of stewardship must include the recognition of the importance of private property rights, which fosters people's natural incentive to care for their own property in a way that best preserves our natural resources.

The following should be added to the principle on Participatory Governance:

One of the best ways to ensure this participation is to give authority for collective decisions about public and private resource use to the most local level of government possible. Thus, the unique and diverse aspects of each coastal community and resource will be taken into account.

Translating Principles into Policy (Page 33)

One of the key components missing from the Report is the concept that a market-based approach which acknowledges the importance of property rights is not just a tool for solving specific problems but can be a basis for an overall framework for ocean policy. To correct this, the Commission should include a new section titled "Market-based Management," where the Commission explores how a market-based approach to stewardship is comprehensively applied to ocean and coastal issues. In addition, the Commission should better incorporate this approach throughout all the sections of the Report.

Ecosystem-based Management (Page 33)

The Report states that ecosystem-based management looks at all links among living and nonliving resources and considers the benefits and impacts of human activities "within the context of the broader biological and physical environment." In addition, the Report generally defines management boundaries in terms of large marine ecosystems and coastal watersheds and designates the entire Gulf of Mexico as the large marine ecosystem for Texas (page 34). The Report further explains that large marine ecosystems have been used as a basis for fishery management regions defined by the Magnuson-Stevens Fishery Conservation and Management Act. Ecosystem-based management focuses on multiple activities that occur in a specific area defined by the ecosystem. Using "large marine ecosystems" in management boundaries is not feasible. The environmental differences are too great. Boundaries must account for significant differences in ecosystems and allow for a regional approach to management.

Designating the entire Gulf of Mexico as the ecosystem management boundary for Texas and the other Gulf states is not appropriate. For example, the biological, hydrological, and geological

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components of the ecosystem off the Texas Gulf Coast and the northwest Gulf of Mexico vary considerably from that of Florida's west coast and eastern Gulf. Furthermore, the ecosystem of the upper Texas Gulf Coast differs from that of the lower Texas Gulf Coast. Some fauna off the lower Texas Gulf coast have more of an affinity to tropical or Caribbean fauna than those on the upper Texas Gulf coast, which are more related to warm-temperate faunal communities. Differences between the ecosystems of the eastern and western Gulf of Mexico are also reflected in other biological resources, such as, fish, marine mammals, and endangered species. Regional ocean councils established for the Gulf must recognize these differences and should partner with the Gulf of Mexico Fishery Management Council to develop management strategies and goals for sustaining resources.

Additionally, the discussion in this section on precautionary and adaptive management should be deleted. The recommendation of the "precautionary approach" is a one-size-fits-all approach to a set of very diverse and complicated stewardship issues. How to deal with these issues is better left to the participants in the process. Mandating this approach will result in further delays and complications in solving our resource management challenges.

CHAPTER 5

Advancing a Regional Approach (Page 57)

GLO strongly supports the recommendations related to advancing a regional approach. GLO also supports continued federal investment in oceans and the efforts to involve regional stakeholders in the design and implementation of regional ocean observing systems. These efforts are expected to lead to the establishment of regional associations that will function as regional ocean information programs within two years. GLO, as are many state agencies, is already an active participant in establishing the regional ocean information program known as the Gulf of Mexico's Coastal Ocean Observing System (GCOOS), which will serve as the Gulf's representative body in working with the Ocean U.S. Memorandum of Agreement. Further, GLO has a representative on the national committee tasked with establishing a National Federation of Regional Associations under the Integrated Ocean Observing System (IOOS) plan.

Facilitating Regional Organization (Page 58)

At the federal level, the Gulf of Mexico is often excluded when discussing America's coastal and ocean resources. The Gulf of Mexico should be included as a region that also needs to work closely with other nations.

CHAPTER 8

Promoting Lifelong Ocean Education (Page 83)

GLO strongly supports recommendations in Chapter 8 that identify the need to coordinate ocean education initiatives with existing state educational standards. New ocean education materials must be designed to correlate with statewide science curriculum standards to ensure their

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adoption in the classroom. Professional educators knowledgeable in the state's educational standards and the K-12 teaching environment should be employed to develop these materials to ensure their use in the classroom.

GLO's Adopt-A-Beach Program strongly supports and praises the educational aspects of the Report. Incorporating ocean education in the K-12 schools, higher education, and in informal community education classes is very important. Providing awareness and education about our beaches and oceans are high priorities and should be addressed as such.

Incorporating Oceans into K-12 Education (Page 91)

More participation in developing curricula on the state level is needed. Particularly, assistance from GLO's Coastal Resources Division and Office of Communications and the Texas Education Agency in working with the federal agencies and the National Science Teacher's Association to develop a statewide approach instead of localized plans.

Texas is such a large state that it makes it difficult for school children to access the coast. In addition, many of Texas' school children are from low-income families and travel to the coast may be cost-prohibitive. Providing remote-access technology, mentioned in the Report, to Texas' school children would greatly enhance ocean education. However, with statewide budget concerns, it is uncertain how many school districts in Texas will have the means to acquire or access these tools.

Bringing the Ocean and Coasts to All Americans (page 104)

This section, which involves informal education of all citizens and school children, is vital to the effort to educate and provide ocean and coastal awareness. Funding for education in Texas is limited, and there is concern regarding the lack of funding available to support coastal education programs in non-coastal areas of the state. Science education centers and aquariums are typically located along the Texas coast and do offer programs for children, teachers, and the general public. However, all facilities charge fees that some families and school districts may not be able to afford. If we are going to try and educate all citizens in Texas, then there must be a grant system on the national level available to anyone in Texas interested in learning about marine life, oceans, and the coast.

GLO's Adopt-A-Beach Program currently works with local partners (counties, cities, schools, non-profit organizations, and media) on education and outreach regarding marine debris issues and beach cleanup events. In order for the program to reach all citizens in Texas, funding sources from the national level are needed to help support informal education for citizens residing outside of the Texas' coastal zone.

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CHAPTER 9

Strengthening Coastal Planning and Management (Page 108)

The Report directs Congress to authorize the Coastal Zone Management Act (CZMA) to strengthen the planning and coordination capabilities of coastal states and enable them to incorporate a coastal watershed focus and more effectively manage growth. Amendments should include requirements for resource assessments, further defined as the state's natural, cultural, and economic coastal resources. Adequate federal funding, above CZMA base funding for Sections 306/306A/309, must be provided to states to complete the comprehensive periodic resource assessments, which can be very expensive.

Among other things, the Report calls for states to expand their Coastal Management Program (CMP) boundaries to include watersheds. Watersheds are defined as "that portion of a watershed that includes the upstream extent of tidal influence." Fortunately, Texas' CMP boundary, for the most part, already includes the upstream extent of tidal influence on most watersheds. A notable exception is the Trinity River, where the boundary stops at Liberty County and does not extend upstream to the extent of tidal influence. The current boundary, however, should not need to be extended upstream to the full extent of tidal influence, since it already includes most Coastal Natural Resource Areas. Only some bottomland hardwoods are excluded.

CHAPTER 11

Conserving Coastal Habitat (Page 126)

The extent of providing sufficient CZMA funding for a dedicated coastal and estuarine land conservation program should be further defined. The funding should provide for the management of these areas and offset any economic impact to the state or public. Clarification is needed between this program and the recently approved Coastal and Estuarine Land Conservation Program.

Improving Habitat Conservation and Restoration (Page 131)

The recommendation to develop national goals for habitat conservation and restoration needs clarification. The method of measurement for these goals should be specified, such as, in acres protected and restored. Also, the types of habitat included in these national goals must be identified. There should also be recognition of already established states' regional goals. The CMP should be consulted when determining habitat conservation and restoration needs for each state.

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CHAPTER 12

Weighing the Costs and Benefits of Dredging (Page 140)

The Commission states that navigation-related dredged material is rarely used in beneficial use projects because of contamination. This statement is not true. The majority of beneficial use opportunities are not exploited due to sediment grain size incompatibility with proposed beach nourishment or marsh creation, enhancement, and restoration projects and/or the location of beneficial use sites in relation to the proposed project and a lack of funds for the incremental costs.

GLO strongly agrees with the Report's statement about the U.S. Army Corps of Engineers (USACE) funding beach nourishment projects when a federal navigation or other infrastructure project has eroded the beach or when a local community makes a specific request that nourishment is authorized and funded by Congress.

GLO also supports the need for performance criteria, technical and economic methodologies, updated design standards, more stakeholder involvement, adequate understanding of the physical and biological mechanisms of beach and littoral systems, and long-term regional planning. These objectives could be achieved with more funding.

GLO strongly supports development of a more accurate system for selecting and ranking projects based on a comparative net economic and environmental return to the U.S. rather than the current least-cost mandate. USACE's selection options for dredging projects must reflect a more accurate accounting of the full range of economic and environmental costs and benefits for options that reuse dredged material, as well as for other disposal methods.

CHAPTER 14

Addressing Coastal Water Pollution (Page 155)

GLO understands the rationale to merge the National Oceanic and Atmospheric Administration's (NOAA) §6217 Coastal Nonpoint Source Pollution Program (Coastal NPS) into the Environmental Protection Agency's (EPA) incentive-based §319 Clean Water Act. The concern is that Coastal NPS will get lost amongst EPA's other pollution prevention programs. Coastal NPS programs are required in order to have a federally approved CMP. If Coastal NPS programs are transferred to EPA, they must be deemed a high priority.

CHAPTER 16

Limiting Vessel Pollution and Improving Vessel Safety (Page 183)

GLO strongly recommends that the Report include a section and recommendation on bilge water reclamation facilities. The recommendation should direct the U.S. Coast Guard (USCG) to verify the availability and accessibility of bilge water reclamation facilities for recreational and

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commercial fishing vessels. USCG, working with other appropriate entities (for example, state agencies), should increase voluntary installation of bilge water reclamation facilities. The Report describes pumpout facilities but only in the context of sewage. There are thousands of commercial fishing and recreational vessel owners along the Texas Gulf Coast who must deal with the disposal of their oil-contaminated bilge water. Texas has developed a very successful small spill prevention program that has constructed six bilge water reclamation facilities near commercial shrimping fleets. These facilities provide vessel owners and operators with an environmentally responsible way to dispose of oily bilge water at no cost and save the state expenditures on spill response and cleanup costs. Locations for the facilities are found in cooperation with the USCG. The facilities are operated and maintained by the local navigation districts and a local company recycles the used oil. To date, these facilities have collected more than 500,000 gallons of used oil and more than 600,000 gallons of contaminated water from oily bilge pumpouts. In short, that is half a million gallons of oil that did not enter the marine environment. This program is unique to Texas but could easily be replicated in other coastal communities around the country. This should be expanded to include all water-based recreation, such as, floating cabins.

CHAPTER 18

Addressing Marine Debris Nationally (Page 213)

GLO's Adopt-A-Beach Program began in 1986. GLO, in conjunction with The Ocean Conservancy, sponsored the first beach cleanup in Port Aransas, Texas. This event was the impetus that started the International Coastal Cleanup. Currently, the program conducts two annual cleanups – one in the fall and one in the spring. The program works with communities and schools and hosts additional cleanups throughout the year. The program also manages an Adopt-A-Mile program wherein special interest groups and/or individuals can adopt a mile of beach for one year. The group or individual agrees to clean that portion of beach three times a year, during the fall cleanup, during the spring cleanup, and one other time on their own. This program has been highly recognized and continues to be the model for other states and foreign countries.

In addition, GLO's Adopt-A-Beach Program participates in the National Marine Debris Monitoring Program. Texas is currently working with The Ocean Conservancy to get additional sites operating along the Texas coast to continue reporting data from trash cleanups. The Report indicates that some states have implemented their own marine debris laws. This has not been the case in Texas due to the success of GLO's voluntary marine debris programs.

NOAA provides support to GLO's Adopt-A-Beach Program each year by assisting with CMP grant funds to help produce educational tools for school children. With their assistance, we are able to produce a calendar displaying the winning artwork from our children's art contest, and provide information throughout the calendar on marine debris and its effects on our Texas coast. GLO is also in the process of designing a web-based education program comprised of games and

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quizzes for children ages 5 to 12 to teach them about marine debris and its negative impact. We rely on funding from NOAA each grant cycle to help with education and outreach efforts.

NOAA's mission and management responsibilities already include and address the issues related to marine debris. The EPA has minimal programs that address marine debris. Therefore, if marine debris programs are consolidated into one agency, then NOAA should be that agency. Inclusion of a marine debris program would further strengthen NOAA's efforts regarding beach and shoreline management, marine mammals, endangered species, and coral reefs.

GLO strongly supports the Report's recommendation to promote partnerships between NOAA and public and private companies to address the problem of derelict fishing gear. Derelict fishing gear poses a great threat to marine life and the public and a plan to prevent, remove, and dispose of this debris should be developed. GLO recommends that states participate in the development of a derelict fishing gear removal and disposal plan, especially if laws are being proposed to address this problem.

Although, the Gulf of Mexico has been designated as a "Special Area" and already receives the higher level of protection, GLO supports the Report's recommendation to ensure all port reception facilities meet the criteria necessary to allow implementation of Special Area protection.

CHAPTER 24

Managing Offshore Oil and Gas Resources (Page 287)

GLO strongly supports Recommendation 24-1, particularly the statement recognizing the special needs of coastal states adjacent to energy activity in federal waters. Further, GLO suggests the following modification: Recommendation 24-1 should read (*addition shown in italics*) "Congress, with input from the National Ocean Council, should ensure that a portion of the revenue that the federal government receives from the leasing and extraction of outer Continental Shelf (OCS) oil and gas is invested in the conservation and sustainable development of renewable ocean and coastal resources through grants to all coastal states. States off whose coasts OCS oil and gas is produced should receive a larger share of such portion to compensate them for the costs of addressing the environmental and socioeconomic impacts (*including the costs of ocean-observing activities in support of assessing these impacts*) of energy activity in adjacent federal waters." Some funds could be used to increase management of coastal areas.

GLO strongly supports recommendations 24-3 related to the partnering of federal agencies with the offshore oil and gas industry to allow the use of industry resources as part of the Integrated Ocean Observing System (IOOS). In addition, GLO supports the inclusion of the oil and gas industry in the design, implementation, and operation of IOOS regional observing system in areas where offshore oil and gas activities occur.

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CHAPTERS 26 – 28

Science-based Decisions: Advancing Our Understanding of the Oceans (Page 319)

GLO strongly supports the recommendations found in Chapters 26, 27, and 28 related to the establishment of an IOOS and, in particular, the regional approach to an IOOS. GLO has a long history of creating and supporting ocean observation programs to fulfill its responsibilities to the citizens of Texas. The two most obvious examples are the agency's Texas Coastal Ocean Observing Network (TCOON) and Texas Automated Buoy System (TABS) programs. TCOON is a series of 40-plus stations spanning the length of the Texas shoreline that report water levels and winds in real time. Established in 1989, the data from TCOON has provided GLO with important information for establishing the legal boundary between public submerged land and private land. TCOON data has also been vital to storm surge monitoring and dredging operations. TABS is a network of nine telemetered buoys moored off the Texas coast that report surface currents and winds in real-time from Sabine Pass to South Padre Island. Established in 1995, the data from the buoys has provided important information for predicting the movement of oil spilled near the Texas coast in dozens of incidents. More recently, TABS has been tapped for predicting the movement of harmful algal blooms and for verifying circulation forecast models for the Gulf of Mexico. These two examples of state-funded, ocean-observing initiatives illustrate the value that Texas places on timely, accurate ocean information for managing its coastal assets.

The weakness in the IOOS proposal (Chapters 26-28) is that not enough emphasis is placed on or attention given to the role of the private sector within an IOOS. There is some useful mention of industry participation in Chapter 24 (page 297), but it needs to be restated in detail in the IOOS chapters. In Chapters 26-28, industry appears to be viewed only as an end-user of products from the IOOS or as a "value-adder" to IOOS data. Most certainly industry will be active in both of these roles, but they represent only some of the potential roles that could be available to private sector participation. These chapters fail to recognize the sizeable offshore industry and an associated service industry that has offered a great deal as data providers. Industry has expertise in a variety of areas complimentary to the IOOS concept. Examples include sensor development, deployment, and maintenance, communications, platform access, data collection, and data processing. This may or may not be true for the entire U.S. coast, but it is certainly true of the Gulf of Mexico. The regional approach endorsed for the IOOS may allow the Gulf of Mexico regional ocean observing system the flexibility to form partnerships between government, private sector, and academia at all levels of activity within the IOOS.

CHAPTER 30

Funding Needs and Possible Sources (Page 373)

Apparently, extensive research has been performed on this topic, and the Commission realizes that states do not have the funding to implement new programs. The development of the Ocean

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Policy Trust Fund, along with additional federal funding, may help the states with their resource needs in order to assist with education and other areas of interest.

Restructuring some of the federal agencies is mentioned throughout the sections of this Report. GLO's Adopt-A-Beach Program receives assistance through grants from NOAA. The transfer of NOAA budget or areas of responsibility could have a negative impact on the program and ultimately result in the program relying on additional support from the private sector.

TEXAS PARKS AND WILDLIFE DEPARTMENT COMMENTS

General Comments

The Texas Parks and Wildlife Department (TPWD) applauds the President and Congress for forming the Commission to take a first step at a comprehensive national ocean policy. The broad vision of the Commission is commendable and on target. Our concerns are with the strategies to achieve that vision. The formation of a federal super-agency or regional ocean council structure is not a new idea and in the arena of natural resources management has not necessarily been successful. The effectiveness of delegating authority and funding to the lowest level of management, be it regional or some defined ecosystem-based structure, has demonstrated success in addressing and solving resource problems. It is unclear whether the increased levels of federal and regional governmental structures contemplated in the Report will accomplish much more than is currently being done to manage or improve our ocean and coastal resources. The Report contemplates the expenditure of more time and money by states and the federal government to improve our science base through increased monitoring and study. That is laudable but frustrating if that improved science cannot be applied effectively within a comprehensive and responsive management framework -- that framework being one with a clear focus on federal and state coordination that takes place closest to the affected coasts, bays, and open waters.

TPWD believes that the Commission through the Report seeks to develop an umbrella agency to oversee the cooperation and coordination of the many federal agencies with overlapping jurisdiction over oceans and coastal resources. While TPWD would not attempt to recommend how this new agency would function on a federal or even international level to enhance stewardship of our oceans, it seems clear that the issue of state versus federal authority needs to be more carefully considered. Many of the ecosystem-based approaches will need both federal and state cooperation, and the plan does not truly describe how the state partnerships will be funded, developed, and maintained. Further, TPWD believes that if this new system is to simplify and reduce redundancies in the current federal regulatory system, these improvements can occur whether or not a new National Ocean Council is created. A key question in this regard is how the new regional ocean councils will not supplant the regulatory authority of the current Fishery Regional Management Councils.

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In addition, a specific recommendation (Rec. 19-12) also relates to the appointment process currently used with the Regional Fishery Management Councils. While there has been a great deal of discussion regarding what creates a balanced decision-making body within this council, the Governor should have the flexibility to appoint the very best person to promote conservation and stewardship of coastal resources. The concept of a balance between recreational, commercial, and someone from the general public could impede the progress toward long-term goals. In addition, the question remains if a balance is desired -- on what is that balance based? It could be economic impact to local regions or total number of participants within a sector and not be based on simplistic recreational, commercial, and other categories.

The Commission discusses the development of the Ocean Policy Trust Fund to fund their proposed recommendations. That is a critical issue for success. State resources are very limited and to the extent that the Commission recommends new activities and requirements to support its needs, the funding must be adequate to meet those new activities. That funding should not come from existing programs which currently support monitoring of coastal resources; this would be detrimental to the achievement of long-term goals. Additional funding is necessary.

Although TPWD concurs with many of the recommendations of this Report and supports the notion of coordinated effort, there are recommendations or issues with which we do not necessarily agree as the most efficacious means to achieving the stated goals of the Commission.

Several Texas state agencies have management responsibilities affected by the recommendations of the Commission. The General Land Office and the Texas Commission on Environmental Quality have submitted comments with which TPWD generally concurs. Differing perspectives lie primarily in the degree that our various management responsibilities differ. TPWD's view being primarily focused on fisheries and habitat resources.

Since this is described as a work in progress, TPWD would like to actively participate as a state partner in the appropriate areas and by the appropriate means to further refine the recommendations and more importantly help to address how those recommendations will be implemented. Coordination through our Governor and Texas' Coastal Coordinating Council are two such mechanisms of proven effectiveness.

TPWD provides the following comments on the several Parts of the Report. They are in no way comprehensive. The Report is substantial, and there is not sufficient time to develop more specific comments within the comment period.

Ecosystem-based Management (Part II)

The Report states that ecosystem-based management looks at all links among living and nonliving resources and considers the benefits and impacts of human activities "within the context of the broader biological and physical environment." In addition, the Report generally defines management boundaries in terms of large marine ecosystems and coastal watersheds and designates the entire Gulf of Mexico as the large marine ecosystem for Texas (page 34). The Report goes on to explain that large marine ecosystems have been used as a basis for fishery management regions defined by the Magnuson-Stevens Fishery Conservation and Management

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Act. Ecosystem-based management focuses on multiple activities that occur in a specific area defined by the ecosystem. Using “large marine ecosystems” in management boundaries is not feasible. The environmental differences are too great. Boundaries must account for significant differences in ecosystems and allow for a regional approach to management.

Designating the entire Gulf of Mexico as the ecosystem management boundary for Texas and the other Gulf states is not appropriate. For example, the biological, hydrological, and geological components of the ecosystem off the Texas Gulf Coast and the northwest Gulf of Mexico vary considerably from that of Florida's west coast and eastern Gulf. Furthermore, the ecosystem of the upper Texas Gulf Coast differs from that of the lower Texas Gulf Coast. Management boundaries need to reflect these regional differences in ecosystems. Regional ocean councils established for the Gulf must recognize these ecosystem differences.

Conservation of Coastal Resources (Part IV)

Conserving and restoring coastal habitats must be a focus of effective management. Texas and others coastal states have lost as much as one-half of their wetland resources. All important coastal commercial and recreational fisheries species depend upon these habitat resources. Erosion is a significant contributor to the loss of wetlands. Erosion control efforts should focus on wetlands protection. Further losses will negate the effectiveness of many of the Commission's recommendations regarding coordinated management.

Water Resources (Part V)

The Report devotes Part V to water quality and provides an appropriate and insightful framework for addressing this important issue. One significant omission of great importance to the Gulf of Mexico and of growing concern to other coastal regions is apparent. Freshwater inflows create our coastal estuaries and are the key element in maintaining their health and productivity. As overall population grows, the demands on our water resources expand. Diversion of inflows to meet these needs has already manifested in the Mississippi River delta and the Everglades. Ignoring the water quantity needs of these systems will cost us up to twenty billion dollars to restore. In Texas, the Rio Grande River which is the southern border of our country has periodically stopped flowing into the Gulf of Mexico. The once-productive estuary at the mouth of the western Colorado River no longer exists. Water quality can be improved but not if the water is missing. The Commission should add a chapter on this topic in Part V.

Translating Principles into Policy (Part VI)

The emphasis on “dedicated access privileges” is appreciated. This market-based approach, which often incorporates individual transferable quota systems, is a key element in fisheries management that is responsive and supportive of sustainable fisheries in the Gulf of Mexico. It has application in both finfish (red snapper) and shellfish (shrimp) fisheries. Texas has led the movement toward this goal by establishing limited entry programs and license buy-back efforts.

One key component in the Report that should be expanded is the concept that a market-based approach which, for example, acknowledges the importance of property rights, is not just a tool

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for solving specific problems but can be a basis for a broad framework for ocean policy. The Commission should consider including a new section titled "Market-based Management," where the Commission explores how a market-based approach to stewardship can be comprehensively applied to ocean and coastal issues.

Enhancing the Science Base for Management Decisions (Part VII)

Wise and effective management of ocean and coastal resources must be based on sound science, and the Commission's focus on that goal is appreciated. TPWD's fisheries monitoring program includes 30 years of continuous data collection for Texas' key commercial, recreational, and ecologically significant species. It is a powerful management tool that exemplifies the Commission's goals and could provide a model for others.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY COMMENTS

General Comments

In the past ten years, Texas has established estuary programs for the Galveston Bay system and for the Coastal Bend bays and estuaries. The guiding principle for these programs has been the protection and management of the coastal systems to provide for the sustainable use of their resources while maintaining the quality of their assets. The success of these programs is based on partnering efforts by state and federal agencies, local governments, business and industry, academia, environmental organizations, and commercial and recreational users, as well as the general public. Multi-disciplined regional advisory committees that actively participate in program implementation and the establishment of program policies guide each of the programs.

The CMP is a networked-approach to the management of the states' Coastal Natural Resource Areas. The program has emphasized the need to sustain the coastal economy while maintaining the productive natural resources which, in part, feed that economy. Improved coordination among the protectors and users of these resources has contributed to a balanced approach for management of these vital coastal resources.

Texas has been an active partner in the Gulf of Mexico Program since its establishment in 1988. The health of the Gulf is influenced by human activities that occur in watersheds that contribute runoff to the Gulf. The Gulf of Mexico Program has provided a forum for federal and state agencies, local governments, non-governmental organizations, and citizens to identify key issues and to develop and implement voluntary strategies, programs, and actions to protect public health and the living resources of the Gulf ecosystem.

The Commission's recommendation for the establishment of regional ocean councils should focus on incorporation of existing federal, state, and local programs and infrastructure, such as those established under the federal Coastal Zone Management Act, the Clean Water Act, and through the non-regulatory efforts of the Gulf of Mexico Program. The grass roots support of the Texas' two estuary programs and the many successes for these young programs demonstrates

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a sound approach to coastal management and could serve as the foundation for addressing more global issues facing the Gulf of Mexico.

Texas supports the need for new and improved science to better understand the complex nature and interactions of our Coastal Natural Resource Areas. As the economy and population grow, additional stress will be placed on the natural resources that sustain our coastal communities. The information and science need to keep pace with this growth in order to assist decision-makers.

The recommendations contained in the Report do not come without a price tag. Texas would encourage the establishment of the Ocean Policy Trust Fund to assist with the implementation of recommendations contained in the Report.

The need for improved communication and coordination among federal, state, and local entities is essential in order to facilitate the scientific understanding of our nation's complex ocean systems and to streamline the decision-making process.

The Gulf of Mexico states continue to lose vital coastal wetlands at an unacceptable rate. There is a need to establish a funding source for wetlands acquisition, restoration, and creation, as well as, for improvements to our water quality protection programs for waters flowing to our coastal ecosystems.

The Texas coastline is constantly changing as a result of sea level rise, loss of sediments reaching the coast, and natural hydrological conditions and circulation patterns inherent to the Gulf of Mexico. Coastal erosion has a significant effect on the coastal economy and threatens the very livelihood of many coastal residents. Texas has launched the Coastal Texas 2020 effort to help address this issue and others that impact the natural resources within the coastal region. The protection and preservation of beach resources in Texas is an essential component of a healthy coastal ecosystem.

TEXAS A & M UNIVERSITY SEA GRANT COLLEGE PROGRAM
COMMENTS

General Comments

The scope and breadth of this Report is inspiring and the vision of the President and the Congress in implementing this Commission as well as the wisdom and dedication on the part of the Commission exceeds the highest standards. As we move to discover new worlds in the universe, this Report gives us pause to consider the mystery of our own and the oceans that gave and now sustain its life. Whether in the water we drink, the air we breathe, the food we eat or the climate we experience, the oceans are the sacred trust of humankind and the physical link with all life on our planet.

The magnitude of the Report and the far-reaching ramifications do not yield to a critical evaluation in such a short review period, therefore, these comments are directed toward the

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robust nature of the Report wherein complex issues are analyzed and recommendations made. The Report provides insight on which the states can consider what is in their best interest as well as that of the nation.

CHAPTER 5

Enhancing Regional Research and Information (Page 59)

Sea Grant supports the need for education and training of decision makers so that they might use the available research and data products to make wise judgments. As noted in these comments, Sea Grant is substantially engaged in meeting the challenges of an informed body of decision-makers.

CHAPTER 8

Incorporating Oceans into K-12 Education (Page 91)

As mentioned in Recommendation 8-7, a stronger and more effective relationship should be established between the research and educational community to strengthen professional development opportunities for teachers and teacher educators.

CHAPTER 13

Supporting Maritime Commerce and Transportation (Page 145)

Recommendations 13-1 and 13-4 are both very important. The port industry needs a lead agency in the federal government. It is the only transportation mode that does not have one. The result is an extremely fragmented and confusing approach on the part of federal agencies. Also, the information needs in 13-4 are critically needed and useful.

CHAPTER 16

Limiting Vessel Pollution and Improving Vessel Safety (Page 183)

The discussion on Air Emissions (page 190) addresses establishing incentive-based measures to encourage voluntary reductions in vessel air emissions. What is missing from the discussion is the need to develop more cost-effective technological innovations that reduce air emissions and to encourage the transfer of that technology to industry.

CHAPTER 17

Preventing the Spread of Invasive Species (Page 199)

The Report states that a major source of invasive species is the discharge of ballast water from ocean-going ships. No information is introduced to support this statement. While ballasts are an

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important source, they may not be the “major” source of invasive species that survive and cause problems.

CHAPTER 25

Advancing Ocean and Coastal Research (Page 307)

While many demands on federal funds are being made, Recommendation 25-1 calls on Congress to appreciably increase the federal ocean and coastal research budget of the next five years. While ambitious, this is a noble goal that should be enacted as soon as possible.

CHAPTER 26

Achieving a Sustained, Integrated Ocean Observing System (Page 319)

As technology is identified, developed, and utilized in achieving increased monitoring of coastal and oceanic physical, chemical, and biological parameters, it is critical that a method of integrating these observations into a user-friendly, real-time, web-based depository is achieved. Whether for research or basic data on which private or public interests can add value, the IOOS, as described in Chapter 26 of the Report, provides the critical link to a robust, information-based, decision-making process for the future. Broad public support, however, is necessary for IOOS to generate the required financial resources in order to become a reality. A successful IOOS program must include an education program that demonstrates how IOOS can provide valuable information to everyone living, working, and recreating along our coast and in the ocean.



STATE OF UTAH

OLENE S. WALKER
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY
84114-0601

GAYLE F. MCKEACHNIE
LIEUTENANT GOVERNOR

May 17, 2004

James D. Watkins, Chair
Admiral, U. S. Navy (Retired)
U. S. Commission on Ocean Policy
1120 20th Street, NW, Suite 200N
Washington, D. C. 20036

Dear Chairman Watkins:

I appreciate the opportunity to review the Governor's Draft of the Preliminary Report of the U. S. Commission on Ocean Policy. I would like to compliment the commission for their foresight, comprehension and thoroughness regarding the challenges facing the world's oceans.

I recognize the importance of oceans to all life on Earth. I am aware that people's actions can have an impact on the oceans. My staff within the various departments of state government reviewed the report. Based on this review, I have no substantive information to supply.

Thank you for the opportunity to participate in this important action.

Sincerely,

A handwritten signature in black ink that reads "Olene S. Walker".

Olene S. Walker
Governor



COMMONWEALTH of VIRGINIA

Office of the Governor

Mark R. Warner
Governor

June 7, 2004

Admiral James D. Watkins
U.S. Commission on Ocean Policy
1120 20th Street, N.W.
Suite 300 North
Washington, D.C. 20036

Dear Admiral Watkins:

I appreciate the opportunity to comment on the "Blueprint for Change". It is apparent that you have led an important effort to focus the nation's attention on our oceans and coastal resources and I commend the work of the Commission. Virginia is dependent on our coastal lands and waters. About 63% of Virginians live in our coastal zone, but the coastal zone is only about 22% of our land area. Despite the past 20 years of efforts to protect coastal resources, we continue to experience declines in fisheries, water quality, and habitat. As current Chairman of the Chesapeake Bay Program's Executive Council, I have struggled with these difficult management issues and I have come to the conclusion that the overriding need is for greater resources and investment in support of our coastal and ocean resources. Until we begin to treat our natural resources as "capital" with an economic value rather than limitless "free" services, the deterioration of our resources will continue. In hindsight, the Commission perhaps should have been named the Commission on Ocean and Coastal Resource Policy for it is clear that the two are inextricably linked.

FUNDING

In order to sustain these resources I believe it is critical that the level of investment be commensurate with their value to Virginians and to the American people. As your report mentions, the economic value of our coasts and oceans is in the trillions of dollars, yet our investment in key programs that aim to protect those assets numbers only in the millions. In response to my request for comment by Virginia's Coastal Management Program partners, the one topic on which all agreed was that current levels of funding

Admiral James D. Watkins
June 7, 2004
Page Two

were grossly insufficient to reverse the current trends of coastal deterioration. While we agree with doubling the \$650 million national budget for ocean research, it is even more important to at least double or triple budgets for on-the-ground management efforts such as called for in the Coastal Zone Management Act. The current national budget for state coastal management programs is a mere \$79 million, about an order of magnitude less than the current research budget.

I strongly support amending the CZMA to authorize and fund the Coastal and Estuarine Land Conservation Program. Funds for coastal land acquisition are desperately needed. Acquisition is our strongest protection tool and has the most lasting impact on water quality and habitat protection. We also support amending relevant legislation to allow for greater discretion in using a portion of habitat acquisition funding for monitoring, research and education. These funds are necessary to effectively manage the coastal lands acquired.

Many of your commission's recommendations provide lofty goals for changes that can only occur at the local government level. Specific objectives and action steps now need to be developed to ensure that these goals can be achieved. How will these recommendations actually be translated into changes in local planning and zoning ordinances? As experienced by the Chesapeake Bay Program, it is difficult to provide a catalyst for change at the local level without either providing adequate funds for pilot demonstration projects or for mandating changes through new regulations.

In Virginia, existing programs such as the Chesapeake Bay Preservation Act in Virginia require changes to local comprehensive plans and ordinances to ensure that land development decisions do not result in water quality degradation. These types of programs should be better supported and, indeed, enhanced since they will help meet many of the recommendations found in Chapters 9 Managing Coasts and their Watersheds and Chapter 14 Addressing Coastal Water Pollution. Adequate funding to support implementation of existing environmental management programs may even eliminate the need for new initiatives.

WATER QUALITY

I am pleased at the attention the report gives to addressing coastal water pollution. We have embarked, along with our Chesapeake Bay Program partners, on actions necessary to make dramatic reductions in nutrient and sediments entering the Chesapeake Bay watershed. I strongly support the recommendations contained in Chapter 14. I want to

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June 7, 2004
Page Three

particularly commend the Commission for its attention to addressing nonpoint source pollution issues that, as you know, are the most difficult to control.

EDUCATION

I strongly endorse the Commission's recommendations in Chapter 8 for improvements in education and public awareness. Without the public's understanding of the value of our ocean and coastal resources, there is little hope of securing their support in investing in resource protection. We need to do more such as providing meaningful lifelong educational experiences, establishing a strong collaborative network of educators and scientists and facilitating on-the-ground opportunities for citizens and students to restore coastal habitats such as wetlands, oyster reefs and underwater grass beds. These are all activities of our Virginia Naturally Environmental Education Program, but more needs to be done to make environmental education and awareness mainstream.

DATA AVAILABILITY

I strongly support the Commission's recommendations for Ocean.US, Ocean.IT and IOOS and suggest strengthening the language of the recommendations to ensure that new data and science is based on the needs of coastal managers. These programs would complement the Virginia Coastal Program's Blue-Green Infrastructure Internet Mapping System Initiative and are very much in line with types of Information Technology advances that I have advocated here in Virginia. I also strongly support Recommendation 25-3, which calls for greater examination of human dimensions and economic value of our oceans and coasts. Without economic data and understanding of social constraints, it is difficult to gain public support for resource protection.

The key to better resource management is having good, scientific information on which to base decisions. Although there are gaps in our current state of knowledge, by making it easy to access data already collected (by federal agencies, universities, management programs etc.) we could identify gaps in our current state of knowledge and significantly improve coastal management decision efforts. We also suggest developing an accessible, on-line national clearinghouse of coastal management tools and publications so states can avoid duplication of efforts.

Admiral James D. Watkins
June 7, 2004
Page Four

FEDERAL AGENCY AND REGIONAL COORDINATION

I support creation of a National Ocean Council to coordinate and provide high-level attention to ocean and coastal resource policy, but most effective will be strengthening NOAA and consolidating existing ocean and coastal management programs within NOAA. Virginia relies on an effective networked partnership through its Coastal Management Program similar to the proposed NOC, not only to manage its coastal and ocean resources but also to foster awareness and appreciation of these resources.

Integration of existing state, federal and local programs is critical to effective management of coastal and ocean resources. Such integration would be extremely desirable in the area of state/federal non-point source pollution efforts. We also support coordinated offshore management regimes and the use of Marine Protected (or "Managed") Areas as a tool for protecting public trust lands and waters. These areas should be well-defined and monitored as part of a larger management regime.

Providing for better coordination among agencies at all levels of government should enhance efforts to manage and protect ocean and coastal resources. Further program integration should take priority over creation of new management systems. However program integration does need to take into account the differences in regulatory structure, legal authority and financing among the states.

Regional coordination needs to be addressed at a scale that is smaller than the multi-state fisheries management approach to regionalism. We support regional coordination although we must be careful not to create additional layers of bureaucracy. We must take into account existing regional programs such as the interstate Chesapeake Bay Program.

SUSTAINABLE FISHERIES AND AQUACULTURE

Directing fisheries management toward an ecosystem approach bolsters the direction Virginia is taking in association with the Chesapeake Bay Program, including the development of multispecies and ecosystem-based Fishery Management Plans.

Any change to offshore or federal management of aquaculture activities in coastal waters (including areas involving state waters and submerged lands) should take into account existing state management and leasing authorities such as exist in Virginia.

Admiral James D. Watkins

June 7, 2004

Page Five

Thank you for the opportunity to comment on your preliminary report. I acknowledge that many of the recommendations in the report chart broad policies. As with all the work of government, the devil is in the details. Therefore I look forward to continuing conversations on how to fully implement your ambitious recommendations. I wish you every success in making this report the new "Blueprint for Change" in how America manages its priceless coastal and ocean treasures.

Sincerely,

A handwritten signature in black ink that reads "Mark R. Warner". The signature is written in a cursive style with a large, stylized initial "M".

Mark R. Warner

GARY LOCKE
Governor



STATE OF WASHINGTON

OFFICE OF THE GOVERNOR

P.O. Box 40002 ♦ Olympia, Washington 98504-0002 ♦ (360) 753-6780 ♦ TTY/TDD (360) 753-6466

June 4, 2004

Admiral James D. Watkins, Chair
United States Commission on Ocean Policy
1120 – 20th Street NW
Suite 200 North
Washington, DC 20036

Dear Admiral Watkins:

Thank you for this opportunity to comment on the Preliminary Report of the U.S. Commission on Ocean Policy (Commission). This long overdue review of national ocean policy provides key recommendations for the future of our oceans. Mr. Chairman, you and the members of the Commission are to be commended for your efforts and for your service to our country.

While the Commission has devoted several years to the production of this report, the hard work still lies ahead in implementing its recommendations. The people of Washington appreciate this study, but also share a sense of exasperation and concern that we are stuck in a cycle of “report and no action.” If we are to improve the condition of our oceans and the marine life within it, we must have clear goals, measured outcomes, and the political commitment to achieve success.

I consider the following points to be fundamental to the success of this endeavor:

1. Any organizational structure for ocean policy governance must promote decisions based on sound science, include regional participation in decision-making, and ensure adequate funding. We must also acknowledge the valuable role that tribes have in the governance, science and management of our ocean resources and include the tribes on a government-to-government basis.
2. It is not adequate for changes in fisheries management policies to merely stop the decline in marine species. These policies must contribute to reversing the trend of this decline. They must also enhance the overall sustainability of marine resources and evaluate the health of our oceans on an ecosystem scale.
3. Our nation must regain its position of global leadership on ocean issues. Here in the Pacific Northwest we know the value of working with our international neighbors. We share issues of mutual concern with Canada, and have successfully negotiated a U.S.-Canada salmon agreement. And because maritime trade is a major economic activity in Washington, we must be mindful of the international competition that exists within this industry.

Admiral James D. Watkins
June 4, 2004
Page 2

Five primary areas of interest have emerged from the high volume of comments I have received from state agencies, tribes, and stakeholders. I expand upon each of these areas in the enclosed document, but briefly these include:

Governance Structure – Establish national goals and standards, with benchmarks that measure success; begin with a National Ocean Council for immediate action, and pass a National Ocean Policy Act; I support establishing regional ocean councils, and improving the relationship between watershed planning and ecosystem-based management approaches.

Science in Decisions – Scientific understanding must form the foundation for ecosystem-based management and sustainable fisheries, and we must fully fund our scientific needs.

Build Sustainable Fisheries – Allow for regional flexibility on fisheries management, consistent with national goals for sustainable fisheries; fully fund regional science initiatives for ecosystem-based assessments; I also support the use of Marine Protected Areas.

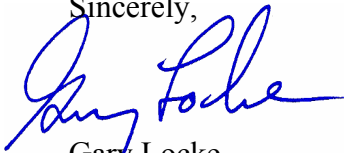
Protect Marine Ecosystems – The federal Clean Water Act must be updated and more funding for local implementation of the act is needed; the report does not address solutions for the problem of contaminated sediments; and the Coastal Zone Management Act must be reauthorized.

Education – I support the Commission's recommendations with respect to strengthening our promotion of ocean research, collaboration among various institutions, and the goal of lifelong ocean education.

I also am providing you with a representative sampling of the wide range of feedback I have gotten to date.

Again, thank you for this opportunity to respond. I look forward to the Commission's final report and to the full implementation of its recommendations.

Sincerely,



Gary Locke
Governor

Enclosures

**Specific Comments of Governor Gary Locke
To the U.S. Commission on Ocean Policy, Preliminary Report
June 4, 2004**

GOVERNANCE STRUCTURE

The overall governance structure should establish national goals and standards, with benchmarks that measure success – or failure. Only through such clear standards and the responsibility for meeting measurable targets can we set the path for success. Once the national standards have been established, regions should be allowed to craft the pathways for achieving the targets. The national goals and standards should be the floor upon which regional flexibility and variation can build.

The legal structure for this approach should begin with a National Ocean Policy Act to set clear goals and policies for our nation’s actions on ocean issues. Included in such an Act should be provisions clarifying and strengthening the mission of the National Oceanic and Atmospheric Administration (NOAA). However, the Congressional process can take time to complete, and existing agencies have the authority necessary to implement many of the recommendations of the Preliminary Report. So as Congress considers the Commission’s recommendations, **I support more immediate action to create a National Ocean Council by Executive Order.** Such a Council could begin immediately to identify recommendations that could be acted upon sooner, rather than later. The Council should also coordinate existing agency actions on ocean policy matters, and identify areas for improvement. Should a Council be created, it should include two coastal state governors representing the east and west coasts.

I support the recommendations of the Report relating to regional ocean councils (ROC). In the Pacific Northwest we have found that, although there are international and national standards and protocols for a variety of marine issues, there are certain issues that benefit from a regional response. Examples include vessel ballast water management, invasive species management, oil spill prevention, and vessel wastewater discharge. Due to the economic considerations of marine trade and transportation, it is critical that international and national systems are the first place to address these issues. However, in those instances where there are gaps in standards or protections, or where unique regional variations require a response, there should be a regional structure that provides the forum for addressing regional needs. For this reason, I support the recommendations of the Report relating to regional ocean councils (ROCs). Such councils should avoid overlaps of authority with federal agencies and should identify opportunities to coordinate multi-federal and state agency activities. ROCs would be particularly advantageous for states such as Washington and Oregon, with a border along a mutual water body. Also, the federal government must assist states bordering Canada and Mexico by working with their governments to involve them in ROCs.

Regional councils should also recognize, and not interfere with, successful initiatives such as the National Estuary Program and, here in Washington, the Northwest Straits Marine Conservation Initiative. Regional councils should include a diverse representation of federal, state, and local governments, Tribes, and key stakeholders. The ROCs should consider regional ecosystem functions, and should take specific and effective actions to achieve national as well as regional goals. Regional Councils should also acknowledge the value of the marine environment for local communities, and decisions and strategies should consider the needs of these communities, their businesses, and the diversity of economic activities and infrastructure needs at small and large ports.

I support the Commission's emphasis on watershed and ecosystem approaches. Too often we have made management decisions in isolation: land use decisions are made along artificial political boundaries; fisheries allocations are on a species-by-species basis; pollution prevention strategies may differ between bordering states or nations even though pollution knows no boundary. Lasting and effective change will only come when we address these and other issues on a watershed and ecosystem scale. Our fundamental goal must be the sustainable health of the ecosystem as a whole, rather than a limited focus on individual species or narrow political boundaries.

SCIENCE IN DECISIONS

Scientific understanding must form the foundation for ecosystem-based management and sustainable fisheries. For this reason, I support the recommendation that we should have a national strategy for ocean and coastal research, exploration, and marine life sciences. Such a strategy should coordinate federal ocean research activities as well as coordinating data collection, monitoring, and ecosystem assessments. And through ROCs, a national strategy should incorporate state, local and Tribal government science, as well as science from non-profit organizations and the private sector. Science used in decision making should be transparent as to the source of the science and the scientists performing the research to avoid any conflict of interest.

We must show our commitment to sound science by funding our scientific needs.

This funding would provide an increased capacity in:

- Acquiring new information, knowledge and understanding.
- Directing monitoring programs to evaluate impacts and guide research.
- Integrating and synthesizing existing and new information.
- Sharing information and knowledge with decision makers and the public.

As a part of enhancing our science infrastructure, I support the Commission's recommendations relating to the development and implementation of the Integrated Ocean Observing System (IOOS).

A national strategy on ocean science must include an adaptive management process, and should, where possible, utilize the precautionary approach for scientific

recommendations. Once the science is developed, it must be used to inform decision makers. We must also monitor and evaluate our actions to determine whether we are achieving our goals. This process should then provide feedback to the scientific/management processes to ensure that our strategies for ocean management adapt to the best available scientific information.

BUILD SUSTAINABLE FISHERIES

The Commission accurately notes in the Report that the overexploitation of the ocean's fish populations has led to degradation of habitats, and damaged ecosystems and coastal communities. Our nation must provide the global leadership to reverse this trend and build sustainable fisheries that provide for diverse and healthy ecosystems, as well as providing long-term jobs for coastal communities. Fortunately, in the North Pacific regional, the fisheries councils have relied upon the Scientific and Statistical Committee's (SSC) recommendations, as well as close cooperation from stakeholders and the fishing community to effectively manage the fishery in the region. However, improvements could be made.

We support many of the recommendations found in Chapter 19 of the Report – “Achieving Sustainable Fisheries”. There are a few recommendations in which we do not concur. I would direct your attention to the comments submitted by the Director of the Washington Department of Fish and Wildlife for specific comment on the recommendations.

We need to provide state, tribal, and federal agencies the resources to improve the science base relative to ocean bottom habitats and marine fish resources and their productivity. Currently the Pacific Fisheries Management Council (PFMC) which sets harvest allocations has strictly followed the recommendations provided by the Scientific and Statistical Committee (SSC). Unfortunately, the SSC has been forced to base its recommendations on stock assessments that rely on incomplete data and information and that are not robust in terms of quantifying changes due to dynamic ocean conditions. This creates a situation in which harvest decisions are made looking back in time, rather than projecting the future.

We support, and recommend the Commission support, the creation of a Marine Fisheries Oversight Commission, or periodic reviews by the National Academy of Sciences, as a mechanism for independent scientific oversight. This would be complementary to an approach that has national goals and benchmarks, but allows for local implementation. This is also consistent with the Commission's recommendations regarding the need for independent review of scientific information.

We oppose the proposed National Standard Guidelines (recommendation 19-10) as these would unnecessarily restrain the flexibility of states to manage their fisheries. Instead, we should continue to rely on interstate management plans as the mechanism to manage stocks on a regional basis. NOAA Fisheries currently reviews these plans and

regions should be measured by the sustainability of the fishery rather than by a national standard that does not account for regional species and stock variations.

We strongly support Commission's recommendations relating to ecosystem-based management. Regional councils should be directed to develop ecosystem management plans that assess the health of the ecosystem and provide information into the harvest allocation process so that decisions are made in an ecosystem context rather than a species specific context. With this, we also support the Commission's call for changing existing Essential Fish Habitat (EFH) designations from specific species, to a multi-species approach, and ultimately an ecosystem approach. An extensive research and development program should be developed as a means to identify habitats critical to sustainability and biodiversity goals.

We support the recommendations relating to Marine Protected Areas. However, any national strategy for Marine Protected Areas (MPAs) needs clear goals and guidelines. The process and authority for MPAs should remain with NOAA, and there must be enough flexibility to incorporate regional differences. When MPAs are used to address fisheries, designation decisions should consider the recommendations of regional fisheries councils. MPAs can be an effective tool for restoring fish populations and protecting sensitive habitats. Designation of these areas should be based on best available science and have local support. We should build on the ecosystem-based management principles by applying networks of MPAs that reflect true marine habitat characteristics.

PROTECT MARINE ECOSYSTEMS

The Commission accurately states the problem when in the Report it states: "Coastal waters...are being bombarded with pollution from all directions". Since the late 1960's and early 1970's there have been a number of federal and state laws enacted to address this issue. However, greater coordination is now needed among these various legal authorities to ensure that the problem is being addressed.

The U.S. Environmental Protection Agency (EPA) should engage in an evaluation of the federal Clean Water Act (CWA). Such an evaluation should assess the weaknesses of the CWA and recommend updates for Congressional action to address nutrient removal, household and industrial chemicals, on-site septic systems, and non-point sources of pollution. Regardless of any changes to the CWA, Congress must provide more funding for states and local governments to implement the current obligations of the CWA. Limited resources and technical ability prevent state and local governments from fully implementing the requirements of the CWA. In some cases, this lack of resources fosters local political opposition to improvements that would address pollution issues. Funding would help us work with local governments to build the necessary infrastructure.

I would support, and call for, the development of a financing strategy for the long-term funding of improvements to the nation's current aging and inadequate wastewater, drinking water and on-site treatment infrastructure.

The report fails to address solutions for contaminated sediments. Although the Report does identify the concerns relating to contaminated sediments, it stops short of recommendations for solving the problem. The Commission should support the renewed funding of the federal Superfund program for cleanup of contaminated sediment sites.

We support the Commission's recommendation that the Coastal Zone Management Act (CZMA) be reauthorized to strengthen the planning and coordination capabilities of coastal states.

Congress should also provide more funding for coastal communities to implement the CZMA. As noted in the Report, funding has been capped at \$2 million per year per state since 1992. This amount is insufficient for a state such as Washington to meet the needs identified in the Report – needs with which we concur.

The recommendation to establish a National Ocean Policy Trust Fund, must not create incentives for inappropriate offshore development, and must not take funds from the Land and Water Conservation Fund. The Report proposes to fund many of the recommendations by establishing a National Ocean Policy Trust Fund. We are concerned that this approach may put undue pressure on states such as Washington where we have a moratorium on coastal oil development. This funding mechanism may also short-change states without coastal resource development, but also could jeopardize programs currently funded from this source such as the Land and Water Conservation Fund. Caution should also be exercised with the proposal to utilize “resource rents” as a funding source. The Report points to the current system of rents and leases charged on public lands for grazing, oil and mineral extraction, and other natural resource extractive activities. However, these examples also have problems that should be examined before being duplicated in the marine context.

EDUCATION

The early years of the space program and a national commitment to science education instilled in a generation of Americans a lifelong interest in space exploration and science. Its time that we spark that same interest and excitement in our oceans.

I strongly support the recommendations of the Commission relating to promoting lifelong ocean education, strengthening the nation's ocean awareness, building a collaborative ocean education network, and incorporating oceans into K-12 education.

Letters included as attachments



Washington Department of Natural Resources
Washington Department of Fish and Wildlife
Washington Department of Community Trade and Economic Development
Lummi Nation and the National Indian Center for Marine Environmental Research and
Education
People for Puget Sound
At Sea Processors
Pacific Coast Shellfish Growers
Port of Ilwaco
Columbia River Crab Fishermen's Association



JIM DOYLE
GOVERNOR
STATE OF WISCONSIN

July 12, 2004

Dr. Thomas R. Kitsos, Executive Director
US Commission on Ocean Policy
1120 20th Street NW
Suite 200 North
Washington, DC 20036

Dear Dr. Kitsos:

I thank the United States Commission on Ocean Policy for its diligence in addressing the challenges of sustaining our coastal and ocean resources through a comprehensive set of recommendations, the first in 30 years.

Wisconsin supports some aspects of the draft Ocean Report. The vision of working together to uniformly promote the sustainability of coastal and ocean resources, regional and federal agency cooperation, additional funding for coastal and ocean resources management and reauthorization of the Coastal Zone Management Act is vital for America.

However, the report falls short in addressing the special needs of the Great Lakes as well as the critical role that the Council of Great Lakes Governors will play in the restoration efforts. The Great Lakes basin is home to more than 34 million people in the US and Canada. The Lakes provide drinking water, freshwater habitat, economic opportunity and recreation. More than 2.5 billion gallons of water from the Great Lakes are used for public benefit each day, with 700 million gallons used for drinking water.

The Great Lakes region accounts for 20 percent of US manufacturing. The Lakes carry more than 190 million tons of cargo, providing \$3.4 billion in business and more than 150,000 jobs. Commercial and recreational fishing generate more than \$3 billion annually and recreational boaters spend more than \$2.6 billion each year. Due to these factors, it is vital that protection and restoration of the Great Lakes be a priority. The entire Great Lakes basin faces a number of tremendous challenges, in particular protecting the Great Lakes from aquatic invasive species that make their way into our ecosystem through the ballast discharges from ocean going vessels and other sources. Additionally, any restoration progress must address how to minimize contaminated sediment from being deposited into the Great Lakes.

As Governor of Wisconsin and incoming Chair of the Council of Great Lakes Governors, I invite you to include the following priorities in the final report:

- Support federal funding for Great Lakes Restoration through the Great Lakes Environmental Restoration Act (S. 1398) or the Great Lakes Financing Act of 2003 (H.R. 2720).
- Support efforts to stop the introduction and spread of non-native aquatic invasive species.
- Support reauthorization of the Coastal Zone Management Act.

Letter to Dr. Thomas R. Kitsos
July 12, 2004
Page Two

- Promote programs to protect human health against adverse effects of pollution in the Great Lakes ecosystem.
- Control pollution from diffuse sources into water, land and air.
- Continue to reduce the introduction of persistent bioaccumulative toxics into the Great Lakes ecosystem.
- Enhance fish and wildlife by restoring and protecting coastal wetlands, fish and wildlife habitats.
- Restore to environmental health the Areas of Concern identified by the International Joint Commission.
- Standardize and enhance the methods by which information is collected, recorded and shared within the region.
- Adopt sustainable use practices that protect environmental resources and enhance the recreational and commercial value of our Great Lakes.

The United States Commission on Ocean Policy has an opportunity to develop a truly comprehensive set of recommendations by addressing the special needs of the world's largest freshwater ecosystem. I respectfully ask that the Commission give greater attention to the Great Lakes basin in its final report.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Doyle". The signature is fluid and cursive, with the first name "Jim" and last name "Doyle" clearly distinguishable.

Jim Doyle
Governor



OFFICE OF THE GOVERNOR

PAGO PAGO, AMERICAN SAMOA 96799

TOGIOLA T.A. TULAFONO
GOVERNOR

May 17, 2004

AITOFELE T.F. SUNIA
LIEUTENANT GOVERNOR

TELEPHONE: (684) 633-4116
FACSIMILE: (684) 633-2269

Serial: 0542

Admiral James D. Watkins, Chair
U.S. Commission on Ocean Policy
1120 20th Street, NW
Suite 200 North
Washington, D.C. 20036
(Public Comment on Preliminary Report)

Talofa Admiral Watkins,

I would like to thank the U.S. Ocean Commission on Ocean Policy for the opportunity to comment on this significant document. This report recognizes facts that we are all beginning to realize. The ocean is not a limitless resource: it cannot sustain uncontrolled resource extraction, pollution, an ever expanding world population, or climate changes. If we do not begin to manage the ocean now, we are in danger of losing the gifts it provides us all. The earth is facing a crisis of enormous proportions. As fisheries fail, as water quality declines, as shorelines erode, the services that the ocean performs will be lost. This report is a first step, and if appropriately crafted, one that we must take.

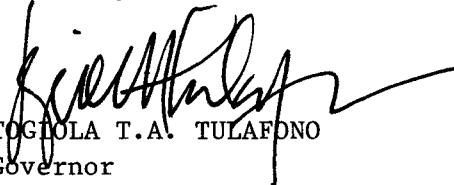
The U.S. Commission on Ocean Policy's Preliminary Report was presented to the nation's governors and interested stakeholders with the charge that they review the report and provide comments on it and the recommendations that were derived from the commission's investigations. The development of this comprehensive document took several years. We have been given 60 days to develop equally comprehensive analyses and comments, a charge that we have dutifully undertaken. It is my hope that these comments are merely the opening round in a continuing dialogue that will allow more time for reflection and revision of the final report.

Admiral James D. Watkins, Chair

- 2 -

In conclusion, I applaud the work of the Commission in drawing attention to the significant challenges we face, and the call to action the report represents. The ability to ensure ocean and coastal benefits for future generations depends on a better understanding of the impacts of our actions. By taking actions now to support sustainable development and conservation of coastal and ocean resources, we will assure that our grandchildren can enjoy the full benefits of a healthier planet.

Sincerely,



TOGIOLA T.A. TULAFONO
Governor

Enclosure

TTAT:rlhc



**Comments on the Preliminary Report of the
U.S. Commission on Ocean Policy
Submitted by
Togiola T.A. Tulafono, Governor, American Samoa**

American Samoa is a small piece of the United States, but I would argue, an important one. For over 100 years, the people in the eastern archipelago of Samoa have been proud to call themselves Americans – 80 of our local reservists are currently serving in Iraq along with other sons and daughters of Samoa in other arms of our military. Our harbor provides the only US port in the southern hemisphere. Our coral reefs are the most diverse of any US reefs, with hundreds of coral species and over a thousand fish species. Our reefs have provided our people sustenance for 3,000 years, and can continue to do so with wise management. Our EEZ supports thriving offshore fisheries, and we are home to the two largest tuna canneries in the US.

Samoans have always looked to the sea. We sailed here on ships across thousands of ocean miles – Polynesians are known as the navigators of the Pacific. We retained our ties to the sea, and our legends and beliefs flow from our respect and love of the ocean. For thousands of years, Samoans lived in harmony with the sea; they had to in order to survive. They understood the ocean's moods, the cycles of its resources and managed those resources effectively. Much of that traditional knowledge is being lost, and we rely more and more on western management practices. Our price for that loss has been declines in our coral reef fisheries, loss of our wetlands and alterations of our coastlines. Many of those were our choice, but they have not proven to be "wise". So as many others are doing, we struggle to retain our cultural values and practices, and to find ways to integrate them back into our management regimes. It is from this context that I will be addressing my comments.

American Samoa appreciates the opportunity to comment on the report, and hope that the final document will forge a new direction in our country's governance of the ocean and management of its precious resources. As governor, I fully support the broader recommendations for increased research and a focus on ecosystem based science informing management, support for ocean education and outreach, improved ocean governance and

better organization of coastal and ocean programs both nationally and locally. There are some concerns about a few of the comments, and they will now be discussed.

Comments

General Comments: organization of document

This comprehensive plan presents a real challenge to thoughtful analysis. I would strongly recommend that a matrix be developed that allows the reader to find cross-cutting themes in the recommendations such as: education and outreach, science and monitoring, enforcement, funding, etc.

Part I

General comments

There is little or no mention of the cultural contexts and uses of the ocean and its resources so important to indigenous people and people who have spent generations living on the coastal bounty. This omission is not trivial. We hope that the final draft contain these references to cultural contexts and to people's who rely on the ocean for subsistence living.

Part II

General Comments

The four chapters in this section of the report develop a national framework for ocean governance. There is an overbalanced attention on federal leadership, and states and territories do not figure strongly in the recommendations. Since this report is aimed at the federal government, this makes some sense, but it overlooks opportunities to enlarge the local communities' participation in ocean governance. Although there is some attention to outside stakeholders, they seem to be added on as an afterthought, and are not integrated into the decision-making process.

The central recommendation for a National Ocean Council (NOC), and its supporting Office of Ocean Policy, is seen as an answer to ocean governance. In fact, it does not go far enough. It keeps the national policy decision-making at the national level, with unclear mandate for authoritative collaboration with the states, territories or tribes. This is a theme throughout the report – investing more authority and decision-making at the federal or regional levels, with only consultation with the states, territories and tribes at best.

The Presidential Council of Advisors on Ocean Policy which would advise the President on ocean issues and develop policy, comprises a group appointed by the President that would include coastal state/territorial governors, as well as a broad private sector representation.

However, Council is co-chaired by the NOC Chair, which makes it somewhat incestuous, and does not add needed diversity nor suggest independent review in the internal administrative structure.

Most of the positions, and all of the top positions, in the Councils are appointed by the President, which threatens a needed balance of independent and less politically motivated and directed leaders, particularly in the area of conservation. Accountability needs to be built in to both the NOC and the Council.

The administration should as soon as possible, undertake a needs analysis of resources and funds needed to support state, regional, and national activities provided in the report as estimates of costs in order to coordinate Federal budget and program efforts to focus on achieving those goals efficiently.

Recommendation 4-1

Establishing strong, high-level leadership at the federal level through the creation of a National Ocean Council (NOC) should result in improved coastal and ocean governance since one of the primary duties of the NOC is to increase the effectiveness of coordination with federal agencies with ocean management responsibilities. In addition, having a NOC sends a strong signal to local-state-federal and international partners of the significance of ocean policy at the federal level. In establishing an NOC, the focus should be clear that this body has the core responsibility to provide high level attention to ocean and coastal issues, develop and guide implementation of appropriate policies, and coordinate federal agencies. In the establishment of National and Regional Ocean Councils we recommend that Governors be included on the Councils not simply as members of advisory committees.

Recommendation 5-1

There is a concern that for efficiency the entire Pacific Island region would be subsumed into one region. Although the regions have not been defined, it is probable that the Pacific Island region would mirror the current Fisheries Council region. Planning for ocean programs, then, would be through the council, which would likely sit in Honolulu. This has always been a challenge for those of us living thousands of miles from Hawaii, yet expected to be full participants in the regional process. It may be necessary to allow the remote islands such as Guam, CNMI and American Samoa to constitute their own "regions" for better representation and governance.

The principle role of the Regional Ocean Councils is to bring the collective resources and expertise of the federal agencies together with states, territories and stakeholders to address significant issues that are identified at the state, territory, local and regional level and not issues identified only by federal agencies at the national level.

Since American Samoa already has a draft Ocean Resources Management Plan, we will begin to move forward with the formal adoption of that plan, and its implementation. The proposed councils and agency could assist in directing funding for the full implementation of the plan. It's likely that the proposed NOC would also be expanding the scope of ocean management, particularly in research and education, and we can begin to think about strengthening our own Ocean Resources Management Plan. This may also assist in our plans to establish a marine laboratory, since research and data collection are seen as key areas

Recommendation 5-2

Links to the regional information programs should be clarified and strengthened.

Regional Ocean Information Programs, which will be one of the technical arms of the regional councils, have been identified by region, and the Pacific insular area is identified as one. However, the node for that region is not:

American Samoa would like to be considered for the Pacific Islands node for Pacific Island Information Programs.

Recommendation 6-3

This recommendation for a uniform process for the design and implementation of MPAs is too simplistic. There is no "one size fits all" in marine protected/managed areas, and there are many approaches that can lead from many levels that would serve to develop MPAs. For example, the design of a community-based managed area, such as the village fisheries management schemes we have developed in American Samoa, is a very different process than the design for a national marine sanctuary.

Recommendation 6-4

I do not see this as the best approach, especially in light of cultural considerations here, and elsewhere. This approach will take decision making out of the hands of local managers and communities, something we are striving to reestablish. Any regional body should exist to support and coordinate MPA efforts, not to do the work of folks on the ground.

Chapter 7

The report recommends eliminating redundancies and duplication between different governmental agencies and also gives the President the authority to reorganize federal departments and agencies. This should result in better operation by our federal government and reduce turf wars between departments and agencies that in the past had overlapping jurisdictions. We support a reorganization of coastal and ocean programs at the federal level and will begin our own review of local programs in that light.

Part III

Chapter 8

Recommendation 8-15

I cannot express enough my support of any initiative that will enhance education for our underserved Territory. The American Samoa Community College (ASCC) would take advantage of this, strengthening the marine science program, and there would be additional support for local students pursuing graduate ocean studies.

Part IV

Chapter 9

Recommendation 9-1

American Samoa strongly recommends that the CZMA be strengthened and reauthorized. The CZMA is an important vehicle for implementation of a wide range of OC recommendations because it takes an integrated approach and is an established federal-state-local partnership that acknowledges the central role of states and territories, and can effect vertical and horizontal integration of ecosystem management.

While American Samoa supports the focus of recommendation 9-1 on development of periodic, comprehensive resource assessments, states will only be able to conduct these assessments if adequate federal funding, above CZMA base federal funding (306/306A/309), is provided to states.

American Samoa supports the movement towards development of measurable goals and improved program evaluations. At the same time, we encourage the Commission to acknowledge increased costs associated with performance-based management. A real cost estimate should be conducted for implementation of the recommendations provided by the OC with a phased approach to final implementation.

Additionally, American Samoa recommends that the National Ocean Council develop guidance for federal agencies to ensure that federal funding decisions are fully coordinated with state programs for land use planning and growth management, urban revitalization, and rural conservation planning and that the *federal consistency provisions* of the CZMA are applied to these funding decisions. In order to assist the National Ocean Council in developing these requirements, the *National Academy of Sciences* should review and make recommendations regarding:

- The extent to which federal grants, loans and subsidies and policies relating to public infrastructure influence or encourage inappropriate and unsustainable coastal land development patterns;
- The extent of negative effects on long-term ecosystem health from land use practices supported by federal funding decisions; and
- The extent that federal funding policies etc. conflict with current state, local and regional planning efforts to protect coastal resources

Recommendation 9-3

American Samoa would also recommend to include other agencies such as; Department of Interior, Housing and Urban Development, and Department of Transportation (Federal Highway Administration) in the listed agencies on Page 113.

Chapter 11

Recommendation 11-1

The regional ocean councils should be charged with setting the priorities for habitat conservation and restoration. The regional councils would be making decisions that would impact the local management, demanding that we ensure close ties between the council and the local programs.

Part V

Chapter 14

Recommendation 14-8

This is already occurring within EPA jurisdictions. State/Territorial EPAs have established watershed protection plans in place. The American Samoa Environmental Protection Agency has many watershed protection plans that are being implemented with an established monitoring program.

Recommendation 14-9

This recommendation in theory could be very beneficial to the non-point source pollution programs. However, the process in the actual merge needs to be carefully outlined and applied. The EPA should not inherit staff from the NOAA-program. All staff that would fill the positions for the expanded EPA incentive based program should be selected directly by EPA based on their needs, standards and requirements

Recommendation 14-11

American Samoa recommends that state and local governments require land use planning and decision-making to balance development required to meet population growth and economic needs with protection of critical coastal resources, including revitalizing waterfront areas, and minimizing individual and cumulative impacts of development on coastal water quality from stormwater runoff. Federal agencies and other appropriate entities should increase outreach programs that provide local land use decision makers and citizens with the information and skills needed to make sound land use decisions. We further recommend that the NOC require the federal agencies to provide technical assistance and training to the state and local governments.

Part VI

Chapter 19

Recommendation 19-1

The requirement to weigh decision-making based on the SSC recommendations will help the councils move away from having all decisions made largely by the fishing industry. However, the requirements for the candidates for the SSC may strain our ability to provide representation for American Samoa on this important committee. The recommendation states that the candidates must pass a strict review based on their scientific merit, and that each candidate would have a fixed term, necessitating a cadre of scientists locally who would be able to meet the requirements. This will be a difficult hurdle for small Pacific island, particularly ours that does not have a four year institution or graduate school to draw expertise.

Recommendation 19-2 and 19-3

The recommendation calls for more support for fisheries research that will be needed for the SSC to make their recommendations to the Councils, and develop fisheries plans. This reinforces our continued pursuit of a marine laboratory based here.

Chapter 21

This chapter focuses one of our key ocean resources, our coral reefs. As the report dutifully notes, coral reefs are in dramatic decline worldwide. So far, our own reefs remain healthy, but the impacts of repeated and more frequent bleaching events, and the potential of increasing frequency of hurricanes—both results of global climate change—put all reefs, including American Samoa's, at risk. We strongly support any efforts to strengthen coral reef protection and management efforts. We encourage finding alternatives—such as aquaculture, stronger

trade prohibitions, and regulation of harmful land practices—to extraction and loss of coral reef resources.

We also recommend that the new focus on deep sea corals, though important, not deflect from the most important objective of conserving our coral reefs. This can be accomplished by giving separate attention to deep sea coral communities, and not “mixing” their management with coral reef issues.

Recommendation 21-1

The Coral Conservation Act has served its initial purpose and it is time to strengthen and expand it. Currently it lacks strong protection and enforcement mechanisms. Since its funding authorization cycle concluded this year, the reauthorization should shore up the gaps in the Act, and it should be a stand alone piece of legislation, not a piece of the Fur Seal Act. Funding should be increased significantly to support the recommendations of this report. In addition, technical and funding support should be identified for management at the local level in the states and territories.

Recommendation 21-2

I would like to add my strong support to the U.S. Coral Reef Task Force. The structure of the Task Force, with the cabinet level co-chairs and high level participation on the part of the Executive Branch, had proven to be a powerful and effective means of coordinating coral reef efforts at the federal and state/territorial levels. I do have concern that placing the Task Force under the NOC might decrease the visibility and would be structured so that the top level attention that the Task Force by having cabinet level chairs might be compromised. I would not support any changes that would have the Task Force led by lower level bureaucrats.

Recommendation 21-3

American Samoa fully supports this recommendation and further recommends stricter regulation, and in some cases prohibition, of the importation of living marine resources into the US. As the number one importer in the industry, the US should take more of a proactive stance with regard to the practices of the collectors, whether the items were aqua cultured or live caught, etc.

In addition, we would support any efforts to encourage aquaculture of imported corals in order to reduce the world-wide coral trade.



Office of the Governor of Guam

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Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

14 MAY 2004

James D. Watkins
Admiral, U.S. Navy
Chairman, U.S. Commission on Ocean Policy
1120-20th St., N.W.
Suite 200 North
Washington, D.C. 20036

Dear Admiral Watkins,

A small island territory, Guam is surrounded by the vast Pacific Ocean, and our residents are keenly aware of the importance of the oceans to our lives. We greatly appreciate the work of the U.S. Commission on Ocean Policy and the opportunity to offer our input in this critical process. The oceans are truly the lifeblood of this planet and we must ensure that the resources we have taken for granted for so long will be healthy and vibrant for the generations that follow us.

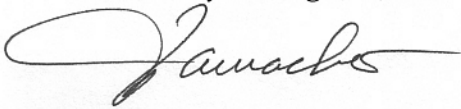
For Guam, the ocean is unquestionably vital to our way of life, from the shipping lanes that carry the great majority of our products to the beauty of our local shores that draws visitors to support our economy. The inviting waters of the Pacific act as a highway, a playground, and even a supermarket. Yet despite the obvious significance of our connection to the ocean, even on our small island we are faced with challenges in managing our relationship with our coasts and the wider Pacific. Our shores continue to suffer from thoughtless people, as well as from the unintended consequences of well-meaning decisions about the use of our coasts.

The Preliminary Report of the U.S. Commission on Ocean Policy offers a unique opportunity for our nation. Guam strongly supports several general themes of the report, including the call for increased cooperation to manage our resources, the urgent need for education and public awareness of our oceans and the challenges facing them, and the shift to an ecosystem based management approach. In particular, ecosystem based management has the potential to help us address long-standing concerns about the health of our coral reefs and other unique ocean habitats.

Specific comments regarding the report's numerous recommendations are contained in separate attachments. I hope the commission will seriously consider Guam's suggestions

and those of our island neighbors as it works to finalize this critical document for the future of one of our most precious natural resources.

Sinseru yan Magâhet,

A handwritten signature in black ink, appearing to read 'Famacho', written in a cursive style.

Felix P. Camacho
I Maga'Låhen Guåhan
Governor of Guam

U.S. Commission on Ocean Policy Preliminary Report

Comments from the Honorable Felix P. Camacho

I Maga'Låhen Guåhan

Governor of Guam

General Comments

The U.S. Commission on Ocean Policy Preliminary Report offers a broad overview of the numerous challenges facing our oceans, as well as the opportunities associated with thoughtful development of our marine resources. We strongly support three of the report's main themes: the shift to ecosystem-based management, the call for increased cooperation at all levels, and the need for education and awareness programs to foster a sense of stewardship in the population.

Guam and other islands already have begun to shift to ecosystem-based management, a need emphasized by the coral reefs that are so vital to our way of life. It is refreshing to see a national policy setting the same tone, as this approach will be vital to effectively manage our ocean resources. The problems of management approaches centered on individual species or isolated systems are apparent in the history of failed attempts to conserve and protect resources, and the move to an ecosystem-based strategy should yield positive results.

The call for increased cooperation also should help us better manage the complex ocean resources upon which we rely. The report correctly identifies the need for increased cooperation at all levels – within local, state and federal government agencies, regionally, and internationally. For Guam, a U.S. territory far removed from the contiguous states, such cooperation is especially important, as “regional” necessarily means “international.” Our ability to share information and resources with our neighbors is critical in any effort to manage ocean and coastal resources, and Guam needs the support of its federal partners to participate in efforts to accomplish any goals for conservation and protection of these resources. The need for better international cooperation in the area of resource management cannot be overemphasized.

The third theme of the report, the need for additional programs to educate and inform our people about ocean and coastal issues, is equally vital if we are to effectively manage and preserve ocean resources. If the public does not understand ocean issues, and more importantly, does not *care* about these issues, then we will never be able to secure the broad-based support we need to change our habits and protect the oceans for ourselves and the future.

Several other general comments bear mentioning in this section. First, the 30-day comment timeline, recently extended by two weeks, is grossly inadequate to review a 514-page document that took more than three years to complete. The dozens of

recommendations contained in the report can have major impacts, especially on an island like Guam where our entire landmass is coastal in nature, and such a short timeline does not provide enough time to thoroughly assess the report and its broad implications.

Second, the report unfortunately follows a typical pattern: it neglects to consider the Pacific island jurisdictions of American Samoa, Guam, and the Northern Mariana Islands. While the report consistently identifies Puerto Rico and the Virgin Islands in text and graphics, the Pacific insular areas are consistently omitted. For a report on national ocean policy, this omission is indefensible, as these islands are part of an ocean region that is similar in size to the contiguous states. The majority of the federal EEZ is located within the Pacific Ocean surrounding Alaska, Hawaii, Guam, the Northern Mariana Islands, American Samoa and the Pacific Remote Island areas. Yet the report clearly does not recognize the importance of ocean issues to these areas, or the potential implications of broad federal decisions that do not take into account the unique conditions of these regions. Without adequate input in the process of creating new programs, regulations and federal requirements, the islands may again be subjected to mandates that are both difficult to enforce and completely inappropriate for the islands.

In addition to a lack of consideration for Pacific Insular area conditions in the formulation of policies, the report does not seriously contemplate for the future implementation of such policies. Without explicit federal recognition of the tremendous resources needed to effectively manage these vast areas, Guam and the other Pacific territories face the prospect of ever increasing mandates and regulation requirements without the support to enforce these new provisions. Without adequate federal support, the islands will not be able to enforce the nation's interests in these waters, to the detriment of both the nation as a whole and the islands themselves.

Lastly, the funding for the recommendations in the report should be addressed at the earliest possible date. While many valuable recommendations are contained in the report, the funding requirements for these programs are not provided in any detail. The large estimates include no clear cost breakdowns, and it is unrealistic to think that these huge funding requirements will be met immediately. Without specific breakdowns, it will be difficult to prioritize actions and direct funding appropriately.

The link between development of ocean resources and funding for the programs also is problematic. The report would seem to be encouraging exploitation of ocean resources to fund research, education, and conservation programs, despite the fact that development of the resources could be at odds with the need to protect and conserve these resources.

Specific comments regarding each of the sections are provided below.

Part II **Blueprint for Change: A New National Ocean Policy Framework**

Chapter 4: Enhancing Ocean Leadership and Coordination

- **Recommendation 4-5.** It is necessary to provide clear guidelines on the composition of a newly created Presidential Council of Advisors on Ocean Policy. This is the highest level at which states, territories, tribal, and local government representatives can provide input to the proposed National Ocean Council. As such, critical components of the structure of this body, such as how individuals will be nominated, how many individuals will be selected, and how long they will serve, must be clearly identified in order to ensure an equitable representation. Given the vastness of the federal EEZ surrounding Hawaii, Guam, the Northern Mariana Islands, American Samoa, and the Pacific Remote Islands, and the disproportionately lower population base in these areas, the region should be guaranteed permanent representation on the body.

- **Recommendation 4-10.** The creation of regional ocean councils has the potential for great improvements in management of coastal and ocean resource concerns. However, the process should be mandatory, rather than voluntary, with guidelines developed by both the states and federal agencies for a clear role for these councils. Without statutory authority and a clear definition of the councils' roles and responsibilities, they will not be able to have the impact they need if they are to meaningfully change the way we manage our resources. We support the need for such councils but they must have clear roles and authorities, especially in regard to existing regional structures such as the fishery management councils and state level bodies tasked with specific coastal and ocean related management duties. Without the integration of these councils with existing regional structures, they risk becoming just another cumbersome layer of bureaucracy.

Chapter 5: Advancing a Regional Approach

Setting the Pacific insular areas as one region for the Regional Ocean Information Programs follows the existing well established regional fisheries management council pattern and seems most practical to meet the goals of this section. We also encourage federal support for regional councils that include international partners, to ensure that regional efforts truly include regional partners in areas like the Pacific where international neighbors are an integral part of the region.

- **Recommendation 5-1.** While this recommendation defines some of the roles of regional ocean councils, it fails to suggest a formal mechanism for the creation of such councils, or the need for statutory authority for the councils. Many of the council duties listed under this recommendation would be extremely difficult to fulfill if the councils are not formal organizations.

- **Recommendation 5-4.** We strongly support the inclusion of local and state level assessments in environmental impact statements and the need to include this requirement in NEPA guidelines.

- **Recommendation 5-5.** Bullet three under this recommendation calls for an open and competitive grant process. To account for smaller jurisdictions like the islands, there should be some baseline formula to ensure that smaller regions will have access to this funding. In many cases, competitive grant programs leave small jurisdictions unable to compete with the political clout and larger population bases of larger areas. A baseline system to account for this tendency will also go far in meeting the goals of Recommendation 5-6, to ensure that adequate support is given to regional programs. In addition, there should be no match requirements for the islands and indirect costs should be capped to ensure that the majority of the funding goes toward the program.

Chapter 6: Coordinating Management in Federal Waters

Increased coordination will do much to improve our ability to manage our resources. However, as in other recommendations advanced by the Commission, care must be taken to account for the differences between regions and their concerns regarding resource management.

For Guam and other Pacific insular areas, a precedent was set in providing opportunities for direct benefits to island governments from resources in surrounding federal waters, when Guam and other island governments were allowed to participate in benefits from foreign fishing boats in surrounding EEZs. We support similar island participation in management and benefits derived from the mining of seabed minerals, ocean energy projects and other activities, as such programs would have direct impacts on Guam waters and environment but not on other U.S. waters.

- **Recommendation 6-2.** We support the need for an offshore management regime for balanced coordination of offshore uses and a process for dealing with new and emerging activities. We ask that areas such as Guam and the other Pacific territories be included in the formulation of such policies, to ensure that development of ocean resources in the Pacific benefit the islands that will be most affected by these activities.
- **Recommendation 6-3.** Marine protected areas serve a valuable purpose in the management of our resources, and we support the need for federal involvement in such activities. However, given that Guam and many other states have already established such protected areas, we stress the need to tailor federal regulations to meet the needs of the existing programs. It would be vastly unfair to impose new regulations on existing successful programs, especially if such regulations do not take into account the traditional and cultural needs of a specific area. As public support of marine protected areas is crucial for their success, any new guidelines must be developed with regional needs and differences in mind.

Chapter 7: Strengthening the Federal Agency Structure

While we support the intent to reorganize federal agencies to more efficiently and clearly regulate development, manage our resources, and interact with state and local governments, this chapter also highlights the tremendous difficulties in reorganizing

federal entities. There is a danger that partial implementation of recommendations to improve federal coordination and promote efficiency could actually lead to new levels of bureaucracy and an even more convoluted structure. Further, incomplete reorganization projects could lead to a reduction in funding and other resources at a time when we need more help rather than less.

Part III Ocean Stewardship: The Importance of Education and Public Awareness

Chapter 8: Promoting Lifelong Ocean Education

We strongly support the recommendations listed in this section, as more concerted educational efforts will be essential to fostering understanding and a sense of stewardship for our valuable ocean resources. However, Chapter 8 focuses almost exclusively on formal, traditional education processes and may miss valuable opportunities to reach out to the wider public. For these programs, and school curricula, it is also important to reflect cultural influences to develop materials that are appropriate for each region and jurisdiction.

The report does a good job in detailing the need for K-12 curricula and incentives for ocean related degree work at the university level, but it fails to address the possibilities for work force education through ocean related skills at vocation and technical schools. The addition of these venues could produce a work force with more than competent skill levels and would help to provide the numbers of skilled workers necessary to meet the demands of continuing growth in sectors such as transportation, resource recovery, and environmental management.

Any oceans education policy must also include programs for public outreach and community based education campaigns to involve people who are no longer in school. There is an immediate need for public commitment, and school-based programs will fail to reach the great majority of the population who are not in any formal education setting. Education is a dynamic and continuous process that should be encouraged after formal education is completed. The islands have experienced some successes with community programs and we strongly believe that these types of options must be included in education policies.

Finally, the report briefly mentions the Minority Serving Institution Program of the NSF, but does not address one of the most noticeable and easily corrected shortcomings of the program. The current definition of minority for purposes of the program is narrow and does not recognize the native populations of the U.S. islands as being minorities; therefore, their institutions of higher learning are not recognized as MSI. This reduces opportunities for minorities and reduces the chances for a larger minority force entering the marine and ocean related sciences, despite the fact that the marine and ocean

environment are part of their lives from birth and they are more likely to remain in the islands after degree work. A new recommendation is offered here:

- **Recommendation 8-17. The National Science Foundation should expand its definition of "minority" to include natives of U.S. insular areas, and the institutions of higher learning within the U.S. insular jurisdictions as Minority Serving Institutions, to expand the opportunities for ocean-related higher education in those areas most immediately affected by ocean and marine issues.**

Part IV Living on the Edge: Economic Growth and Conservation along the Coast

Consistent with the Commission's call for ecosystem-based management, this section makes numerous references to the need for increased cooperation and new management tools to better protect our coasts and our oceans. In the area of coastal development and environmental management, the need for consideration of cumulative impacts of development has traditionally been overlooked. This need is mentioned throughout the section and we strongly support efforts to make this a factor in policies regarding coastal development.

Chapter 9: Managing Coasts and their Watersheds

The recommendations presented in Chapter 9 are sound, especially the reauthorization of the Coastal Zone Management Act to enable coastal programs to continue their mission and strengthen their role in natural resource management. We agree with an amendment that requires funding based on performance and incentives for exceptional work, but a need for a "safety net" to provide minimum funding for continuity of programs should be considered.

It is encouraging that the coastal programs will include watershed areas that have such a direct impact on our coasts. As islanders, we recognize the need for management of ocean resources "from the mountains to the sea," as whatever occurs on our limited land mass invariably affects the sea. We are quickly able to see the effects of poor land use practices on our beaches and near shore waters.

- **Recommendation 9-3.** We strongly support this recommendation. Guam is prone to severe typhoons and earthquakes, and ensuring that projects funded by the Federal Emergency Management Agency and the Army Corps of Engineers are consistent with island goals and best management practices will help us effectively manage our coasts. Many older projects on the shoreline do not take into consideration alternatives to ensure environmentally sustainable development. We suggest the addition of the Department of Transportation's Federal Highway program as another program that would benefit from review for coastal impacts and consistency.

Chapter 10: Guarding People and Property against Natural Hazards

As noted above, Guam experiences major storms and powerful earthquakes with alarming frequency. The island's experience with these types of natural disasters could be used to model plans for dealing with certain hazardous conditions and ensuring prevention of major losses due to these events. With respect to hazard mitigation and storm repair, we offer the following suggestions.

- **Recommendation 10-1.** We support the call for valid, peer-reviewed cost-benefit analyses of coastal projects, but the process should include a new cost-benefit matrix to take into account long-term costs, environmental factors, and other considerations. The traditional cost-benefit analyses should be changed to include long-term considerations and other factors, such as those mentioned in Recommendation 12-2 regarding analysis of disposal options for dredge material. For example, a certain stretch of coastal highway in Guam has several concrete power poles that have fallen in several storms. A traditional cost-benefit analysis calls for hardening and replacement of these poles, but does not take into account the number of times the infrastructure has been replaced - and the fact that Guam will almost certainly have another storm powerful enough to damage these poles again. Had a long-term scenario been built into the analyses, the lines could have been placed underground and saved millions of dollars.
- **Recommendation 10-2.** We agree with this recommendation, but ask that Guam and other islands be included in efforts to collect and use information regarding hazards. Guam and other territories have been neglected in the National Flood Insurance Program map modernization initiative, and our maps continue to reflect inaccurate, outdated data. Updating these maps and other hazard data should be a high priority, especially as older models used temperate climate assumptions that are not appropriate for Guam's unique circumstances.
- **Recommendation 10-3.** The Commission should include some consideration for small jurisdictions like Guam that have limited land area available for development. Guam's relationship with the National Flood Insurance Program has been rocky because of outdated maps and the program's inflexibility in dealing with certain historically and culturally sensitive areas. The program cannot adopt a cookie cutter approach that will unfairly target islands like Guam, which has an area of only about 200 square miles.

Finally, there is an urgent need to address environmental impacts of disasters, natural or otherwise. The National Response Plan that guides FEMA's response efforts for Presidentially declared disasters includes a series of Emergency Support Functions, ESFs, that provide specific and directed responses to various disaster needs. The lack of an ESF for natural environment response has sometimes had the effect of impeding a response and lengthening the time for a full recovery. We offer the follow suggestions to include in the final report:

- **Recommendation 10-5.** The Department of Homeland Security should ensure that procedures guiding FEMA's response to disasters include provisions, such as a detailed ESF, that support regional, state and local efforts to respond to impacts on natural environments as part of the immediate and overall recovery efforts. In coastal and marine areas, the lead federal agency for a disaster recovery ESF should be NOAA.
- **Recommendation 10-6.** In order to ensure that responses to impacts on natural environments following a disaster are conducted in the most efficient, effective, and cooperative manner, FEMA should work with state and territorial jurisdictions to develop local action plans for responding to natural environment impacts from disasters, which would assist in guiding FEMA's response capabilities.

Chapter 11: Conserving and Restoring Coastal Habitat

We strongly agree with the reauthorization of the Coastal Zone Management Act to provide additional funding for coastal and estuarine land conservation. Such a program would be a great benefit to Guam, since our local government no longer has land available for land exchange.

Chapter 12: Managing Sediments and Shorelines

- **Recommendation 12-4.** We strongly agree with this suggestion calling for federal agencies to work more closely with each jurisdiction to ensure impacts to coastal areas, wetlands, watersheds and ecosystems are managed and reduced.

Chapter 13: Supporting Marine Commerce and Transportation

The Port Authority of Guam (PAG) is the entry point for 95% (over 150,000 twenty-foot equivalent containers annually) of all cargo into Guam, and is the transshipment center for Micronesia with over 20 cargo ships outbound monthly. PAG is a federally regulated “hazardous materials” and “certain dangerous cargos” port. Additionally, PAG receives 5 million barrels of fuel, up to 100 fuel tankers, 27,000 cruise passengers, and 2,000 port calls by foreign fishing vessels annually.

Since September 11, 2001, PAG estimates that, in terms of manpower hours and equipment/facilities upgrades, the annual cost for implementing federally mandated port security requirements is \$1 million annually. To date, PAG has received roughly \$500,000 in federal funds for port security projects. This amount relates to just 17 percent of PAG’s total cost.

In comparison to billions of dollars that are made available to airports for security enhancements, the nation’s 326 ports must compete for inadequate federal funding levels to implement security measures. In FY04, \$179 million was made available for port security grants. Over 1,000 applications were submitted, with less than half of the applications approved for grant funding.

In light of the above, PAG is proposing additional language (italicized) to the following recommendation, as it applies to port security:

- **Recommendation 13-6. In developing a national freight transportation strategy, the U.S. Department of Transportation should work closely with the U.S. Department of Homeland Security and the Federal Emergency Management Agency to incorporate port security and other emergency preparedness requirements. The strategy should focus on preventing threats to national security and port operations and on response and recovery practices that limit impacts of such events, including an assessment of the availability of alternate port capacity, and sufficient funding levels to implement prevention, response and recovery strategies for the nation's ports.**

Part V Clear Waters Ahead: Coastal and Ocean Water Quality

The Commission makes numerous valuable recommendations for improving our ability to monitor and improve water quality, and we strongly support the need to revisit water quality programs. However, some recommendations within the chapter are too broad and may not be appropriate for all jurisdictions.

Chapter 14 also highlights a persistent challenge in balancing the needs of the community and the resource. While the report strongly advocates a shift to ecosystem-based management practices, Chapter 14 focuses on human health standards with regard to water quality standards. Human health is clearly of the highest priority, but standards that are sufficient to protect human health may not be sufficient to prevent adverse effects in the ecosystem. This discrepancy is perhaps most evident in delicate ecosystems such as the coral reefs, where the most fragile organisms may show extreme responses to minute levels of certain contaminants.

The maximum level of pollutants allowed for human health reasons does not necessarily present an accurate picture of the water quality of a given area. Establishing standards and conducting regular testing for the maximum level of pollutants for the most fragile element of the ecosystem would better reflect ecosystem health. Given the cost involved in testing procedures and the inherent level of uncertainty in determining the most harmful types and levels of contaminants, a good compromise might be to publish results indicating the levels of all contaminants, with a comparison showing the effects on certain indicators within the ecosystem as well as the traditional public health effects.

Generally, the relationship between all elements of the coastal environment also must be considered. Water quality recommendations and regulations have traditionally relied on water column testing that may not present the full picture of water quality. The quantity of contaminated sediment, which may contain bacterial and chemical pollutants, is of concern, as noted in Chapter 12. Yet water quality standards consistently leave out the

integral relationship between these elements, especially in recreational areas where such sediment is regularly stirred up by both natural processes and human activities.

Finally, the need for standards that reflect different conditions is essential. Existing programs rely on many protocols developed in temperate systems that simply do not reflect the conditions of areas like Guam. A concerted effort to develop testing and monitoring programs suited for each area must be a part of any effort to revisit standards with the goal of improving our water quality.

Specific recommendations for each chapter are presented below.

Chapter 14: Addressing Coastal Water Pollution

- **Recommendation 14-1.** This calls for states to require advanced nutrient removal from wastewater treatment plant discharges into "nutrient impaired waters." Also, EPA is to characterize the extent of the impact of household and industrial chemicals in wastewater. Guam sewage treatment plants are designed to discharge into waters that are not nutrient impaired. Therefore this extra and costly treatment should not be part of Guam requirements. However, Guam would benefit from the recommended study, which would improve knowledge of chemical impacts on Guam's unique reef ecosystems.
- **Recommendation 14-2.** We strongly support this recommendation, especially in the areas of system maintenance education and innovative designs to improve treatment effectiveness.
- **Recommendation 14-4.** We strongly support this recommendation, which recognizes the need to plan for and implement wastewater and drinking water infrastructure needs. This may bring the highest benefit to Guam and the island territories, if it does lead to an increase in federal funding for needed infrastructure and infrastructure plans. However, additional regulations and suggestions within the Commission preliminary report also call for additional requirements and costly changes to water and wastewater systems, raising the question of a never-ending cycle of changes that will require more and more funding.
- **Recommendation 14-6.** This calls for strengthening the NPDES permit system's monitoring and enforcement. Improvement and strengthening this system is very important to Guam, though this effort would have to be initiated by U.S. EPA as Guam is one of just a few remaining states and territories that have not obtained NPDES permit authority. Additional federal funding should support this.
- **Recommendation 14-8.** We support this recommendation, with the following clarifications. EPA should develop rules to ensure regular testing of both fresh and near shore waters in both water column and sediments, and federal programs for water quality testing and maximum levels of pollutants should be based on the specific ecosystem, rather than national average standards. Certain levels of pollutants

that may be considered “acceptable” in other areas would do major damage to more sensitive systems such as coral reefs.

- **Recommendation 14-9.** While this suggestion correctly identifies a need to reduce bureaucracy by merging the complementary U.S. EPA Section 319 and NOAA Section 6217 programs on nonpoint source pollution, care should be taken not to lose funding or functions and simply eliminate one program without moving its resources. Congress should also eliminate sanctions of the 6217 program and authorize and appropriate the necessary funds for its implementation. If the Guam Coastal Management Program (GCMP) were to take on seashore protection and development permit enforcement responsibilities, then, it would be appropriate to retain the 6217 Program under GCMP as opposed to moving it under the jurisdiction of the Guam Environmental Protection Agency.
- **Recommendation 14-11.** Guam will benefit from this call to strengthen the ability of local land use decision makers to protect water quality and may improve our land use planning through results of this recommendation.
- **Recommendation 14-12.** We strongly support this recommendation calling for a comprehensive approach to storm water management and funding, but there must be a commitment to follow-through when these types of federal initiatives are made. One way to ensure follow-through is to enlist the cooperation of the Department of Transportation, tying the continued apportionments of highway funding to compliance with local regulations for managing storm water runoff. Additionally, as with other standards, federal entities must be careful not to adopt a “one-size fits all” approach, as conditions in the various coastal systems vary widely between jurisdictions.
- **Recommendation 14-13.** We strongly support this recommendation, although it is fairly non-specific as presented. For Guam, “regional” cooperation necessarily involves international partners, and this reality should be reflected in the report. The Commission promotes involvement with international programs, as exist in the Caribbean, and similar attention and support should be given to international programs for ocean water quality in the Pacific. Continuing relationships with the South Pacific Regional Environmental Program (SPREP) should be promoted, via the Pacific Islands Office of EPA Region 9 and the American territories that are SPREP members. Additionally, in order to promote regional international cooperation and participation NOAA should consider expanding and diversifying program capacity through Pacific insular areas and Hawaii.

Chapter 15: Creating a National Water Quality Monitoring Network

The Commission addresses the need to strengthen and improve water quality monitoring, which we strongly support. However, this chapter fails to address the well documented problems of national standards for recreational water quality monitoring, which are not appropriate in Guam, Hawaii, CNMI, American Samoa and probably the tropical Caribbean areas and southern Florida. Dr. Roger Fujioka of the University of Hawaii

Water Resources Research Center and colleagues have shown that the current U.S. EPA recommended fecal pollution indicators (*E. coli* and *Enterococcus* sp.) are not suitable for assessing human health risks in the tropics. They survive in tropical conditions outside of warm-blooded hosts and can be detected in coastal tropical waters where there are no warm-blooded animal or human sources of contamination. They can multiply and persist in soil, sediments and water in Guam and other tropical environments. Alternative indicators are needed for monitoring recreational water quality in the tropical islands.

Chapter 16: Limiting Vessel Pollution and Improving Vessel Safety

We support the recommendations in Chapter 16, noting that many need substantial increases in available resources if they are to become a reality. For Guam and the other island jurisdictions, additional programs will need substantial support, as the island already experiences difficulty enforcing many regulations because of a paucity of both federal and state enforcement personnel to handle a vast expanse of the Pacific.

- **Recommendation 16-1.** We support this recommendation, though other mechanisms to address foreign vessels should also be put in place.
- **Recommendation 16-2.** This item calls for support for increased performance-based inspection of vessels by the Coast Guard and coordination with increasing security requirements. Support for increasing Coast Guard resources is necessary and important to Guam. In addition, in terms of strengthening environmental protection, the Coast Guard's ability to assist in and respond to environmental threats from vessels should be expanded under the Oil Pollution Act of 1990 to include situations such as vessel groundings when there is no imminent threat of releasing oil into the marine environment.
- **Recommendation 16-4.** We support the call for the Coast Guard to harmonize port state control programs through the IMO and support an international vessel information database.
- **Recommendation 16-5.** We support the request for Congress to amend the Clean Water Act to address large passenger vessel discharges, a practice already in place in Alaskan waters. This is an especially important recommendation because it offers the rare chance to prevent problems, rather than trying to address them at an advanced stage. For Guam, this provision is especially timely, as cruise ship calls are projected to increase substantially in coming years. U.S. EPA and Coast Guard enforcement personnel highlighted the growing problems with this type of pollution in similar jurisdictions like Hawaii and Guam would strongly support measures taken to prevent similar concerns before the industry grows in our region.
- **Recommendation 16-8** would increase funding for pumpout facilities and transfer responsibility of this program from the Fish and Wildlife Service to the EPA. This program needs improvement in its application to Guam, which might be helped by this recommendation.

- **Recommendation 16-14** calls on national agencies to conduct research on all kinds of vessel pollution to allow better management and regulation to control impacts. This broad approach and new information generated will benefit all.
- **Recommendation 16-15.** This promotes increased awareness of maritime activities especially for the authorities dealing with safety, security and pollution. This will require additional resources for the Coast Guard and their provision should likewise be recommended.

Chapter 17: Preventing the Spread of Invasive Species

Impacts of invasive species are well recognized on Guam, due to the unfortunate introduction of the brown tree snake and resulting loss of native species. Under the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (NANPCA), states are encouraged to develop plans for managing invasive aquatic species. Federal funding to support the development of these plans has been inadequate, and the implementation of such plans will require significant resources if we are to make any impact.

Guam is currently preparing a comprehensive approach to planning for controlling existing invasive species problems and preventing invasions by other unwanted species, both aquatic and terrestrial. The recommendations in Chapter 17 will assist the island and other jurisdictions dealing with this growing problem.

- **Recommendation 17-1.** We support the call for the U.S. Coast Guard to continue its work in improving regulation of ships' ballast water, with the addition of EPA consultation, and to address ships declaring no ballast. However, there should be recognition of the need for more specialized resources for the Coast Guard to carry out this mandate.
- **Recommendation 17-2.** We support the recommendation for the National Ocean Council to commission an independent scientific review on improvement of ballast water management research and demonstrations.
- **Recommendation 17-3.** We support this call for public education and outreach about the numerous pathways of aquatic species' invasions. Finding and interrupting the transfer of invasive species may be our best hope of avoiding an expensive and protracted campaign to control or eradicate pests, as we are currently experiencing with the brown tree snake.
- **Recommendation 17-4.** We strongly support the call for a coordinated multi-agency national plan for early detection of invasive species. A system for prompt notification and rapid response that would assess current problems, identify pathways of invasion and provide for means to prevent invasions and support detection and rapid response. Congress is asked to fund and implement this national plan. As part of the recommendation, support needs to be continued to individual states and territories that have not done so, to develop their plans for managing invasive aquatic species, in partnership with the national plan development.

Guam also recommends an amendment to bullet five under this recommendation, to recognize the value of groups that can aid in the detection of and early response to invasive species:

- **Develop partnerships among government, industry and user groups to fund and implement response actions**, *to include education and educational material development for groups that can provide consistent “eyes” for species or ecosystem change, and a reporting system that will allow information to be gathered and compiled and analyzed by scientists and resource managers familiar with the specific ecosystem.*
- **Recommendation 17-5.** This calls for the National Ocean Council to streamline federal and regional programs on invasive species and coordinate federal, regional and state efforts, developing risk assessments and management approaches that will minimize potential invasions at the lowest cost. The place or appropriateness of U.S. island territories in regional programs needs to be considered. Their unique situations may make the national efforts ineffective in the islands, where special consideration may be required.
- **Recommendation 17-6.** Besides a proposed North American effort, the U.S. should consider other regional approaches, for example, through the South Pacific Regional Environmental Program for the nations and territories of the Pacific Islands.
- **Recommendation 17-7.** This recommendation calling for increased funding for the NOC to coordinate the development and implementation of a plan for research and monitoring of aquatic species invasions is commendable, as long as island territories are included in the plan.

Chapter 18: Reducing Marine Debris

Both the impact and volume of marine debris have been greatly increasing and pose threats to total ocean ecosystems as well as to inshore reefs and coastal waters. We support the recommendations in this chapter and strongly support increased federal attention to this serious problem. This is especially significant for Guam, as the problems of derelict fishing gear and other marine debris are related to non-U.S. flagged vessels as well as local and other U.S. ships.

- **Recommendation 18-2.** This recommendation to have the NOC establish a committee to address marine debris can help support local efforts to protect Guam waters from litter and other significant debris sources. The recommendation could benefit by a more specific call for community action, particularly with regard to the relationship between inland actions and their effects on the coasts.
- **Recommendation 18-3.** This provision calls for a multi-national approach to address derelict fishing gear. We support this recommendation, especially because most

impacts of such gear in Guam arise from non-US vessels. A system to identify nets could help enforcement efforts, by making it possible to identify culpable parties and secure funding for net retrieval or environmental restoration costs.

Part VI Ocean Value and Vitality: Enhancing the Use and Protection of Ocean Resources

Chapter 19: Achieving Sustainable Fisheries

- **Recommendation 19-8.** We strongly oppose a one-size-fits-all approach regarding recreational licensing, as it is clearly not needed for Guam. In addition, for most island jurisdictions this is a local issue, occurring within three miles of shore. The Commission bases the need for the recommendation that NMFS should require all saltwater anglers to purchase licenses on the fact that data on recreational fishing are inadequate and generated primarily by the NMFS Marine Recreational Fisheries Statistics Survey. However, on Guam, the USFWS Federal Aid in Sport Fish Restoration, through a grant to the Guam Division of Aquatic & Wildlife Resources, has been funding both inshore and offshore creel surveys for more than 20 years. A total of 384 surveys per year capture data from recreational and subsistence fishermen. Guam's database is far superior to any data that could be generated by a mandatory license program that comes with an increased need for enforcement. Requiring mandatory licenses for all saltwater anglers places a large burden on already overburdened enforcement efforts, without any identification of the need for additional funding.
- **Recommendation 19-14.** *All* members of the Regional Fishery Management Councils, not just newly appointed ones, should take a mandatory training course.
- **Recommendation 19-15.** Regarding the 4th guideline, there should be no fee waivers. The public should be appropriately compensated for granting dedicated access privileges to a public resource.
- **Recommendation 19-17.** We strongly support the recommendation for increased funding for Joint Enforcement Agreements between NMFS and state and territory marine enforcement agencies. This is especially critical to the islands in the Western Pacific, where currently one NMFS special agent is responsible for federal marine enforcement in an ocean area similar in size to the contiguous 48 states. In addition, multiple JEAs are needed in jurisdictions with unique circumstances, such as Guam, where a JEA is already in place with the Department of Customs and Quarantine and one is needed with the Division of Aquatic & Wildlife Resources. However, a match waiver should be available for the Territories, where local tax bases are much smaller and local marine enforcement agencies are already severely under-funded.
- **Recommendation 19-18.** We strongly support the recommendation for strengthened cooperation between NMFS and USCG for the same reason identified above, as one

NMFS special agent currently has jurisdiction over all the islands in the Western Pacific.

- **Recommendation 19-20.** A Vessel Monitoring System (VMS) should also be a part of international forums, for example as part of negotiations on treaties for managing highly migratory species.
- **Recommendation 19-21.** The recommendation calls for NMFS to work with other management entities to protect essential fish habitat when such areas fall outside their jurisdiction. In addition to the items listed, this effort should also include a clear definition of “protection.”
- **Recommendation 19-22.** This recommendation calls for NMFS to expand current efforts to collect data on all types of bycatch, not just commercially important species. The term “bycatch” should be expanded to include sessile species that may not be determined to be essential fish habitat, such as the deep-water corals at risk from destruction by trawls.

Chapter 21: Preserving Coral Reefs and Other Coral Communities

- **Recommendation 21-1.** This recommendation calls for the passing of a Coral Protection and *Management Act*, but does not follow up with any provisions for management and established funding for management. The purpose of the Task Force is centered on science-based management. The current funding is subject to an annual (deliberate) inclusion in NOAA’s budget, rather than from an established and permanent funding source. We recommend the addition of a bullet for support, in both technical and financial form, for locally driven management of coral reef ecosystems in the U.S. coral reef states and territories. In addition, the U.S. flag islands often share a closer relationship to other small island states than to the mainland U.S., geographically, culturally and economically. Because of these special relationships, we suggest amending the 5th bullet to allow for direct involvement by state and territorial members of the U.S. Coral Reef Task Force in bilateral, regional, and international coral reef management programs. In terms of protection, the permitting of activities directly involving coral reefs and other sensitive marine ecosystems should be removed from the purview of the Army Corps of Engineers and placed under NOAA. In addition, the legislation should not allow activities conducted by the Department of Defense to be exempted unless a clearly defined, immediate, and direct threat to national security exists.
- **Recommendation 21-2.** In regard to the suggestions that the U.S. Coral Reef Task Force be codified, we have concerns that the Task Force’s recommended role within the framework of the National Ocean Council may weaken the Task Force by allowing Task Force membership to be relegated to lower echelon persons within the federal membership. We would support language that would keep the federal agency representation to the Task Force at the Assistant Secretary level, and the co-chairs at the Secretarial level.

We also have serious concerns about the inclusion of deep-water corals within the framework of the Coral Reef Task Force. As its name implies, the Task Force focus was intended to be on reef-building corals, and while some deep-water corals may be associated indirectly with reef-building corals in tropical areas, the broad inclusion would work to weaken the primary focus and goal of the Task Force. We believe that deep-water corals are a concern and should be addressed, but great care must be taken in selecting the proper venue for their attention. Deep-water corals require different management regimes, different science, and are generally associated with completely different ecosystems (the possible exceptions being deep water corals in proximity to tropical reef systems).

Impacts to deep-water corals are primarily a fisheries issue. We therefore recommend that instead of expanding the Task Force's responsibilities to include deep-water corals, a sub-group of the Task Force should be created, with new participation by entities involved with deep-water corals, to determine the proper, existing venue for management attention, such as the Regional Fishery Management Councils.

- **Recommendation 21-3.** The report correctly states that due to its status as the world's largest importer of ornamental coral reef resources, the U.S. has a great responsibility to ensure the sustainability of these resources. However, the recommendation to develop national standards and promote international standards to ensure coral reef resources are collected in a sustainable way, with the implementation of incentive programs to encourage compliance does not go far enough. To truly ensure sustainability, there must be a shift away from harvest of wild stock toward cultivation.

To this end, bullets should be added to the recommendation tasking NOAA with: publishing procedures for coral cultivation through fragmentation or sperm/egg reproduction, and making the information available to the governments of those countries where wild harvest for export now occurs; developing workshops on coral cultivation and presenting them to communities where reef harvest currently exists; working with research institutions and businesses associated with home aquarium trade to develop a procedure for identifying cultivated corals in commerce; and working with the U.S. Fish and Wildlife Service to develop and implement a phased system to ultimately prohibit the importation of wild stock corals into the U.S.

- **Recommendation 21-4.** In line with our comments for Recommendation 21-2 above, regional, ecosystem-based research plans should not be developed for deepwater coral communities by the Task Force.

Chapter 22: Setting a Course for Sustainable Marine Aquaculture

- **Recommendation 22-1.** This recommendation calls for NOAA to be the lead agency for implementing a national policy for environmentally and economically sustainable marine aquaculture, but, by attempting to balance the responsibility for both environmental concerns and economic development of an industry in the same agency, the same risks for conflict of interest exist as given in the example for the Stellar sea lion on page 259. In addition, funding must be identified for a new Office of Sustainable Marine Aquaculture.

Chapter 23: Connecting the Oceans and Human Health

The commission should provide a formal recommendation to establish a procedure to enter into benefit sharing agreements (both federally and for states and territories), based on the success of the National Park Service in this area.

Chapter 24: Managing Offshore Energy and Other Mineral Resources

- **Recommendation 24-1.** We strongly support the use of a portion of the revenues that are generated from current leasing and extraction of OCS oil and gas for grants to coastal states for conservation and sustainable development of renewable ocean and coastal resources. However, as stated in the general comments above, new funding for many of the recommendations put forth in this document should not be solely dependent on revenues generated from new development of ocean resources.
- **Recommendation 24-2.** We strongly support the need for increased funding for the Mineral Management Service's (MMS) Environmental Studies Program. This funding should come from the revenues that are generated from current leasing and extraction of OCS oil and gas.
- **Recommendation 24-3.** This recommendation calls for establishing a partnership between NOAA, MMS, and the offshore oil and gas industry allowing for the use of industry resources for IOOS. The use of industry resources could also be added as a condition of current leases if the industry is reluctant to enter into a partnership.

Part VII Science-based Decisions: Advancing Our Understanding of the Oceans

Chapter 25: Creating a National Strategy for Increasing Scientific Knowledge

- **Recommendation 25-1.** We strongly support enlarging the National Sea Grant College Program by expanding it to include formation of a Sea Grant Institute (consortium) in the Western Pacific.
- **Recommendation 25-2.** We strongly support the recommendation to develop a national ocean research strategy, especially the suggestion that agencies be required to provide multi-year (greater than 5 year) funding. For small islands such as Guam, it is extremely difficult to address capacity issues when funding is only guaranteed on a yearly basis. Time spent on receiving funds, establishing accounts, recruiting for positions and selecting qualified individuals takes a minimum of 6 months, leaving only 6 months on an annual grant to complete all work identified in a project. This situation is untenable and often results in the loss of unobligated funds. In addition, we firmly support a shift toward management-driven research.
- **Recommendation 25-3.** This recommendation calls for the inclusion of

socioeconomic research as part of greater ocean research efforts. This is especially important in small island communities, where the ocean plays a tangible, direct role in everyone's life and economies are often based on one or two industries vulnerable to economic fluctuations. Natural resources and their cultural importance are often overlooked or undervalued during times of economic recession.

Chapter 26: Achieving a Sustained, Integrated Ocean Observing System

We support the creation of a sustained, Integrated Ocean Observing System, especially the involvement of state, local, territorial, and tribal management agencies, industry, academia, NGOs, and the public in developing IOOS. We also support the need for enhancing ocean infrastructure and technology development. However, many of the components outlined in Chapters 26 and 27 are extremely expensive, so care must be taken to balance the funding needs of these efforts with the funding needs of local, on-the-ground, management efforts by the states, territories, and other local entities. We strongly support more integrated and user-friendly data and information systems, especially the recommendations calling for more timely submission of data. Local managers need to be able to access data in real time in order to make effective management decisions.

Part VIII The Global Ocean: U.S. Participation in International Policy

Chapter 29: Advancing International Ocean Science and Policy

The United States has traditionally been a leader in international ocean policy and has participated in the development of many international agreements that govern the world's oceans. That leadership must be maintained and supported, as the Commission expresses through Chapter 29.

- **Recommendation 29-1.** We strongly support the Commission's recommendation for the U.S. to ratify the 1982 United Nations Convention of the Law of the Sea. Until that step is taken, the U.S. will not be able to fully participate in the bodies established by the convention to make decisions on ocean issues. This inability to participate directly has major effects for the nation as a whole, and particularly for island territories like Guam that are tied so closely to the ocean that surrounds us.
- **Recommendation 29-2.** We further support the Commission's call to have the National Ocean Council coordinate an expedited review and analysis of the ocean-related components of the Convention on Biological Diversity.
- **Recommendation 29-6:** In addition to the FAS, the insular U.S. areas enjoy many opportunities, and on a regular basis have meaningful interactions with other islands in the international community. Whether it is the two U.S. flag islands of the Caribbean, or the Pacific flag islands, the relationships with regional, independent nation islands is natural because of shared resources and issues, and close cultural ties

that extend back many centuries in some cases. In several cases, the islands share past political connections as well. The federal government should encourage these existing relationships, as they provide natural connections between the international island community and the United States, and can provide the basis for regional efforts in connection with the International Coral Reef Initiative and the Pacific Islands Regional Ocean Policy. The U.S. should therefore expand the current opportunities for the commonwealths and territories to join and participate in regional and international forums, such as the Pacific Islands Forum.

In 2000, after a six-year effort involving the United States and 33 Asian and Pacific nations, the U.S. signed the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. This convention, which recognizes the economic importance of the fisheries to the people of the Pacific Islands, includes strong provisions for minimizing the negative impacts of fishing and for protecting biodiversity. We recommend the Commission include this convention in its list of international ocean agreements and support an active U.S. role in funding and implementing this important convention. This is an important step in the protection and management of highly migratory species, and plays a role in a larger scheme including the implementation of the U.N. Agreement relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks as well as the International Convention for the Conservation of Atlantic Tunas and the Inter-American Tropical Tuna Convention.



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

June 4, 2004

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

Dear Chairman Watkins:

Thank you for the opportunity to review the U.S. Commission on Ocean Policy's Preliminary Report. This is a historic opportunity for our nation to take stock of ocean management and set a course for the future. As an island community, the Commonwealth of the Northern Mariana Islands (CNMI) is especially aware of how important the oceans are, not just to the nation, but to our own quality of life and to our economic and ecologic well-being. I would like to offer the following comments in the spirit of collaborative partnership and in the interests of improving federal programs and fostering improved federal-state/territorial relationships.

The report recognizes that the Great Lakes have often been overlooked in coastal management thinking and considers them the "Fourth Coast." In the same sense, the CNMI, Guam, and American Samoa have often been overlooked as remote Pacific outposts. Perhaps we and the other island states and territories should be called the "Fifth Coast." Just as the Great Lakes are unique with their freshwater resources, we are unique with our very diverse, complex tropical coral reefs and extensive open-ocean resources. All these resources are fundamental to our traditional cultures and they are national environmental and economic treasures. However, our distance from the mainland sets us apart. Many of the maps in your report don't include all the island territories. This distance also severely hinders many elements of our coastal and ocean resource management programs including research, education, and recruitment of local staff, recruitment and retention of off-island experts, as well as support from Congress. I would like to strongly recommend that the Final Report specifically recognize the obstacles we face and make some provision for bridging these gaps.

The issues addressed in the Preliminary Report are clearly critical to the social, economic, and environmental welfare of the nation, as well as the CNMI. These include national re-organization and leadership, ecosystem management, fisheries, water quality, coral reefs, marine trade, aquatic nuisance species, science, and education. The enclosure contains specific comments on recommendations in the U.S. Commission on Ocean Policy's Preliminary Report. In addition, I

would like to support the comments of the U.S. All Islands Coral Reef Initiative Coordinating Committee, and the Coastal States Organization. The following are some of the key recommendations of concern to the CNMI:

- **CHAPTERS 4–7.** The CNMI supports the recommendations for improved coordination, leadership, regionalization, and streamlining of federal agencies. We hope these changes can be jumpstarted through an Executive Order, legislation, or other direction to agencies.
- **RECOMMENDATIONS 4-7, and 4-8.** The proposed National Ocean Council and the proposed COSETO and CORM committees should have strong state/territorial representation, because the scope of these committees significantly overlaps with state/territorial interests.
- **RECOMMENDATION 5-3 AND OTHERS.** The CNMI endorses the recommendations throughout the report that call for bringing ecosystem thinking into coast and ocean management. However, we caution against an across-the-board application without reasonable time for implementation in such ecologically complex and taxonomically diverse areas as the CNMI.
- **RECOMMENDATION 5-5.** The proposed regional board in the insular Pacific region should be expanded to include representatives from each state and territory, the director of MAREPAC, and the U.S. All Islands Coral Reef Initiative Committee.
- **RECOMMENDATION 6-2.** The CNMI has a strong economic and ecological interest in the EEZ and offshore activities. There should be a direct role for states and territories in offshore management, in addition to reviewing federal projects for consistency with the federally approved state coastal management programs. Along with their management role, the CNMI and other insular areas should derive a beneficial interest from the extraction of offshore resources. This is important because for insular areas, where upland resources are limited, offshore resources can be the key to economic self-sufficiency.
- **CHAPTER 8, PAGE 102.** I would like to request that a recommendation be added that calls for the National Science Foundation to expand their definition of “minority” to include natives of U.S. insular areas and the institutions of high learning within the U.S. insular jurisdictions as Minority Serving Institutions. This will expand the opportunities for ocean-related higher education in those areas most immediately impacted by ocean and marine issues on a daily basis.

Admiral James D. Watkins

June 4, 2004

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- **RECOMMENDATION 9-1.** Congress should reauthorize and amend the Coastal Zone Management Act (CZMA), as a critical, high priority action for improved coastal and ocean management. Although the U.S. Commission on Ocean Policy's recommendation addresses core issues, this recommendation also needs to recognize and strengthen other elements of the CZMA, including habitat restoration, community planning and smart growth, ocean management, watershed management, and support for special-area management planning.
- **RECOMMENDATION 14-4.** The CNMI strongly endorses this call for a prioritized, comprehensive plan for long-term funding of the nation's current aging and inadequate wastewater and drinking water infrastructure and for increased funding of the State Revolving Fund.
- **CHAPTER 21.** The CNMI endorses these recommendations related to protection, management, and sustained use of our coral reefs. The U.S. Coral Reef Task Force should be codified and strengthened. I urge the acceptance of the specific changes requested by the U.S. All Islands Coral Reef Initiative Coordinating Committee.
- **RECOMMENDATION 24-1** The CNMI strongly supports sharing of OCS revenues to support sustainable development of renewable ocean and coastal resources.
- **RECOMMENDATION 30-1.** The CNMI also strongly supports the recommended Ocean Policy Trust Fund and the principle of reinvestment in renewable resources and conservation and to assist states and territories with impacts.

Thank you again for undertaking this critically important project and for including the Governors in your review process.

Sincerely,

s/Diego T. Benavente
Acting Governor

Enclosure: Detailed Comments



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Juan N. Babauta
Governor

Diego T. Benavente
Lieutenant Governor

Detailed Comments by the Commonwealth of the Northern Mariana Islands (CNMI) on the *Preliminary Report of the U.S. Commission on Ocean Policy* June 4, 2004

Note: Text from the *Preliminary Report* is shown in **10 point bold type**. CNMI comments are in normal 12 point type.

CHAPTER 4: ENHANCING OCEAN LEADERSHIP AND COORDINATION

4-1. Congress should establish a National Ocean Council and a nonfederal Presidential Council of Advisors on Ocean Policy within the Executive Office of the President to provide enhanced federal leadership and coordination for the ocean and coasts.

The creation of a National Ocean Council (NOC) for enhanced federal leadership and coordination could be a significant benefit to the management and research of the Nations' ocean resources.

4-3. The National Ocean Council (NOC) should adopt the principle of ecosystem based management and assist federal agencies in moving toward an ecosystem-based management approach.

The CNMI endorses this recommendation in principle. However, strict adherence to an ecosystem-based management approach, coupled with the application of a precautionary approach, could result in the complete closure of fisheries in the CNMI that have been successfully sustainable for hundreds of years. The biological data available for these exceedingly diverse tropical ecosystems is very limited, the area encompassed is very large, and the professional capacity of our communities is very small.

The CNMI urges that the NOC and the proposed COSETO and CORM committees have strong state and territorial representation. This is because the 'purview' of these councils/committees significantly overlaps state/territorial interests.

4-4. An Assistant to the President should be assigned to provide leadership and support for national ocean and coastal policy.

The person who fills this critical position must be chosen with extreme care. It would be wise to stipulate minimum qualifications for this position.

4-7. Congress, working with the National Ocean Council (NOC), should amend the National Oceanographic Partnership Act to integrate ocean observing, operations, and education into its marine research mission. A strengthened and enhanced National Ocean Research Leadership

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Council (NORLC) should be redesignated as the Committee on Ocean Science, Education, Technology, and Operations (COSETO), under the oversight of the NOC.

The proposed COSETO committee should have strong state/territorial representation, because the scope of this committee significantly overlaps state/territorial interests.

4-8. The National Ocean Council (NOC) should establish a Committee on Ocean Resource Management to better integrate the resource management activities of ocean-related agencies. This committee should oversee and coordinate the work of existing ocean and coastal interagency groups and less formal efforts, recommend the creation of new topical task forces as needed, and coordinate with government-wide environmental and natural resource efforts that have important ocean components.

The proposed CORM committees should have strong state/territorial representation, because the scope of this committee significantly overlaps state/territorial interests.

4-10. The National Ocean Council should work with Congress, the Presidential Council of Advisors on Ocean Policy, and state, territorial, tribal, and local leaders, including representatives from the private sector, nongovernmental organizations and academia, to develop a flexible and voluntary process for the creation of regional ocean councils.

There should be a clearer statement on the purposes of the regional ocean councils. The states and territories should be key drivers of the issues, process, and solutions at this level.

CHAPTER 5: ADVANCING A REGIONAL APPROACH

5-2. Congress should establish regional ocean programs to improve coordination and set regional priorities for research, data collection, science-based information products, and outreach activities in support of improved ocean and coastal management. Program priorities should be carried out primarily through a grants process.

CNMI supports the establishment of regional ocean science and research programs.

The CNMI supports the establishment of regional ocean science and research programs. Moreover, the CNMI supports the enhanced role for Sea Grant extension services as an important mechanism for delivering and interpreting science information products, but notes that there is no formal Sea Grant program serving the CNMI.

5-3. Each regional ocean information program, with guidance from the National Ocean Council, should coordinate the development of a regional ecosystem assessment, to be updated periodically.

The CNMI supports the development of regional ecosystem assessments, but notes that these will require a major work effort.

Chapter 5 should note that the regional ecosystem assessments will be coordinated and build upon the state resource assessments referenced in Chapter 9 (p. 111).

5-5. Congress should establish regional boards to administer regional ocean information programs throughout the nation. Program priorities should be carried out primarily through a grants process. Each regional board should: be comprised of federal agency representatives, representatives from each state in the region, and a Sea Grant Director from at least one state in the region. Each board should also have territorial, tribal, local, and other stakeholder representation....

CNMI supports this recommendation and the regional breakouts as proposed by the Commission on pages 61-62.

The CNMI would like to suggest that the first bullet be revised to read, “be comprised of federal agency representatives, representatives from each state and territory in the region and a Sea Grant director from at least one state in the region and/or director of MAREPAC (in the insular Pacific region). Each board should also have tribal, local, and other stakeholder representatives, including the U.S. All Islands Coral Reef Initiative Committee in the insular Pacific and Southeast regions.”

CHAPTER 6: COORDINATING MANAGEMENT IN FEDERAL WATERS

6-1. Congress, working with the National Ocean Council (NOC), should ensure that each current and foreseeable use of federal waters is administered by a lead federal agency. The lead agency should coordinate with other federal agencies with applicable authorities and ensure full consideration of the public interest. Pending congressional action, the National Ocean Council should designate interim lead agencies to coordinate research, assessment, and monitoring of new offshore activities.

The establishment of a lead agency is essential to avoiding agency jurisdictional conflicts.

6-2. Congress, working with the National Ocean Council and regional ocean councils, should establish a coordinated, ecosystem-based offshore management regime that sets forth guiding principles for the balanced coordination of all offshore uses. It should recognize the need, where appropriate, for single-purpose ocean governance structures that are comprehensive and fully integrated with and based on the principles of the new offshore management regime. The regime should also include a process for planning for new and emerging activities and a policy that a reasonable portion of the resource rent derived from such activities is returned to the public.

The CNMI has a strong economic and ecological interest in the EEZ and offshore activities. There should be a direct role for states and territories in offshore management, in addition to reviewing federal projects for consistency with the federally approved state coastal management programs.

Along with their management role, the CNMI and other insular areas should derive a beneficial interest from the extraction of offshore resources. This is important because for insular areas, where upland resources are limited, offshore resources can be the key to economic self-sufficiency.

How the resource rent is derived and where it is returned are critical issues and need to be clearly defined. The impact of this recommendation on subsistence fishermen should be considered.

6-3. The National Ocean Council should develop national goals and guidelines leading to a uniform process for the effective design and implementation of marine protected areas.

Marine Protected Areas (MPA) are currently used as a fisheries management tool in the CNMI, and have been actively managed since the program inception in 1998, without federal oversight. Nationwide, many MPAs have been designated by states, territories, and commonwealths for a variety of local reasons, many of which are specific to the locality. Such MPAs should be managed by state/territory/ commonwealth natural resource agencies and should not be required to meet national standards.

In federal waters, at least in the western Pacific region, the Western Pacific Regional Fisheries Management Council (WPRFMC) has motivated the designation of future MPAs under its

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jurisdiction. A Washington D.C.-based political body should not have authority over an RFMC, with respect to the use of MPAs as a fisheries management tool.

6-4. Regional ocean councils, or other appropriate regional entities, should actively solicit stakeholder participation and lead the design and implementation of marine protected areas. The design and implementation should be conducted pursuant to the goals, guidelines, and uniform process developed by the National Ocean Council.

Stakeholder participation is essential, but again, there is no need for federal oversight. The CNMI has done exceptionally well in managing its marine resources, and has been quite active in designating MPAs with stakeholder input.

CHAPTER 7: STRENGTHENING THE FEDERAL AGENCY STRUCTURE

7-5. Following the establishment of the National Ocean Council and the Presidential Council of Advisors on Ocean Policy, the strengthening of the National Oceanic and Atmospheric Administration, and consolidation of similar federal ocean and coastal programs, the President should propose to Congress a reorganization of the federal government that recognizes the links among all the resources of the sea, land, and air and establishes a structure for more unified, ecosystem-based management of natural resources.

It is important that a key “lead agency” be designated to focus on ecosystem management in the federal waters and with coordination with states and territories. The recommendations should be amended to clarify state/territorial public trust and economic interest in the EEZ.

Consideration should be given to linking or including a lead agency role for NOAA in the Organic Act that focuses on coordination with states/territories/commonwealths on ocean planning (state waters and EEZ), as well as results-based management at state and local scales.

The CNMI has a strong economic and ecologic interest in the EEZ and offshore activities. There should be a direct role for states and territories in offshore management, in addition to reviewing federal projects for consistency with the federally approved state coastal management programs.

CHAPTER 8: PROMOTING LIFELONG OCEAN EDUCATION

The CNMI notes the importance of ocean education and recommends that the Ocean.ED vision and strategy be developed with state and local government input. To the extent possible, the national vision should encompass state/territorial standards and the implementation strategy should include goals, priorities, and clearly outline how the strategy will be implemented.

The CNMI requests that the Commission clarify how Ocean.ED will build state, territorial, and local capacities for informal education and outreach. The federal agencies should be required to fund and support state/territorial and community-based education efforts.

8-xx. (Proposed by the All Islands Coral Reef Initiative Coordinating Committee) The National Science Foundation should expand their definition of “minority” to include natives of U.S. insular areas, and the institutions of high learning within the U.S. insular jurisdictions as Minority Serving Institutions, to expand the opportunities for ocean-related higher education in those areas most immediately impacted by ocean and marine issues on a daily basis.

The CNMI strongly endorses this recommendation.

CHAPTER 9: MANAGING COASTS AND THEIR WATERSHEDS

9-1. Congress should reauthorize the Coastal Zone Management Act (CZMA) to strengthen the planning and coordination capabilities of coastal states and enable them to incorporate a coastal watershed focus and more effectively manage growth. Amendments should include requirements for resource assessments, the development of measurable goals and performance measures, improved program evaluations, additional funding to adequately achieve the goals of the Act, incentives for good performance and disincentives for inaction, and expanded boundaries that include coastal watersheds.

Congress should reauthorize and amend the Coastal Zone Management Act (CZMA), as a critical, high priority action for improved coastal and ocean management. Although the Commission's recommendation 9-1 addresses core issues, this recommendation also needs to recognize and strengthen other elements of the CZMA, including habitat restoration, community planning and smart growth, ocean management, watershed management, and support for special-area management planning.

The CZMA is an important vehicle for implementing a wide range of Ocean Commission recommendations because it takes an integrated approach and is a federal-state-local partnership that acknowledges the important role of states and municipalities and can address vertical and horizontal integration of ecosystem management.

A reauthorized CZMA needs to retain its focus on partnerships, state/territorial roles in working with communities, and maximize the opportunities for input. The CZMA also needs to maintain the states'/territories' abilities to implement programs that meet federal goals in ways that best fit each location's ecological, geographical and political needs.

Although the CNMI supports the focus of recommendation 9-1 on development of periodic, comprehensive resource assessments, states and territories will only be able to conduct these assessments if adequate federal funding, above CZMA base federal funding (306/306A/309), is provided to us.

Likewise, the CNMI supports the movement toward the development of measurable goals and improved program evaluation, but encourages the Commission to acknowledge the increased costs associated with performance-based management. The CNMI and nine coastal states are already participating in a pilot performance indicator project. By the end of 2004, we will have realistic estimates of the costs for states to develop indicator systems and the funds needed to undertake additional monitoring and assessment work.

The CNMI supports an incentive-based approach to expanding partnerships under the CZMA and increasing focus on watershed issues. The CNMI strongly disagrees with the use of disincentives and counterproductive penalties that take away program funding for states. A severe disincentive already exists for non-performing programs through Section 312 of the CZMA whereby federal approval of the program can be retracted. Rather, the CNMI strongly recommends that the federal government work cooperatively with states/territories that are experiencing problems to provide the resources and technical assistance necessary to help the state or territory to achieve the shared goals.

The CNMI proposes that the Commission recommend that the CZMA be amended to create a Coastal Communities Program to assist states/territories in planning and managing land uses to

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support sustainable coastal development, protect and restore coastal habitats and other resources, reduce exposure to coastal hazards, and revitalize urban waterfronts. The Coastal Communities Program should include technical and financial support for: resource and community assessments and plans; planning-oriented research and technical assistance; model and pilot projects that promote ecosystem-sensitive development or restoration; local land-use plans and implementing ordinances that meet the goals of the CZMA; and be appropriated at least \$30 million.

9-4. Congress should amend the Coastal Zone Management Act, the Clean Water Act, and other federal laws where appropriate, to provide better financial, technical, and institutional support for watershed initiatives. Amendments should include appropriate incentives and flexibility for local variability. The National Ocean Council should develop guidance concerning the purposes, structures, stakeholder composition, and performance of such initiatives.

The CNMI recommends that the coastal pollution and watershed initiatives be derived from regional, state, and local input. The National Ocean Council should support and ensure funding for the priorities and needs identified by the regional, states/territorial, and local initiatives. To the extent possible, the NOC and regions should rely on existing regional management councils, commissions, and organizations.

CHAPTER 10: GUARDING PEOPLE AND PROPERTY AGAINST NATURAL HAZARDS

10-4. The National Ocean Council (NOC) should encourage Congress to increase financial and technical assistance to state and local entities for developing hazards mitigation plans consistent with requirements of the Federal Emergency Management Agency (FEMA). The NOC should also identify opportunities for conditioning federal hazards-related financial and infrastructure support on completion of FEMA-approved state and local hazards mitigation plans.

The CNMI supports this recommendation and recommends that the CZMA be bolstered as a tool for proactive planning to avoid the impacts of coastal hazards.

10-xx. (Proposed by the All Islands Coral Reef Initiative Coordinating Committee) The Department of Homeland Security should ensure that the procedures guiding FEMA's response to natural disasters include provisions (such as a detailed ESF) that support regional, state and local efforts to respond to the impacts on natural environments as part of the immediate and overall recovery efforts. In coastal and marine areas, the lead federal agency for a natural resource recovery ESF should be NOAA.

The CNMI endorses this recommendation.

10-xx. (Proposed by the All Islands Coral Reef Initiative Coordinating Committee) To ensure that responses to impacts on natural environments following a natural disaster are conducted in the most efficient, effective, and cooperative manner, FEMA should work with state and territorial jurisdictions to develop local action plans for responding to natural environment impacts from natural disasters, which would assist in guiding FEMA's response capabilities.

The CNMI endorses this recommendation.

CHAPTER 11: CONSERVING AND RESTORING COASTAL HABITAT

Chapter 11, pages 125 and 126

The background discussion should include information about Pacific island areas. Within the Commonwealth of the Northern Mariana Islands (CNMI), only 36% of Saipan's original wetland area remains. This is equal to a loss of nearly 1 mi² (over 600 acres) on an island that is only 46

mi² (29,440 acres) in total area. (Coastal Resources Management Office, Commonwealth of the Northern Mariana Islands. 1991. Final Saipan Comprehensive Wetlands Management Plan. Saipan, CNMI.)

The background discussion should also include the gaps in wetland protection created by the U.S. Supreme Court's SWANCC decision that has resulted in various isolated wetlands falling outside of the US Army Corps of Engineers' jurisdiction.

11-1 Congress should amend the Coastal Zone Management Act to authorize and provide sufficient funding for a dedicated coastal and estuarine land conservation program. In order to achieve this: each state coastal management program should identify priority coastal habitats and develop a plan for establishing partnerships among willing landowners for conservation purposes, with participation from local government, nongovernmental, and private-sector partners.

The CNMI supports the Commission's recommendation to Congress to amend the CZMA to create a *Coastal Estuarine Land Conservation Program*. Additionally, the CNMI recommends that dedicated funding for CELCP be at a minimum level of \$60 million, although this is far short of current needs.

The CNMI is currently developing a local CELCP. The CNMI supports awarding some funds competitively to states/territories with approved CELCP priority plans. However, as in the forest legacy program, there should be a regional balance and there should be base funding for states/territories with plans as provided in the LWCF.

Finally, NOAA, rather than Congress, should make project-specific funding decisions.

11-4 The National Ocean Council should coordinate development of a comprehensive wetlands protection program that is linked to coastal habitat and watershed management efforts and should make specific recommendations for the integration of the Clean Water Act Section 404 wetlands permitting process into that broader management approach.

The CNMI strongly supports this recommendation. Although the Clean Water Act 404 wetland permitting process should consider a broader management approach, this is not enough to lessen wetland loss. CNMI agency permit reviews of developments also need to better assess cumulative effects of coastal development and incorporate a broader management approach. Federal agencies and states/territories should coordinate their permit reviews and, in the interest of a "no net-loss" policy, make determinations that err on the side of caution.

CHAPTER 12: Managing SEDIMENT AND SHORELINES

The CNMI suggests revising the last sentence in the second paragraph of the background to read, "Undesirable sediment can cloud water and degrade wildlife habitat, form barriers to navigation, contaminate or pollute the food chain, and can result in the bioaccumulation of harmful toxins in marine plants, animals and humans."

CHAPTER 14: ADDRESSING COASTAL WATER POLLUTION

14-2. The U.S. Environmental Protection Agency (EPA) and states should increase technical and financial assistance to help communities improve the permitting, design, installation, operation, and maintenance of septic systems and other on-site treatment facilities. State and local governments, with assistance from EPA, should adopt more effective building codes and zoning ordinances for septic systems and should improve public education about the benefits of regular maintenance.

These recommendations should be clarified to ensure that septic systems and NPDES permits are consistent with federally approved CZM programs. In some cases, the state/territorial standards are more stringent than the federal standards.

14-4. The U.S. Environmental Protection Agency, working with state and local governments, should develop a prioritized, comprehensive plan for long-term funding of the nation's current aging and inadequate wastewater and drinking water infrastructure, anticipating demands for increased capacity and more stringent treatment in the coming decades. To implement this plan, Congress should fund the State Revolving Fund Program at or above historic levels.

The CNMI strongly supports this recommendation. The CNMI does not have adequate funding to maintain and expand its drinking water systems. Nor does the CNMI have adequate funding to maintain and expand its wastewater systems. This results directly in poor water quality.

14-7. The U.S. Department of Agriculture (USDA) should align its conservation programs and funding with other programs aimed at reducing nonpoint source pollution, such as those of the U.S. Environmental Protection Agency and the National Oceanic and Atmospheric Administration.

The CNMI endorses this recommendation.

14-11. State and local governments should revise their codes and ordinances to require land use planning and decision-making to carefully consider the individual and cumulative impacts of development on water quality, including effects on stormwater runoff. The U.S. Environmental Protection Agency and other appropriate entities should increase outreach programs that provide local land use decision makers with the knowledge and tools needed to make sound land use decisions that protect coastal water quality.

The CNMI recommends that state/territorial and local governments should require land-use planning and decision-making to balance the development required to meet population growth and economic needs with the protection of critical coastal resources, including revitalizing waterfront areas and minimizing individual and cumulative impacts of development on coastal water quality from stormwater runoff. Federal agencies should provide technical assistance and training to the state/territorial and local governments.

14-xx: (Proposed by the All Islands Coral Reef Initiative Coordinating Committee) The EPA should develop water-quality testing procedures to identify allowable maximum pollutant levels to ensure ecosystem health based on the most fragile elements of the ecosystem, and promulgate rules ensuring regular testing of both fresh and nearshore waters, and reporting the results of such tests to the public.

The CNMI endorses this recommendation. The most frequently used measure for determining whether a water body or water source is impaired is based on maximum levels of pollutants allowed for human health reasons. Although this is certainly a major concern that should be tested for and publicized, it does not present an accurate picture of the quality of the water being tested. The CNMI recommends establishing standards and conducting regular testing for the maximum levels of pollutants allowed for the most fragile element of the ecosystem. In the case of coral reefs, that element would likely be the corals themselves.

14-xx: (Proposed by the All Islands Coral Reef Initiative Coordinating Committee) The EPA should ensure that water quality testing procedures encompass testing of sediments as well as water columns, in order to develop a more accurate picture of the overall water quality of an ecosystem.

The CNMI endorses adding this recommendation to address the practice of basing results on water samples taken from an undisturbed water column. Many pollutants are attached to the

sediments and are either taken up through the food chain from the sediment, or are released in times of more severe weather or sea conditions that disturb the sediments.

CHAPTER 16: LIMITING VESSEL POLLUTION AND IMPROVING VESSEL SAFETY

The CNMI supports the U.S. Commission on Ocean Policy's recommendations with respect to limiting vessel pollution and improving vessel safety.

CHAPTER 17: PREVENTING THE SPREAD OF INVASIVE SPECIES

The CNMI is very aware of the need to control invasive species, having witnessed their effect both in the Northern Marianas and in neighboring islands and having made considerable investment to reduce that effect and to prevent further spread of invasive species.

All Pacific insular areas, including the CNMI, should be included in the appropriate regional panel.

17-1. The U.S. Coast Guard's national ballast water management program should: apply uniform, mandatory national standards; incorporate sound science in the development of a biologically meaningful and enforceable ballast water treatment standard; include a process for revising the standard to incorporate new technologies; ensure full consultation with the U.S. Environmental Protection Agency, both during and after the program's development; and include an interagency review, through the National Ocean Council, of the policy for ships that declare they have no ballast on board.

The CNMI acknowledges that for much of the continental United States, the discharge of ballast water is considered a primary pathway for introduction of non-native aquatic species. However, recent studies in Guam have shown that this may not be the major pathway for our tiny oceanic island communities. (Pauley et al., 2002. Anthropogenic biotic interchange in a coral reef ecosystem: a case study from Guam. *Pacific Science* 56(4):403-422.) This study showed that organisms riding on ships hulls are likely the most important source of invaders.

The CNMI therefore requests that the U.S. Commission on Ocean Policy add standards, measures, and processes to reduce the import of non-native aquatic species on ships' hulls to this recommendation. For example, measures might include requirements that barges and ships have their hulls cleaned of fouling organisms once a year and that anti-fouling paint be applied once every five years.

17-4. The National Invasive Species Council and the Aquatic Nuisance Species Task Force, working with other appropriate entities, should establish a national plan for early detection of invasive species and a system for prompt notification and rapid response. Congress should provide adequate funding to support the development and implementation of this national plan.

This plan is both critical and badly needed. However, care must be taken to ensure the inclusion of insular areas, such as the CNMI.

17-5. The National Ocean Council (NOC) should review and streamline the current proliferation of federal and regional programs for managing marine invasive species, and coordinate federal, regional and state efforts. Coordinated plans should be implemented to develop risk assessment and management approaches for intentional and unintentional species introductions that minimize the potential of invasions at the lowest cost.

The CNMI urges the U.S. Commission on Ocean Policy to include territorial/commonwealth and local efforts into the coordination efforts that are a critical part of this recommendation.

CHAPTER 18: REDUCING MARINE DEBRIS

The CNMI strongly urges the U.S. Commission on Ocean Policy to include insular areas such as the CNMI, Guam, and American Samoa in their programs and planning. Note that the National Marine Debris Monitoring Program not only excludes these areas, but the website maps don't include these areas at all. (The International Coastal Cleanup websites do at least incorporate the island of Kosrae, Federated States of Micronesia.)

18-3. U.S. Department of State and National Oceanic and Atmospheric Administration, working with the United Nations Food and Agriculture Organization and other appropriate entities, should develop a detailed plan of action to address derelict fishing gear, to be implemented on a regional, multi-national basis.

The CNMI urges the U.S. Commission on Ocean Policy to consider imposing similar fees on nets imported into all parts of the United States.

18-5. The U.S. Department of State should increase efforts to ensure that all port reception facilities meet the criteria necessary to allow implementation of Special Areas protections under Annex V of the International Convention for the Prevention of Pollution from Ships.

The CNMI urges the U.S. Commission on Ocean Policy to consider developing a Micronesian and Hawaiian series of port reception facilities.

CHAPTER 19: ACHIEVING SUSTAINABLE FISHERIES

The role of the Scientific and Statistical Committee (SSC) of a Regional Fisheries Management Council (RFMC) is to review scientific information as it pertains to the management of the fisheries under the RFMC jurisdiction, then to provide the RFMC Council guidance with respect to the science reviewed and how it would influence the management of the particular fisheries in question. The SSC does not set harvest guidelines, because it is an advisory body. The RFMC SSC is a scientific body that makes recommendations to the RFMC Council based upon the best available science, but ultimately the RFMC sets harvest limits.

19-1. Congress should amend the Magnuson–Stevens Fishery Conservation and Management Act and related statutes to require Regional Fishery Management Councils (RFMCs) and interstate fisheries commissions to rely on their Scientific and Statistical Committees (SSCs), incorporating SSC findings and advice into the decision-making process. In keeping with this stronger role, SSC members should meet more stringent scientific and conflict of interest requirements, and receive compensation.

With respect to the Western Pacific RFMC (WPRFMC), the SSC has been comprised of a mix of prominent fisheries stock assessment scientists, experts in the fields of fishery economics, sociology-anthropology, and protected species, as well as regional scientific expertise from western and southern Pacific island groups. Forcing an SSC to significantly increase its already high standards does not seem necessary for the WPRFMC, and it may result in outer island areas being marginalized, where technical scientific expertise may not rival that of larger states (even though we are rich in local scientific expertise and local knowledge).

The prospect of excluding from the SSC anyone who is “formally or financially affiliated with any harvesting or processing sector” might in fact keep highly qualified experts off an SSC. The very nature of the SSC is to thoroughly discuss the scientific merits of the science under review. Having differing scientific opinions with regard to science supports the objective goal of science.

Rotating membership would tend to serve other RFMCs better than the WPRFMC, where local expertise with regard to fisheries science is very limited. This option could be supported through flexibility in the length of appointments for each RFMC.

19-2. Scientific and Statistical Committees (SSCs) should be required to supply Regional Fishery Management Councils (RFMCs) with the scientific information necessary to make fishery management decisions. Such information could include reports on stock status and health, socioeconomic impacts of management measures, sustainability of fishing practices, and habitat status. In particular, the SSCs should determine allowable biological catch based on the best scientific information available to them.

19-3. Each Regional Fishery Management Council should be required to set harvest limits at or below the allowable biological catch determined by its Scientific and Statistical Committee. The councils should begin immediately to follow this practice, which need to be codified at the next opportunity in amendments to the Magnuson–Stevens Fishery Conservation and Management Act.

19-4. The National Marine Fisheries Service, working with the Regional Fishery Management Councils and the interstate fisheries commissions, should develop a process for independent review of the scientific information generated by the Scientific and Statistical Committees in all regions.

19-5. Each Regional Fishery Management Council should set a deadline for its Scientific and Statistical Committee (SSC) to determine allowable biological catch. If the SSC does not meet that deadline, the National Marine Fisheries Service Regional Science Director should set the allowable biological catch for that fishery.

The Regional Fisheries Science Centers (RFSC) are responsible for providing the RFMC with scientific information related to allowable biological catches (ABC). The SSC is a scientific advisory body to the Council that reviews such scientific information and provides recommendations to the Council. The SSC should not replace the RFSC, unless they are to be hired or paid in some capacity by the RFMC during the time of their tenure to conduct stock assessment analysis, which is often complex and therefore time consuming. To expect SSC members to conduct such assessments in addition to their existing employment requirements is untenable.

The RFSC are responsible for stock assessment, and the RFMC, based on the advice of the SSC, sets the ABC.

19-6. Once allowable biological catch is determined, whether by the Scientific and Statistical Committee or the National Marine Fisheries Service (NMFS) Regional Science Director, the Regional Fishery Management Council should propose a fishery management plan in time for adequate review and approval by NMFS. If the plan is not presented in a timely fashion, all fishing on that stock should be suspended until NMFS can review the adequacy of the management plan.

Management Plans can take several years to draft and implement, especially if NEPA requirements need to be met. It is not clear if these management plans need to be species-specific, or can cover a family or genera, or are ecosystem based. If they are required to be species-specific then several of the CNMI's fisheries would be closed down for an undetermined length of time, while a management plan is being formulated. This is not necessary, nor is it in the best interests of the resource or the fishers.

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19-7. The Regional Fishery Management Councils and their Scientific and Statistical Committees should develop an annual, prioritized list of management information needs and provide it to the National Marine Fisheries Service (NMFS). NMFS should incorporate these needs to the maximum extent possible in designing its research, analysis, and data collection programs.

By its very nature the Council process produces management information and subsequent decisions needs on ‘as-needed’ basis. Providing such information on an annual basis only, would impose unnecessary limitations on the RFMC’s ability to provide sound management guidelines in a timely manner and could therefore lead to unnecessary restrictions in harvest and/or overfishing.

19-8. The National Marine Fisheries Service, working with states and interstate fisheries commissions, should require all saltwater anglers to purchase licenses to improve in-season data collection on recreational fishing. Priority should be given to fisheries in which recreational fishing is responsible for a large part of the catch, or in which recreational fishermen regularly exceed their allocated quota.

The CNMI is currently working on legislation that would address this issue.

19-9. Congress should increase support for an expanded, regionally-based cooperative research program in the National Oceanic and Atmospheric Administration (NOAA) that coordinates and funds collaborative projects among scientists and commercial and recreational fishermen. NOAA should develop a process for external evaluation and ranking of all cooperative research proposals to ensure the most worthwhile projects are funded, the most capable performers are undertaking the research, and the information produced is both scientifically credible and useful to managers.

This would be extremely beneficial in the management of the CNMI’s fishery resources.

19-10. Congress should develop new statutory authority, similar to the Atlantic Coastal Fisheries Cooperative Management Act, to support and empower the Gulf States and Pacific States Fisheries Management Commissions. All interstate management plans should adhere to the national standards in the Magnuson–Stevens Fishery Conservation and Management Act and the federal guidelines implementing these standards. States should participate in guideline development to ensure they are relevant to interstate plans.

The CNMI is part of the Western Pacific Regional Fishery Management Council. The constituents of the WPRFMC are small island groups with fisheries that are very distinct from mainland fisheries. The WPRFMC should not be part of any Commission.

19-11. When a fish stock crosses administrative boundaries, Congress should clearly assign fishery management jurisdiction and authority. For each fishery management plan, a state, Regional Fishery Management Council (RFMC), interstate fisheries commission, or the National Oceanic and Atmospheric Administration (NOAA) should be established as the lead authority. That designation should be based primarily on the proportion of catch associated with each management authority. However, once designated, management authority should not shift based on annual changes in landings.

The CNMI requests that the U.S. Commission on Ocean Policy consider establishing the lead management authority on more than the jurisdiction that lands the highest proportion of the catch. Other criteria might include proportion of the stock, or protection of the stock in each jurisdiction. For example, the stocks of many species of reef fishes likely bridge the jurisdictions of the CNMI and Guam. Guam’s total harvest of these species is generally much higher than the CNMI’s. However, the greatest proportion of the stock lies much closer to the shores of the CNMI than Guam. Moreover, the CNMI’s populations of most near-shore reef fishes are higher than Guam’s. It might be argued that the CNMI’s good stewardship of these resources and its

location with respect to the bulk of the stock could be good reasons for suggesting that the CNMI be awarded lead management authority.

19-12. Congress should amend the Magnuson–Stevens Fishery Conservation and Management Act to require governors to submit a broad slate of candidates for each vacancy of an appointed Regional Fishery Management Council seat. The slate should include at least two representatives each from the commercial fishing industry, the recreational fishing sector, and the general public.

This is in the best interests of the Council, because it would ensure a broad list of candidates from which to choose. It needs to be clarified whether or not the subsistence-fishing sector is being overlooked.

19-14. The National Marine Fisheries Service (NMFS) should require all newly appointed Regional Fishery Management Council (RFMC) members to complete a training course within six months of their appointment. NMFS should contract with an external organization to develop and implement this training course and Congress should provide adequate funding. Members who have not completed the training may participate in RFMC meetings, but may not vote.

Training is an excellent idea. The NMFS and the RFMC should work together to develop the training program.

19-15. Congress should amend the Magnuson–Stevens Fishery Conservation and Management Act to affirm that fishery managers are authorized to institute dedicated access privileges. Congress should direct the National Marine Fisheries Service to issue national guidelines for dedicated access privileges that allow for regional flexibility in implementation. Every federal, interstate, and state fishery management entity should consider the potential benefits of adopting such programs.

The CNMI's fish resources are in very good condition, especially relative to virtually any other U.S. jurisdiction. The need for 'dedicated access privileges' is not really pertinent to the CNMI, because the CNMI does not have an overcapitalized industry or an over-harvested resource. The potential for the use of such privileges should be an option, but how it would differ from other limited-entry programs is unclear.

19-16. Congress should repeal the Fisheries Finance Program (formerly the Fishing Vessel Obligation Guarantee Program), the Capital Construction Fund, and other programs that encourage overcapitalization in fisheries. The National Oceanic and Atmospheric Administration (NOAA) should implement programs to permanently reduce fishing capacity to sustainable levels.

The CNMI fishing industry is not overcapitalized and could in fact benefit from such loans in the future as fisheries develop. Eliminating such potential economic opportunities is not in the best interests of the CNMI.

19-17. Congress should increase funding for Joint Enforcement Agreements to implement cooperative fisheries enforcement programs between the National Marine Fisheries Service and state marine enforcement agencies. The U.S. Coast Guard should be included as an important participant in such agreements.

This is fully supported by the CNMI, because it would result in better enforcement and protection of the CNMI's natural resources.

19-18. The National Marine Fisheries Service and the U.S. Coast Guard should strengthen cooperative enforcement efforts at the national level by developing a unified strategic plan for fisheries enforcement that includes significantly increased joint training, and at the regional and local levels, by developing a stronger and more consistent process for sharing information and coordinating enforcement.

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The CNMI fully supports this recommendation.

19-19. The National Marine Fisheries Service, working with the Regional Fishery Management Councils, the U.S. Coast Guard, and other appropriate entities, should maximize the use of the Vessel Monitoring System (VMS) for fishery-related activities by requiring that VMS with two-way communication capability be phased in for all commercial fishing vessels receiving permits under federal fishery plans, including party and charter boats that carry recreational fishermen, incorporating VMS features that assist personnel in monitoring and responding to potential violations, and identifying state fisheries that could significantly benefit from VMS implementation.

The use of VMS could provide the location of fishing vessel effort, which is typically not accurately and/or precisely known because fishermen are not prone to disclosing their favorite fishing locales. Such information is, however, absolutely essential in the prudent management of fisheries resources. This should be supported, with a note that funding will be an issue and potentially a hardship for some fishermen, and that VMS should be restricted to commercial fishermen.

19-20. The U.S. Coast Guard should be the lead organization in managing the integration of a fishery Vessel Monitoring System (VMS) database into the larger maritime operations database and should work with the National Marine Fisheries Service to ensure effective use of VMS data for monitoring and enforcement.

Fishing location data are sensitive data that should not be readily available except for fisheries stock assessment, enforcement, and management.

19-21. The National Marine Fisheries Service (NMFS) should change the designation of essential fish habitat from a species-by-species to a multispecies approach and, ultimately, to an ecosystem-based approach. The approach should draw upon existing efforts to identify important habitats and locate optimum-sized areas to protect vulnerable life-history stages of commercially important species. NMFS should work with other management entities to protect essential fish habitat when such areas fall outside their jurisdiction.

This should be a long-term goal, but to achieve it a significant amount of data need to be collected, compiled, and analyzed. In the interim, essential fish habitat designation should only be altered as new information becomes available, so as to not impede progress already made, as well as that being made.

19-22. The National Marine Fisheries Service (NMFS) and Regional Fishery Management Councils should develop regional bycatch reduction plans that address broad ecosystem impacts of bycatch. Implementation of these plans will require NMFS to expand current efforts to collect data on bycatch, not only of commercially important species, but on all species captured by commercial and recreational fishermen. The selective use of observers should remain an important component of these efforts.

This is an important long-term goal that should be fully supported.

19-23. The U.S. Department of State, working with other appropriate entities, should encourage all countries to ratify the Fish Stocks Agreement and the United Nations Food and Agriculture Organization's Compliance Agreement. In particular, the United States should condition other nations' access to fishing resources within the U.S. exclusive economic zone on their ratification of these agreements. Other incentives should be developed by the United States and other signatory nations to encourage all nations to ratify and enforce these agreements.

The CNMI fully supports this recommendation.

19-24. Congress should fully fund existing U.S. commitments to international fisheries management. The U.S. Department of State, working with the National Oceanic and Atmospheric Administration, should review and

update regional and bilateral fishery agreements to which the United States is a party, to ensure full incorporation of the latest science and harmonize those agreements with the Fish Stocks Agreement.

The CNMI fully supports this recommendation.

19-25. The National Oceanic and Atmospheric Administration, working with the U.S. Fish and Wildlife Service and the U.S. Department of State, should design a National Plan of Action for the United States that implements, and is consistent with, the International Plans of Action adopted by the United Nations Food and Agriculture Organization and its 1995 Code of Conduct for Responsible Fisheries. This National Plan should stress the importance of reducing bycatch of endangered species and marine mammals.

The vast majority of fishery bycatch of endangered species is a NMFS responsibility. The USFWS does not have jurisdiction in the EEZ, and providing them such would probably increase jurisdictional disputes to the detriment of the fishing industry.

19-26. The international committee of the National Ocean Council (discussed in Chapter 29), should initiate a discussion to determine the most effective methods of encouraging other nations to implement the United Nations Food and Agriculture Organization's Code of Conduct for Responsible Fisheries and other Plans of Action and provide its findings to the U.S. Department of State and the National Ocean Council.

Nearly everything captured by fishermen in the CNMI is consumed or utilized in some manner. The amount of actual bycatch is essentially non-existent by comparison to mainland fisheries.

CHAPTER 20: PROTECTING MARINE MAMMALS AND ENDANGERED MARINE SPECIES

20-1. Congress should amend the Marine Mammal Protection Act to require the Marine Mammal Commission to coordinate with all the relevant federal agencies through the National Ocean Council (NOC) while remaining independent. The NOC should consider whether there is a need for similar oversight bodies for other marine animals whose populations are at risk.

Given the high level of success that the U.S. has experienced in protecting its marine mammal species it would seem that National Ocean Commission (NOC) oversight would not be necessary, because it would cloak management measures with more red tape.

20-2. Congress should amend the Marine Mammal Protection Act to place the protection of all marine mammals within the jurisdiction of the National Oceanic and Atmospheric Administration.

The CNMI fully supports this recommendation. Historically, NMFS has been the lead agency for most marine mammal protection, and is best qualified to assume total authority.

20-3. The National Ocean Council should improve coordination between the National Marine Fisheries Service and U.S. Fish and Wildlife Service with respect to the implementation of the Endangered Species Act, particularly for anadromous species or when landbased activities have significant impacts on marine species.

It is not clear whether the National Ocean Council is required for such coordination, and it would add an additional level of bureaucracy.

20-4. Congress should amend the Marine Mammal Protection Act to require the National Oceanic and Atmospheric Administration to more clearly specify categories of activities that are allowed without a permit, those that require a permit, and those that are prohibited.

20-5. Congress should amend the Marine Mammal Protection Act to revise the definition of harassment to cover only activities that meaningfully disrupt behaviors that are significant to the survival and reproduction of marine mammals.

The CNMI fully supports these recommendations.

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20-6. The National Marine Fisheries Service and the U.S. Fish and Wildlife Service should implement programmatic permitting for activities that affect marine mammals, wherever possible. More resource intensive case-by-case permitting should be reserved for unique activities or where circumstances indicate a greater likelihood of harm to marine mammals. The National Ocean Council should create an interagency team to recommend activities appropriate for programmatic permitting, those that are inappropriate, and those that are potentially appropriate pending additional scientific information. Enforcement efforts should also be strengthened and the adequacy of penalties reviewed.

It is not clear whether the National Ocean Council is required for such coordination, and it would add an additional level of bureaucracy and centralized decision making from DC.

20-7. The National Oceanic and Atmospheric Administration and the U.S. Department of the Interior should promote an expanded research, technology, and engineering program, coordinated through the National Ocean Council, to examine and mitigate the effects of human activities on marine mammals and endangered species.

The CNMI fully supports this recommendation.

20-8. Congress should expand federal funding for research into ocean acoustics and the potential impacts of noise on marine mammals. This funding should be distributed across several agencies, including the National Science Foundation, U.S. Geological Survey, and Minerals Management Service, to decrease the reliance on U.S. Navy research in this area. The research programs should be well coordinated across the government and examine a range of issues relating to noise generated by scientific, commercial, and operational activities.

The CNMI fully supports this recommendation. The stocks of marine mammals in the Marianas are not well known or understood. The U.S. Navy conducts training exercises in Tinian and Farallon de Medinilla, the latter being a bombing target, with unknown impacts on resident stocks of spinner dolphins as well as migratory whales. Because the Navy has permission through lease agreements to conduct military activities in the Marianas, this type of research would only be of benefit to the CNMI, especially if the Navy expands or supplements its training activities with acoustic research.

Closing Remarks

The concept of employing ecosystem-based management is critical to the full understanding of endangered marine species, and the ability to recover them. The lack of such an approach historically has led to the demise of many marine animals and the destabilization of many marine ecosystems by the loss or significant decline of apex predators. A better understanding of the complexities of marine ecosystems is essential to provide continued marine resource harvest, while ensuring the recovery of higher trophic level predators.

CHAPTER 21: PRESERVING CORAL REEFS AND OTHER CORAL COMMUNITIES

21-1. Congress should pass, and provide sustained funding for, a Coral Protection and Management Act that covers research, protection, and restoration of coral ecosystems. This legislation should include the following elements:

- **support for mapping, monitoring, and research programs primarily through the National Oceanic and Atmospheric Administration and the U.S. Coral Reef Task Force.**
- **support for new research and assessment activities to fill critical information gaps, to be carried out in partnership with the academic research community**
- **liability provisions for damages to coral reefs similar to those in the Marine Protection, Research, and Sanctuaries Act, but with greater flexibility to use funds in a manner that provides maximum short- and long-term benefits to the reef.**

- **support for outreach activities to educate the public about coral conservation and reduce human impacts.**
- **support for U.S. involvement, particularly through the sharing of scientific and management expertise, in bilateral, regional, and international coral reef management programs.**

The CNMI fully supports this recommendation. A significant amount of progress has been made toward understanding coral reef ecosystems, with the National Coral Reef Task Force providing guidance. The CNMI supports the comments of the All Islands Coral Reef Initiative Committee (AICRIC) and recommends support in both technical and financial form, for locally driven management of coral reef ecosystems in the U.S. coral reef states and territories.

In addition, and in support of the discussion on U.S. flag island/international relationships discussed above, CNMI suggests amending bullet 5 of 21-1 as follows: “support for U.S. involvement, including direct involvement by state and territorial members of the U.S. Coral Reef Task Force, particularly through the sharing...”

The CNMI suggests the following be added to the list of elements to be supported: (1) funding to address major infrastructure needs that would dramatically reduce land-based sources of pollution from impacting coral reefs; (2) continued and increased funding for local government coral-reef management efforts; and (3) funding to purchase lands and submerged lands for coral reef conservation measures; (4) funding for local marine and management effectiveness monitoring; and (5) staff support to the U.S. island territories to assist and build capacity in coral reef protection and management..

21-2. Congress should codify and strengthen the U.S. Coral Reef Task Force and place it under the oversight of the National Ocean Council. The task force should be strengthened in the following ways:

- **Task force responsibilities should be expanded to include both warm-water and deep-water coral communities.**
- **the U.S. Department of Energy and the U.S. Army Corps of Engineers should be added as members of the task force.**
- **the task force should coordinate the development of regional ecosystem-based plans to address the impacts of nonpoint source pollution, fishing, and other activities on coral reef resources.**
- **the U.S. Environmental Protection Agency and the U.S. Department of Agriculture should work together to implement any pollution reduction goals developed by the task force.**
- **the National Oceanic and Atmospheric Administration, in consultation with Regional Fishery Management Councils, should implement any task force recommendations for reducing the effects of fishing on corals.**

CNMI strongly supports the recommendation to codify and strengthen the USCRTF.

CNMI supports language that would keep the federal agency representation to the Task Force at the Assistant Secretary level, and the co-chairs at the Secretarial level.

CNMI has some concern about the inclusion of deep water corals within the framework of the Coral Reef Task Force. The Task Force’s focus was intended to be on reef-building corals. While some deep water corals may be associated indirectly with reef building corals in tropical areas, the broad inclusion could weaken the primary focus and goal of the Task Force. We understand that deep-water corals are very important to the ecosystem and strongly encourage that provision be made to manage and protect those resources without sacrificing funding or energy from reef-building corals..

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The CNMI recommends adding to bullet 2, to include the Freely Associated States as members.

With respect to bullet 3, the CNMI recommends that the U.S. Coral Reef Task Force build on the Fishery Management Plans (FMP) already developed by the Regional Fisheries Management Councils (RFMC) and approved by the National Marine Fisheries Service (NMFS). Moreover, the U.S. Coral Reef Task Force should note that the Western Pacific RFMC was the first RFMC to have their Coral Reef Ecosystem Fishery Management Plan approved by the NMFS.

With respect to bullet 4, the CNMI recommends that the Department of Transportation and DOI (because of CIP funds) join EPA and USDA in an effort to reduce pollution, because they support road building. Sedimentation from secondary roads is a major threat to coral reefs in almost all states and territories.

21-3. The National Oceanic and Atmospheric Administration should develop national standards—and promote international standards—to ensure that coral reef resources that are collected, imported, or marketed are harvested in a sustainable manner.

The Western Pacific Regional Fisheries Management Council has already achieved this by the creation of its Coral Reef Ecosystem Management Plan, which will manage the extraction of all coral reef resources in the central and western Pacific. This recommendation would duplicate existing management measures, and could result not only in confusion in management authority, but also impact existing and proposed fisheries in the western Pacific.

21-4. The U.S. Coral Reef Task Force should identify critical research and data needs related to coral reef ecosystems. These needs should guide agency research funding and be incorporated into the design and implementation of the Integrated Ocean Observing System.

The CNMI fully supports protection of deep-water coral communities.

The Coral Reef Task Force has identified research needs for shallow-water coral-reef communities (as has the NMFS). The Western Pacific Regional Fisheries Management Council has in place a Coral Reef Ecosystem Management Plan that directs management of shallow-water (0-100 meters) coral reef resources in the central and western Pacific, and illuminates research needs. Perhaps what is needed here is a coalescing of research plans and activities, with integration into the Integrated Ocean Observing System, and not a duplication of existing efforts.

CHAPTER 22: SETTING A COURSE FOR SUSTAINABLE MARINE AQUACULTURE

22-2. The National Oceanic and Atmospheric Administration's new Office of Sustainable Marine Aquaculture should be responsible for developing a comprehensive, environmentally-sound permitting, leasing, and regulatory program for marine aquaculture.

The CNMI supports the development of a permitting and leasing system and implementation of regulations for marine aquaculture, but requests that coordination include U.S. territories, such as the CNMI. In addition, provisions for how resource rent might be derived and to whom it may be returned need to be established fairly and clearly at the outset.

22-4. The United States should work with the United Nations Food and Agriculture Organization to encourage and facilitate worldwide adherence to the aquaculture provisions of the Code of Conduct for Responsible Fisheries.

The CNMI supports this recommendation in principle, but recognizes that given the growth of aquaculture in developing countries, this recommendation may require international aid before these countries can begin to comply with the aquaculture provisions of the Code of Conduct for Responsible Fisheries. That is, these developing areas may want to comply, but cannot afford to do so.

CHAPTER 23: CONNECTING THE OCEANS AND HUMAN HEALTH

23-1. The National Oceanic and Atmospheric Administration, National Science Foundation, National Institute of Environmental Health Sciences, and other appropriate entities should support expanded research and development efforts to encourage multidisciplinary studies of the evolution, ecology, chemistry, and molecular biology of marine species, discover potential marine bioproducts, and develop practical compounds, through both competitively awarded grants and support of federally designated centers.

This recommendation should include the development of regulations to prohibit exploitation of marine species to the point that they are at risk in terms of overuse or endangerment, once research has disclosed their human health benefits.

CHAPTER 24: MANAGING OFFSHORE ENERGY AND OTHER MINERAL RESOURCES

24-1. Congress, with input from the National Ocean Council, should ensure that a portion of the revenues that the federal government receives from the leasing and extraction of outer Continental Shelf (OCS) oil and gas is invested in the conservation and sustainable development of renewable ocean and coastal resources through grants to all coastal states. States off whose coasts OCS oil and gas is produced should receive a larger share of such portion to compensate them for the costs of addressing the environmental and socioeconomic impacts of energy activity in adjacent federal waters.

The CNMI strongly supports the sharing of OCS revenues to support the sustainable development of renewable ocean and coastal resources.

24-5. Congress, with input from the National Ocean Council, should enact legislation providing for the comprehensive management of offshore renewable energy development as part of a coordinated offshore management regime.

The CNMI supports this recommendation.

24-6. The Minerals Management Service should systematically identify the nation's offshore non-energy mineral resources and conduct the necessary cost-benefit, long-term security, and environmental studies to create a national program that ensures the best uses of those resources.

The CNMI supports this recommendation.

CHAPTER 25: CREATING A NATIONAL STRATEGY FOR INCREASING SCIENTIFIC KNOWLEDGE

25-1. Congress should double the federal ocean and coastal research budget over the next five years, from the 2004 level of approximately \$650 million to \$1.3 billion per year.

The CNMI supports the proposed increase in the ocean and coastal research budget. The Commission should provide additional details on the research funding needed and ensure that \$650 million to \$1.3 billion per year is sufficient to support federal, state/territorial, and local information and technology needs.

The CNMI appreciates the recognition of the National Sea Grant College Program as a valuable resource of research, outreach, education, and technology-transfer services. The CNMI

Commonwealth of the Northern Mariana Islands
Detailed Comments on Preliminary Report
June 4, 2004

recommends that the Commission also recognize and increase funding for other state-based science and education programs.

25-2. The National Ocean Council should develop a national ocean research strategy that reflects a long-term vision, promotes advances in basic and applied ocean science and technology, and guides relevant agencies in developing ten-year science plans and budgets.

The CNMI would welcome the opportunity to plan larger, more comprehensive and long-term projects with its federal partners. This would address a significant need in the CNMI. However, long-term planning could be affected by a change in presidential administration because the NOC will be influenced by the Assistant to the President. The “relevant agencies” also need to be defined. These are critical concerns that need to be addressed to clarify the scope of this recommendation.

25-3. The National Ocean Council should create a national program for social science and economic research to examine the human dimensions and economic value of the nation’s oceans and coasts. All ocean research agencies should include socioeconomic research as part of their efforts.

The CNMI fully supports this recommendation. Incorporating social and economic research into a natural resource management plan is essential to the success of the plan. The CNMI suggests revising this recommendation to include economic values (including market and non-market) in periodic reports.

25-4. Congress should appropriate significant funding for an expanded national ocean exploration program. The National Oceanic and Atmospheric Administration and the National Science Foundation should be designated as the lead agencies, with additional involvement from the U.S. Geological Survey and the U.S. Navy’s Office of Naval Research. Public outreach and education should be integral components of the program.

The CNMI fully supports this recommendation.

25-5. The National Ocean Council (NOC) should coordinate federal resource assessment, mapping, and charting activities with the goal of creating standardized, easily accessible national maps that incorporate living and nonliving marine resource data along with bathymetry, topography, and other natural features.

The need for such information is critical for long-term resource management. NOAA has begun undertaking an extensive mapping project for U.S. Coral Reefs with the aid of many state/territorial/commonwealth agencies, some of which have conducted small-scale bathymetric mapping projects. There exists a significant need to extend mapping activities to include the entire EEZ.

CHAPTER 26: ACHIEVING A SUSTAINED, INTEGRATED OCEAN OBSERVING SYSTEM

The CNMI supports the development and use of such a system, but is concerned that there appear to be no built-in safeguards with respect to possible misuses by commercial competitors, governmental agencies, or other countries.

26-11. The National Ocean Council (NOC) should promote international coordination and capacity building in the field of global ocean observations.

The CNMI supports such a recommendation, but notes that capacity building could apply equally well to some of the more remote U.S. territories and commonwealths such as the CNMI and American Samoa. This includes issues mentioned in the report such as, “...providing access to

U.S. scientific and technological expertise on a continuing basis; establishing education and training programs; securing funding for travel grants to allow scientists from less developed countries to participate in symposia, conferences, and research cruises; and funding international student fellowships.”

CHAPTER 27: ENHANCING OCEAN INFRASTRUCTURE AND TECHNOLOGY DEVELOPMENT

The CNMI recommends that the U.S. Commission on Ocean Policy’s Report also address the urgent needs of the islands to build human capacity through training of current staff and through development of additional post-secondary educational opportunities in the region.

CHAPTER 30: FUNDING NEEDS AND POSSIBLE SOURCES

30.1 Congress, with input from the National Ocean Council (NOC), should establish an Ocean Policy Trust Fund in the U.S. Treasury. The Fund should be 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. Trust Fund monies should be dispersed to coastal states and federal agencies to support improved ocean and coastal management commensurate with the nation’s new coordinated and comprehensive national ocean policy.

The CNMI strongly supports the establishment of an Ocean Policy Trust Fund and the principle of reinvestment in renewable resources and conservation and to assist states/territories with impacts. The Fund should be dedicated and not subject to annual appropriation. The program should be developed in a way that does not create incentives for additional OCS development, and ensure that any new uses comply with all environment requirements, including those of state/territory/commonwealths.

The CNMI also recommends the establishment of a dedicated *Coastal and Estuarine Conservation Trust Fund* at \$900 million, funded from OCS revenues customs receipts or other fees generated from the use of coastal and ocean resources.

COMMONWEALTH OF PUERTO RICO

SILA M. CALDERÓN
GOVERNOR

June 2, 2004

Admiral James D. Watkins
Chairman
U.S. Commission on Ocean Policy
1120 - 20th Street, N.W
Suite 200 North
Washington, D.C. 20036

Dear Admiral Watkins:

I am writing in regards to the comments that were requested to the Governor's Draft of the Preliminary Report prepared by the United States Commission on Ocean Policy. This report intends to make recommendations on the ocean policies, making sure that practical and immediate solutions are presented in addition to the long term plans that require a lot more effort and coordination between the beneficiaries of the ocean's resources.

The Department of Natural and Environmental Resources reviewed the preliminary report and considers it to be an excellent tool that integrates a series of strategies that can be considered by each region to promote the conservation of marine and ocean resources. This agency will be presenting more detailed and specific comments to the preliminary report that should be taken into consideration; nevertheless, there are several general ideas that I would like to share with the Commission:

- The establishment of an Integrated National Observing System that will require its main implementation at a regional level will allow open communication lines between regions to share information directed toward assuring the conservation of our marine resources. The oceans surrounding the Commonwealth of Puerto Rico have very unique conditions separate from the ones in the United States, thus the establishment of a Caribbean Region should be considered during this process.

- The development of strategies at a national level have to be evaluated to ensure the real effects of its implementation at a regional level, therefore it is important that each region develops its own public policy that addresses its needs but with the same national goals. For example, the Commonwealth of Puerto Rico established this year through the Department of Natural and Environmental Resources a new regulation for the sustainable management of the marine resources. This legal framework has to fit within the goal established at the regional level.
- The conservation of marine resources is of utmost importance to the Caribbean Islands, in particular since it provides a significant portion of the food supply to its people and it serves as an important economic development industry.
- The education of citizens is an essential part of any governmental initiative; hence an adequate ecosystem management program for each region needs to be in place to allow the development of specific goals to be achieved through the educational programs.
- The scientific research in all natural habits is of extreme importance to all. The recommendations in this area should consider that each region may have its own need, thus research should be funded and coordinated at that level.
- The Commonwealth of Puerto Rico has been an integral part of the work coordinated by the U.S. Coral Reef Task Force for the conservation of coral reefs and its marine communities, that is why it is recommended this task force be an integral part of the public policy recommendations.

These are several ideas that I understand need to be considered during the development and implementation of public policies for the conservation of ocean and marine resources. Since the Commonwealth of Puerto Rico shares many of the views expressed by the Commission, we support the implementation of a proactive plan to control the impacts on our marine habitats.

Best regards on the upcoming developments.

Sincerely,



Sila M. Calderón



THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE

**Charlotte Amalie, V.I. 00802
340-774-0001**

June 2, 2004

James D. Watkins
Chairman
U.S. Commission on Ocean Policy
1120 20th Street NW
Suite 200 North
Washington, DC 20036

Dear Mr. Watkins

Enclosed are our comments on the Preliminary Report of the U.S. Commission on Ocean Policy, as requested by you.

The Preliminary Report was reviewed and commented on by the Department of Planning and Natural Resources (DPNR).

If you have any questions or concerns, please feel free to contact Dean C. Plaskett, Esq. Commissioner of DPNR at (340) 774-3320.

Sincerely,

A handwritten signature in black ink that reads "Charles W. Turnbull".

Charles W. Turnbull
Governor

Comments on the Preliminary Report of the U.S. Commission on Ocean Policy are hereby provided. This document reflects the comments made by the Senior Staff of the Department of Planning and Natural Resources which have been categorized by chapter.

Introduction

Coastal Zone Management:

The guiding principles developed by the Ocean Commission are admirable and worthy for consideration for many programs. It is vitally important that federal and local governments keep the concepts of sustainability; individual and collective stewardship and awareness of coastal and ocean resources; strong scientific research with an emphasis on the interconnections between the atmosphere, land and waters; ecosystem-based management that takes into account multiple uses while preserving marine biodiversity; and having adaptive management measures that utilize the best available natural, social and economic science and information in mind when making decisions concerning our coastal and ocean resources.

The report recommends the creation of a National Ocean Council (NOC) and a nonfederal Presidential Council of Advisors on Ocean Policy (Council) within the President's Executive Office to provide better federal leadership and coordination of programs for the coasts and oceans. An Assistant to the President would chair the NOC; the Council would be co-chaired by the Assistant to the President and a nonfederal Council member. As described, these two bodies would provide or develop the following:

- Broad principles and national goals for governing the coastal and ocean waters and periodically reviewing and revising these goals.
- Make recommendations to the President on developing and implementing national ocean policy, including the implementation of international ocean agreements.
- Coordinate and integrate activities of federal agencies and provide incentives for meeting national goals.
- Develop strategies to identify and resolve overlapping or omitted statutory and regulatory structures, and address new and emerging ocean issues for national and regional benefits.
- Develop and support partnerships among governmental and nongovernmental agencies, the private sector academia and the public and guide the effective use and availability of science in ocean policy decision-making at all levels.
- Expand education and outreach efforts by all federal, local and coastal groups.
- Assist in the development of regional ocean councils composed of nonfederal governmental and nongovernmental stakeholders.
- Regularly assess the state of the nation's oceans and coasts.
- Make recommendations for federal agency reorganization, as needed, to improve ocean and coastal resource management.

There would be a number of offices and committees that would also be established to assist in the advancement of the various goals and objectives. These include the Office of Ocean Policy, the Committee on Ocean Science, Education, Technology, and Operations, Committee on Ocean Resource Management and a number of regional ocean councils (ROCs). The ROCs would be

very important as the report calls for the federal agencies with ocean or coastal-related responsibilities to improve their coordination and eventually to re-organize around the ROCs. The ROC would be composed of state, territorial, tribal, and local governments and non-government organizations. Based upon the ROC concept, federal agencies would work towards implementing an eco-system based approach to managing coastal and ocean resources. Scientific, social and economic information would be developed for each particular region and disseminated through a regional ocean information program that would be linked to the ROC, if one were developed for that region. The regional ocean information program would also be responsible for developing and periodically updating regional ecosystem assessments.

Care must be taken with the proposals so that a larger, more cumbersome federal bureaucracy with multiple, overlapping responsibilities is not created. Many of the proposals are extensions of what already exists, but there sometimes seems to be a misunderstanding of how things work in real life. Extreme care must be taken to ensure that all roles and responsibilities are well defined and that a top-down approach to managing coastal resources does not develop. The states and territories have long histories and much traditional knowledge that can be shared, but federal agencies must be prepared to listen and not assume that they know what is best or correct for certain conditions or situations. A much stronger role for state and territorial governments to participate in the creation of the new national strategy is needed, but not clearly spelled out. This should be clarified.

The following chapters begin discussing actual management recommendations and policies for various topics and levels of government. For ease of reference the comments are based on each chapter and, where appropriate, the particular recommendation made in the Preliminary Report.

Environmental Protection:

The US Commission on Ocean Policy *Preliminary Report* identifies a great many issues that DPNR and the territory face on a daily basis with managing our territorial seas. For the most part this *Preliminary Report* reflects the range of concerns and gravity of the precarious health of our territorial seas, the spectrum of both land and water use management issues, and adequately represents the urgency and energy necessary to improve our territorial and national waters.

Many of the issues identified as national problems are also territorial problems. This memo provides comments on the *Preliminary Report* and focuses on the issues managed by the Division of Environmental Protection and are primarily water quality related. Please contact Syed Syedali if you have any questions.

Fish & Wildlife:

Draft Recommendations – A summary of recommendations is provided in the Executive Summary. In addition, many very specific recommendations are provided throughout the text of this report. Many of these recommendations are logical and appear to attempt to streamline the operations of the federal government and related agencies as they relates to ocean resources.

Our Oceans: A National Asset

Chapter 1: Recognizing Ocean Assets and Challenges

Fish & Wildlife:

Unfunded Mandates – Many of the draft recommendations in the Executive Summary and the text require additional funding. It is not clear where these funds will come from. Many sound good. The draft suggests that oil and gas royalties from offshore oil leases be used to fund their numerous recommendations. These were the funds that were previously proposed to support various fish and wildlife programs under the U.S. Fish and Wildlife Service's Federal Aid CARA Program, a much broader based program which would include purchase of lands for wildlife preservation, historical preservation, general environmental education, etc. This program apparently has been killed in Washington D.C. It sounds like funds were taken from the proposed CARA initiative to support this initiative. No new long-term funding sources are obvious.

Government Efficiency - There is discussion in the text about making government more efficient. Is the way to do that by creating another government agency whose mandate overlaps that of other existing federal agencies? There is discussion about making the various federal agencies that deal with the oceans more efficient. Are there significant inefficiencies now? Most relevant organizations were probably already under NOAA. Also, many of the problems of current agencies and organizations are related to being under-funded. If existing agencies were fully funded and fully staffed, they should be better able to fulfill their mandates.

Blueprint for Change: A New National Ocean Policy Framework

Chapter 4: Enhancing Ocean Leadership and Coordination

Environmental Protection:

Coordination

One problem area that affects many of the Divisions of the Department of Planning and Natural Resources, including the Division of Environmental Protection, is the issue of Federal agency regional office coordination. As national policy is set at the headquarters level, there is a great deal of coordination and collaboration between the federal environmental regulatory and research agencies such as NOAA, EPA, USCG, USGS, and USDA. There is also a great deal of coordination and collaboration of similar local programs within the territorial government. Where the greatest weakness of holistic national policy implementation exists in the US Virgin Islands is at the regional management level of the federal government. The US Virgin Islands is incorporated into the various national programs through the regional offices of NOAA, EPA, USCG, USGS, and USDA. Each of these offices has different geographical extents and are not similar between them. While regional offices may coordinate well with the territory individually, they have not been able to coordinate well with each other. This may be due to each of their differing geographic localities and management extents. Federal initiatives that originate at the headquarters are disseminated to the local level through regional offices that all have different geographical regional management structures that deal with the US Virgin Islands. These differing regional management structures often result in overlapping efforts that are rarely coordinated at the regional agencies before being brought to the territory.

One solution may be to create a federal environmental coordination office in the territory through which federal ocean-related programming could be channeled. This would eliminate the multiple and dispersed contact points throughout the federal government that the Department must now seek to implement federal programs locally.

Chapter 5: Advancing a Regional Approach

Fish & Wildlife:

Regional cooperation or subjugation – If additional federal agencies are created and additional federal funds become available, then states will be asked to participate in ocean management programs. However, these programs will be organized and directed by a national agency. They probably will not target the same priorities as that of a state. However, in order to receive funding, the state will have to change its priorities and follow the guidance from the federal government. Regional cooperation is the term used throughout this report. However, in fact, it may just be another form of state subjugation to federal requirements and priorities.

Enhanced regional cooperation – This is a nice concept, but many states and territories are extremely under budgeted or have had their budgets recently slashed. Without additional federal funds, states ability to cooperate will be limited. One problem is that federal funds always have strings attached and require a significant in-house capacity just to manage such grants. Also, most federal grants require state matching funds. Federal funds may become available, but if the state government can't make the match requirement, then the assistance is not real. Also, it may be politically correct to invite the public to participate in various meetings and workshops. However, these individuals give up time from work to assist. They should be supported and compensated at the same level as federal employees. Local agencies and businesses often do not have the luxury of being able to support staff and employees to go to federal meetings.

Links with other federal agencies – In Chapter 14, various existing federal agencies are mentioned that have roles in management of coastal areas. The draft suggests that the proposed Ocean Committee liaise or coordinate with these various agencies (Army Corps of Engineers, USEPA, Department of Agriculture, etc.). The new committee can make suggestions to these other agencies, but without top management commitment, these suggestions are just suggestions. They are not mandates. Also, many of these agencies are already under-funded. Rather than create additional bureaucracies, perhaps it would be more appropriate to fully fund existing agencies and allow them to do what they were mandated to do.

Coastal Zone Management:

The Government of the Virgin Islands has already begun collaborating with the other states and territories through the U.S. Coral Reef Task Force, the U.S. All-Islands Coral Reef Initiative Committee and the U.S. All-Islands Coastal Zone Program Managers group. Through these organizations, the Virgin Islands is given a stronger voice as the primary objective of these groups is to maintain each jurisdiction's priorities and unique values, while addressing issues of common concern. The Freely Associated States in the Western Pacific are welcomed to sit at the U.S. All-Islands Coral Reef Initiative and provide valuable insight and information, as well as implement ocean and coral reef management measures in coordination with the Department of

the Interior. Staff recommends that representatives from each jurisdiction in the region be allowed to sit on the regional ocean council.

Chapter 6: Coordinating Management in Federal Waters

Coastal Zone Management:

This chapter primarily discusses policies and procedures that could be adopted by the federal government to facilitate coordination with other federal agencies, research, assessment and the monitoring of new offshore activities. Again, the Preliminary Report recommends a coordinated ecosystem-based approach to managing all offshore federal waters.

The process as outlined in this section does not include any participation by any local populations or affected parties such as commercial or recreational fishers, charter boat fishers, commercial or recreational boaters, scientists, etc., unless a ROC or other **regional entity** solicits the public participation. As creation of, and participation in, a ROC is strictly voluntary, if there is no regional entity, there could very easily be very little or no public participation in the development of a marine protected area that is in federal waters. Provisions should be developed to insure public participation into the development and implementation of a marine protected area in federal waters, regardless of whether or not Regional Ocean Council or other regional entity exists.

Chapter 7: Strengthening the Federal Agency Structure

Fish & Wildlife:

Eco-system approach to management – This is proposed and may be a more practical approach to resource management than the species approach currently taken. It is currently a popular approach in fisheries as well as wildlife management.

Coastal Zone Management:

The Preliminary Report categorizes a long history of recommendations, reports and efforts by members of Congress to remove NOAA from the Department of Commerce and establish it as either a stand-alone agency similar to the Environmental Protection Agency, or as a component agency within a broad Department of Natural Resources. While any strengthening and clarification of NOAA's missions, structure and functions is greatly welcomed and strongly supported, it is the recommendation of staff that the Government of the V.I. strongly urge the establishment of NOAA as a stand-alone agency, or it be included in a wider federal governmental Department of Natural Resources as has been recommended on numerous occasions. This would allow for the easier implementation Recommendation 7-2, concerning NOAA's budget review process.

These are worthwhile recommendations that would greatly assist local governments in many ways. While there would be many offices within such a structure, it could allow for the development of uniform processes that would make it easier for local governments to locate, apply for, and manage grants. Under the current federal organization, it is difficult for local governments to efficiently determine all of the relevant grants that may be applicable for a particular project or program. Once the grants are located, the different application procedures and reporting requirements frequently require the hiring of one or more persons just to ensure

that one program meets all of the various grant requirements. Any reorganization of the federal government that could reduce the local government's burden in locating, applying for, and managing grants is a necessity and should be strongly supported.

Ocean Stewardship: The Importance of Education and Public Awareness

Chapter 8: Promoting Lifelong Ocean Education

Fish & Wildlife:

Education – Support for ocean education programs is recommended. Again, this costs money. Also, why set up another agency to deal with this? Why not just strengthen the existing Sea Grant Program? Sea Grant has a national organization in existence. Does it have to go through the proposed Oceans Commission to get funds? Rather than getting funding directly as now.

Ocean information – This should already be the function of NOAA. If not, then NOAA needs additional funding to collect and disseminate information on oceans related subjects. It would not be appropriate to create another federal agency to deal with this issue.

Education for an ocean-related career – There is discussion in the text about educating people for careers in ocean-related areas including science. However, little is mentioned about who will hire these newly trained people. Employment opportunities in fisheries and marine biology traditionally have been extremely limited. Training people with little prospects for future employment does not sound appropriate. There are many under-employed and non-marine job employed marine biologists.

Coastal Zone Management:

Staff strongly supports any the recommendations of this chapter that will lead to increased scientific, social, and economic research on coastal and ocean resources, increased funding of local education and outreach efforts, the establishment or expansion of educational opportunities, the development of educational materials, or the enhancement of underrepresented and underserved groups in the ocean-related workforce.

Living on the Edge: Economic Growth and Conservation along the Coast

Chapter 9: Managing Coasts and their Watersheds

Coastal Zone Management:

For island jurisdictions a watershed approach may be the best way to address some issues of resource management. Care should be taken not to lose sight of the ecosystem however, as there will be crossover effects from adjoining watersheds and neighboring islands. An ecosystem approach, with guidelines and training on how to implement such an approach, cannot be forgotten. Staff strongly supports the reauthorization of the CZMA with the proposed amendments, as long as sufficient support is provided for the hiring of new staff, the purchasing of necessary equipment, and the provision of suitable training.

Prior to any wholesale changes in federal funding and infrastructure programs, close study should be made to how this will affect the island jurisdictions. Islands have limited amounts of land and most islands have already developed the easily developed areas. Remaining areas that can be developed can frequently only be developed through the destruction of increasingly valuable natural resources such as salt ponds or mangrove forests. Other areas such as steep slopes, solid mountain rock, coastal flood plains, or high population densities, will require extensive engineering, costly construction practices, or other expenses to ameliorate the effects of the project on the local population. All changes to federal funding and infrastructure programs that will affect the island jurisdictions should be undertaken only after a careful analysis of the social, economic, and environmental impacts that will occur.

The Department of Planning and Natural Resources has long recognized the importance of addressing issues on a watershed approach. Initiatives have been undertaken to strengthen the collaboration and interaction among the various divisions (CZM, EP, DF&W) to ensure that water quality problems are addressed through a watershed focus. Closer alignment of federal agencies along these same principles will reduce the duplicate requirements DPNR faces for the location, application, and management of numerous grants that are spread through several federal agencies, thereby increasing governmental efficiency and the ability to procure additional funds.

Environmental Protection:

Watershed Based Management

TPDES permitting, TMDLs, non-point source pollution reduction strategies, and coastal water quality assessments are now being performed at the watershed scale throughout the territory. As a territory made up of islands linking watershed management to coastal management and water quality management is both essential and challenging. This effort is ongoing and significant accomplishments include the VI coastal water body delineation and the ongoing wetlands inventory.

DPNR is interested in aiding the establishment of and supporting watershed community organizations.

Chapter 10: Guarding People and Property against Natural Hazards

Coastal Zone Management:

Any changes to the National Flood Insurance Program or federal hazards-related financial and infrastructure support should only be undertaken after careful consideration and input from the island jurisdictions. Any changes to the relevant programs can have an out-sized impact on the social, economic or natural resources on an island jurisdiction, especially in comparison to a state where more land is available for relocation of people, projects and infrastructure. Second, current programs do not allow FEMA to provide financial support to address the environmental aspects of natural disasters. This can lead to an inadequate response to a natural disaster, longer community recovery time, impeded response times, and higher financial costs after future natural disasters. One suggestion would be for FEMA to assist states and territories to develop local action plans for responding to natural disaster impacts on both the man-made and the natural environments. The plans would assist FEMA's and the jurisdiction's response capabilities and priorities. Staff recommends these concerns be raised with the Ocean Commission for possible inclusion in the final report.

Chapter 11: Conserving and Restoring Coastal Habitat

Coastal Zone Management:

The development of these programs is greatly needed in the Virgin Islands. Not only could programs of this type be used to protect land, beaches, wetlands and other natural resources on the highly developed islands of St. Thomas and St. John, but could also be utilized on St. Croix to protect areas prior to them becoming threatened by inappropriate development.

Recommendation 21-2: Congress should codify and strengthen the U.S. Coral Reef Task Force (CRTF) and place it under the oversight of the NOC. (Numerous bullets)

Staff strongly supports this recommendation, especially the inclusion of the U.S. Department of Energy and the U.S. Army Corps of Engineers on the CRTF, with the following concern.

- One of the strengths of the CRTF is that it is co-chaired by Under Secretaries from NOAA and the Department of the Interior. Staff encourages that this level of commitment be maintained at the federal level as it has brought increased visibility to territorial concerns and increased coordination between the federal and local agencies. Examples of this increased coordination include the development of the St. Croix East End Marine Park and a federal law enforcement training program that will bring trainers from the U.S. Department of Justice, the U.S. Department of the Interior, the National Marine Fisheries Service, and possibly the U.S. EPA to collaboratively train staff from several divisions of the Department of Planning and Natural Resources.

The U.S. Agency of International Development prepared a report in March 2000 that addressed the international trade in corals and coral reef species. Based upon some of the findings and current scientific knowledge, staff suggests that procedures for coral cultivation through fragmentation and sperm/egg reproduction be made widely available to all countries, states and territories where coral is currently harvested. Workshops describing the processes could be developed and widely presented to aid in the dissemination of the information. Second, a program could be developed that is similar to the one that identifies tropical hardwoods that are cultivated or harvested in a sustainable manner. Business groups could create this program to ensure that corals and coral reef species are similarly cultivated and harvested in a sustainable manner.

Corals and their associated ecosystems are intricately linked to the land and its uses in the territory. Current research does not provide managers and other government decision makers information in a timely manner. Consequently there is an increased risk that problems or their solutions will not be identified until too much damage has been done and the coral reef ecosystem we rely on is irretrievably damaged. Staff strongly supports any increase in research and data acquisition that will allow more timely decisions to be made, with one note of caution. Deep-water corals are basically an unknown ecosystem due to difficulties and expense of conducting research. Demands for funds to study this “new frontier” of science could easily consume all increases in funding and other resources. Staff recommends that all questions concerning deep-water corals should be addressed in a manner that does not detract from current shallow-water coral programs.

Clear Waters Ahead: Coastal and Ocean Water Quality

Chapter 14: Addressing Coastal Water Pollution

Environmental Protection:

Point Source Discharge Regulations

The Territorial Pollutant Discharge Elimination System (TPDES) permit regulations mirror that of the National Pollutant Discharge Elimination System (NPDES) but with one key difference. TPDES applies to all waters of the Virgin Islands whose definition is far more encompassing than the federal Water Pollution Control Act's definition for waters of the United States to which NPDES permits are applied. TPDES regulations are planned for use as the primary tool to implement developing storm water regulations and decentralized wastewater treatment plant performance regulations. Once general permit authority is received permits will be managed on a watershed scale.

Sewage System Overflows

Sewage system overflows and failures are arguably the single largest source of nutrient loading and pathogenic contamination in the territory's coastal waters. The territory's aging wastewater infrastructure needs extensive refurbishment or replacement.

Septic Systems

DPNR through a Department-wide approach is eliminating the use of conventional septic systems throughout much of the territory. Alternative Onsite Disposal System regulations have been developed and decentralized wastewater treatment plant performance regulations are being drafted. These will be applied to all septic/wastewater-generating facilities throughout the territory that do not currently require a TPDES permit.

Nutrient Pollution Reduction

The territory needs additional support to perform nutrient assessments in coastal waters. Current techniques, though meeting federal guidelines, may not detect low-level nutrient pollution that is likely causing long-term detriment to coastal resources.

Non-Point Source Pollution Control

Nonpoint Source pollution, in the form of polluted runoff, impairs more water bodies than any other source of pollution in the Virgin Islands. Two of the major nonpoint source problems affecting the Virgin Islanders are sedimentation and bacterial contamination. Sedimentation occurs when soil is eroded from the land surface, such as at construction sites, and deposited onto the land surface or into coastal water bodies. Sedimentation results in problems such as habitat losses and marine life mortality. Bacterial contamination from sources such as failed septic systems; runoff from animal operations, and sewage discharged from boats can cause serious threats to human health

Special characteristics unique to the Virgin Islands such as, wet/humid tropical climate, steep slopes, short but heavy rainfall events, small insular watersheds, clayey impermeable soils, large coastline to land area ratio, proliferation of septic tanks, and large tracts of unpaved roads, etc. must be considered when addressing nonpoint source control.

Land Use Management

Urban development is the largest cause of nonpoint source pollution in the Virgin Islands. Because of the scarcity of flat land, especially on St. Thomas and St. John, development has taken place in areas that far exceed the typical environmental constraint of 15 percent slope. A more realistic cut-off point for development in the Territory would be areas with slopes in excess of 45 percent. Topography is therefore one of the most severe natural constraints to development in the Virgin Islands

Earth Change and Stormwater Permitting

All urban development in the second tier of the coastal zone begins with an earth change application process. Under the Nonpoint Source Program of the Division of Environmental Protection, Earth change plans are reviewed to determine if they meet the minimum standards required for the adequate protection and conservation of the soil and water, and for water disposal in and from the construction area.

The major flooding problems that occur in the Virgin Islands are due to increased runoff volumes associated with development and improper use and development of historic floodplains. The denuding/paving of a significant portion of urban areas has had an effect on the increased velocity and volume of storm water runoff. Rain falling in the upstream part of a basin reaches the downstream part in less than an hour; therefore flooding can occur after short periods of intense rain.

Presently, the Division of Environmental Protection is finalizing the rules to achieve consistency with Federal Storm Water Regulations and the revised VI Water Pollution Control Law.

Coastal Zone Management:

The Government of the Virgin Islands adopted effective building ordinances for septic systems in 2001. Due to the need to significantly upgrade the public sewage treatment systems in the Virgin Islands, staff strongly supports this measure. Many beaches have to be closed for various periods of time throughout the year. More stringent federal testing and monitoring requirements may require more beach closures. As the territory is dependent upon tourism for much of its revenue, as there is a culture of beach use by residents and as development along the V.I. shoreline is dependent upon coral reefs and seagrass beds for protection from storm-generated waves, staff strongly supports these recommendations.

The Department of Planning and Natural Resources has already begun aligning its programs to address the issue of on-site sewage disposal systems within impaired watersheds. It has also developed a Memorandum of Understanding with the Department of Agriculture to begin addressing nonpoint source pollution from agricultural lands. Staff supports any coordinating, strengthening and streamlining of all federal programs that address these issues.

The merging of successful programs should be approached carefully to ensure the goals and objectives of both programs are maintained. The merging of an enforcement program into a project-oriented program may not be appropriate, as the goals and objectives are not necessarily complementary. Staff does not support this particular recommendation.

The Department of Planning and Natural Resources has begun developing programs to address the issues addressed in this recommendation. The Department has already developed and begun implementing a model watershed management plan. The model plan has been used as a basis by which to apply for federal grants by the Department and other local nonprofit organizations. The Department has almost completed development of, and plans to implement, a Smart Growth education program. This program is focused on architects, engineers, homeowners and the general public. Departmental staff has been involved in a Nonpoint Education for Municipal Officials (NEMO) Program and expects to begin aggressively developing such a program in the Virgin Islands in the near future. These programs, once implemented will address many of the issues raised in the recommendations above. The Department has also moved to strengthen the rules and regulations concerning stormwater management. Several programs already require the use of best management practices, including developments and projects developed or inspected by the Divisions of Coastal Zone Management and Environmental Protection.

One question concerning water quality monitoring that should be addressed is whether current monitoring efforts and standards are actually to address the needs of the new system of ecosystem management. The present standards may be sufficient to detect pathogens or other toxins that can impair human health or safety. Under the new ecosystem approach to management, standards may have to be revised to address weaker members of the ecological chain if ecosystem health is to be maintained. A second concern involves the testing of sediments for toxins. Sediments are frequently re-suspended in the water column and attached heavy metals and other toxins have frequent opportunity to enter the food chain. The routine testing of sediments and the proper disposal of contaminated sediment should be addressed in a more comprehensive manner. Staff strongly supports any federal initiatives that will strengthen and improve the water quality of the Virgin Islands.

Chapter 15: Creating a National Water Quality Monitoring Network

Environmental Protection:

National Water Quality Monitoring Network

The US Virgin Islands has an extensive network of coastal water quality monitoring stations. The information gathered from these monitoring stations is used to perform individual water body assessments. The data collected is sent to EPA national water quality database (STORET) on a quarterly basis. DPNR continues to strive to improve this network of water quality stations by assuring that all territorial water bodies are assessed on a frequent basis and that they are assessed for pertinent parameters. That yields the most useful information to allow program managers and policy makers to tailor their land and water use decisions for the greatest effects of protecting natural resources.

Chapter 16: Limiting Vessel Pollution and Improving Vessel Safety 183

Environmental Protection:**Vessel Pollution**

Vessel pollution impacts to territorial waters are not fully understood. Significant vessel traffic and waste discharges occur within the territory. From the billions of gallons of gray water and ballast water that are discharged throughout the territory without being monitored coming from cruise ships, tankers and freighters; to the numerous smaller craft operating throughout the territory, where there is an increase in vessel activity there is a decrease in environmental quality.

Coastal Zone Management:

The Department of Planning and Natural Resources strongly supports any federal initiative that will decrease the amount of pathogens and sewage entering V.I. waters. The Department has assisted in the installation of several pump out facilities at marinas located on St. Thomas and St. Croix. Increased funding will allow the Department to increase its supervision of these facilities and expand the program to other marinas in the territory. Staff strongly supports these recommendations.

Ocean Value and Vitality:**Enhancing the Use and Protection of Ocean Resources****Chapter 19: Achieving Sustainable Fisheries****Fish & Wildlife:**

Regional fisheries management councils – It was recommended that science be used as a basis for fisheries management. However, it will be extremely difficult to cut out the political inputs to management of these resources. With almost all fisheries issues at the local, national, and global level, political agendas will prevail over the best available scientific information. Without the political will to take hard management decisions, it is unlikely that any management decision based only on science will prevail without a significant amount of enforcement.

Enforcement - In the Executive Summary, no mention was made about the need for more enforcement. Current local and federal levels of enforcement are woefully inadequate for fisheries management. If an oceans commission is formed, their mandates will require additional enforcement resources. Is this realistic? There is some discussion on enforcement in Chapter 19 (page 238) where the recommendation was made for increased cooperation and funding.

Voluntary regional ocean councils – The draft proposes formation of voluntary regional ocean councils. Voluntary management will probably not work. Also, the model of the regional fisheries management councils may not be suitable here. These councils have recently been under public criticism, as they are perceived as being the hen house that is watched by the fox. Also, what will be the relationship between the regional fisheries councils and the regional ocean councils? It appears that the responsibilities of each overlap significantly. Wasn't the mandate here to streamline government and reduce duplication of effort?

Guiding Principles – The guiding principles stated on page 32 and the precautionary approach (see page 36) are good. This can be used in some of the USVI DPNR/DFW's fisheries and wildlife conservation planning work.

Increasing the Role of the Scientific and Statistical Committee of the Regional Fisheries Management Councils – Recommendation 19-2 (page 223) is to require the SSCs to provide scientific information to the councils for management decisions. It is suggested that some of the decision-making capacity of the Fishery Management Councils be revoked and that the equivalent of the SSCs make decisions regarding such management measures as catch quotas. The councils would be relegated to determining how these quotas would be allocated among fishers. The problem with this is that “the best available scientific data” may be woefully inadequate to allow accurate determination of such measures as quotas. Management measures developed by a council to meet quotas developed in data poor situations may result in unnecessary hardship to and resentment by fishers. This is also a dramatic increase in the role and responsibilities of the SSCs. The councils currently do not have the resources for this. The members of the SSC volunteer for this committee. To create a scientific group to provide support is to create another bureaucracy. At this time, NOAA Fisheries is supposed to provide the best available scientific advice to the councils. Is this duplication of effort? Or the creation of more agencies? Other related recommendations indicate that NOAA Fisheries role would be changed to that of a reviewer, rather than the agency to do the actual stock assessments.

Increase Cooperative Research Program – Recommendation 19-9 (page 227) is for increased cooperative research funding. The USVI periodically is able to get grants from this program. However, the research priorities are formulated by NOAA Fisheries and are often not the local priority. It is rather meaningless to provide funds for low local priority issues. It would be more appropriate if this program also supported research related to local priorities.

Regional Fisheries Management Council Operations – There are various recommendations regarding the operation and composition of the regional fisheries management councils. These have ramifications for the USVI. There are national public concerns regarding these councils. Some consider the councils as the fox guarding the chicken house. It may be time to consider the addition of local concerned citizens and conservation groups on these councils.

Chapter 20: Protecting Marine Mammals and Endangered Marine Species

Fish & Wildlife:

Endangered Species – The draft mentions that there is a Marine Mammal Commission (page 253). It appears that the role of the proposed Ocean Committee may overlap the functions of this commission.

Chapter 21: Preserving Coral Reefs and Other Coral Communities

Fish & Wildlife:

Coral Reefs – Chapter 21 is on coral reef preservation. It would also be appropriate to consider protection of other eco-systems. Coral reefs are just one of many benthic habitats in the ocean. Yes, they are colorful and can support a diverse amount of marine life. However, there are a number of other benthic habitats that also deserve and require protection and preservation.

Coastal Zone Management:

The National Oceanic and Atmospheric Administration currently receives some funding for coral protection and research. This money is provided on a year-to-year basis. The monies received by the Government of the V.I. has led to expanded monitoring of fish stocks throughout the territory and the development and implementation of the St. Croix East End Marine Park. An emphasis should also be placed on federal programs or federally funded projects that provide research, data and technical assistance to address local management needs of coral reef ecosystems. To ensure local management needs are met, state and territorial members of the U.S. CRTF should be allowed to share scientific and management expertise in a variety of coral reef programs. Staff recommends support for this recommendation with the noted revisions.

Chapter 23: Connecting the Oceans and Human Health**Coastal Zone Management:**

Staff recommends that policies and procedures be built in to return a percentage of any profits from products developed through this or any other initiatives to the local communities where the natural resources are obtained. This could be patterned on similar agreements created to address the issues surrounding businesses and industries profiting from products that were discovered and developed from rainforest plants. Such an agreement can return badly needed monies to local economies, and provide incentives for local businesses to develop to help sustain the natural resources and provide needed local expertise to the researchers. Another benefit could be an increase in the emphasis placed on the educational system of a jurisdiction.

Chapter 24: Managing Offshore Energy and Other Mineral Resources**Coastal Zone Management:**

Staff recommends that any possible increases in federal funds to coastal states and territories should be fully supported.

Science-Based Decisions: Advancing Our Understanding of the Oceans**Chapter 25: Creating a National Strategy for Increasing Scientific Knowledge****Fish & Wildlife:**

Additional funding of scientific research – The draft notes that funds for ocean research have decreased over the last two decades. Additional funding is recommended. The draft suggested a doubling of the current \$650 million research budget is required. This funding level would be necessary to carry out the mandate described in this document.

Scientific basis for management – This approach is suggested. However, it does not indicate that management decisions will be based on the best available scientific data.

Coastal Zone Management:

Staff support this recommendation as a portion of those funds will be utilized by the Sea Grant offices at the University of the Virgin Islands; support other on-going research by both the University of the Virgin Islands and the Government of the Virgin Islands; and will support other

high priority areas mentioned throughout the report (water quality monitoring, fish population analysis, etc.).

Recommendation 25-2: The NOC should develop a national ocean research strategy that reflects a long-term vision, promotes advances in basic and applied ocean science and technology, and guides relevant agencies in developing ten-year science plans and budgets.

Staff strongly supports this recommendation. Many research projects are funded for only a very few years (1-3) and may have to be discontinued prior to the collection of sufficient data over a sufficiently-long time period to provide any conclusions or information to managers or governmental decision makers.

Recommendation 25-3: The NOC should create a national program for social science and economic research to examine the human dimensions and economic value of the nation's oceans and coasts. All ocean research agencies should include socioeconomic research as part of their efforts.

Staff strongly supports this recommendation. Many managers and government officials do not have sufficient access to data that will allow them to make decisions that are in the best interests of the general population. Increased data and analysis will allow decisions that benefit the general public to be made, especially when questions arise concerning the use of trust lands and other natural resources.

As a final comment, staff points out that there are a very large number of recommendations that this report makes, however, except for repeating the key themes of sustainability, ecosystem or watershed approach to problems or management, increased resources for science and public education, and regional coordination, there are no priorities. Staff is concerned that this situation could lead to confusion on how to implement the Report's recommendations and may lead to no action being taken at all. Recommendations and actions should be prioritized in a manner that will allow clear actions to be taken to implement the Report's recommendations.

Additional Comments made by Fish & Wildlife

Map of US EEZ – The authors forgot to include the U.S. E.E.Z. around Navassa Island in the Caribbean. This is the forgotten U.S. territory in the Caribbean.

Report Font – The font used in this draft is probably 8. This is very small and difficult to read. Standard report font is 12.



OFFICE OF THE GOVERNOR

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BILL ANOATUBBY
GOVERNOR

May 18, 2004

U.S. Commission on Ocean Policy
1120 20th Street, Northwest
Suite 200 North
Washington, DC 20036

Greetings:

We appreciated the opportunity to comment on the preliminary report of the U.S. Commission on Ocean Policy. Our comments are outlined below:

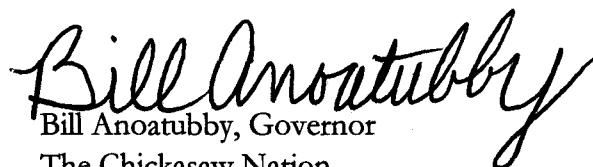
- The current commission does not have any American Indian or Alaska Native representatives. Such representation is important since the commission has a plan to improve, coordinate and consolidate the federal programs that have a role in managing coastal areas to address problems of overdevelopment.

- Will tribes be allowed direct access to the information generated by IOOS for their benefit and/or studies the same as state, education and environmental groups?

- "...the report concludes a proposal for funding additional federal and state activities required to implement the Commission's recommendations." Tribes need to have access to this funding also to allow them to also implement the commission's recommendations within their own jurisdictions.

Again, thank you for this opportunity.

Sincerely,


Bill Anoatubby, Governor
The Chickasaw Nation



God Bless America!

**Comments to Governors Edition
of
U.S. Commission on Ocean Policy Report**



Lummi Nation
2616 Kwina Road
 Bellingham, Washington,
 98226
Darrell Hillaire, Chairman
 360-384-1489
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The Lummi People have lived by the sea and from the sea for thousands of years. The value of the water as a source of food, transportation and even our existence is constantly on our minds. Totally reliant on the water around us, the Lummi Nation has continued to place the highest value on traditions that involve the oceans. The identity of the Lummi People as a distinct group has depended on our relationship to the sea. In reality all Northwest Natives are tied to the oceans with inseparable bonds and permanent relationships.

In 1855 our Treaties were written around natural resources that guaranteed to us we would have a continued use and responsibility to those waters.

Specifically, the Treaties granted to the Lummi People 50 percent of natural resources and those rights were later affirmed by Judicial decisions, the Lummi People felt secure. In those early days of the Treaty, Lummi People totally relied on the waters that surrounded them. Today that reliance has been reduced by changes in the waters, views of management, pressures of population and what appears to be climate changes. However our values continue to be directed at the sea and maintenance of our rights. They all point to the reality that we must all be better stewards of the sea and its resources.

The Lummi People have had minimal input into the development of the Ocean Policy

Document now presented and represented by the more than 1000 pages of actions, recommendations, testimonials and background. **In reality the Lummi Nation and other coastal Tribes have a very large presence in these issues.** The Lummi Nation reacts daily to issues that impact the environment, their jobs, Puget Sound and the connecting Pacific Ocean and their existence. We continue to place emphasis on aspects of our water-oriented background, including our diminishing fishing fleet, shellfish harvests, cultural needs, and successful aquaculture program. The Aquaculture Project beginning in 1969, was a vision of continued reliance on the water and tidelands. Today after 35 years, the fish and shellfish aspects of that project continue to supply valuable jobs and income to the Tribe and a gateway to aquaculture potential through Northwest Indian College programs.

The roots of the Tribally owned community college at Lummi, the Northwest Indian College (NWIC), actually started in 1969 as an Aquaculture Training Program, a collaborative effort by the Federal government, the State government and the Lummi Nation. The College continues today as Northwest Indian College, with a native enrollment of more than 1600 students from throughout the United States. In 1999 the College was designated as the location for the **National Indian Center for Marine Environmental Research and Education (NICMERE)**. The College was chosen for this center as it is the only Native college located on marine waters and the only college with a marine program that works collaboratively with the Lummi Aquaculture program in research, technical training and educational opportunity. The thirty-five member American Indian Higher Education Consortium of Colleges and Universities recognized the unique position of the Northwest Indian College and designed NWIC and NICMERE as the Center for marine studies for that group. Presidential Executive Orders for American Indians and Alaska Natives Education opportunities also direct collaborative efforts to be developed and enhance the capacity of Tribal Governments to provide education opportunities. NWIC and NICMERE also provide a resource for Puget Sound Tribes and West Coast Tribes for educational opportunities at a Native institution.

NICMERE's strategic plan was developed to provide a larger presence of Native scientists in the management of natural resources, including all the marine sciences. Through the use of grants, NICMERE is providing research efforts that are contributing to the marine community. As a 1994 Land Grant College, Northwest Indian College can participate in Sea Grant programs and provide additional input to the marine environment through Native-oriented research efforts. NICMERE has a Memorandum of Understanding with the Department of Commerce (NOAA, NMFS, Northwest Fisheries Science Center) to collaborate and provide the college with cutting edge technology from their staffs and facilities for students and faculty in the ocean sciences. Native American Tribes benefit from such an endeavor by pooling their efforts in science projects.

Lummi Nation has a vision of incorporation of ocean studies in their K-12 programs that includes a new high school. Early high school development of an ocean program will insure the higher education aspects of the water oriented community will be provided with people that can relate to the water through Indian eyes.

Our request at this point is to insure that Native interests are recognized by any plan or policy proposed by the Federal, State and local governments for marine waters on a government to government basis. Lummi has been developing facilities that can make such a plan successful by including us in the groundwork of this plan. NICMERE is a perfect vehicle to disseminate and collect information regarding the inclusion of the Native groups and Tribes that will be directly impacted by the National Ocean Policy Report.

Funding of facilities for The Northwest Indian College and NICMERE will insure the aspects of this program are available to all Natives and provide an education basis and proven science that will enable Natives to participate in research and education and will guarantee protection of our resources and full use of our waters for all people.

Examples of funding to enhance Native input in the marine sciences, aquaculture and fisheries management include:

- Marine Science Research and Education Center (NICMERE) at Northwest Indian College
- Permanent staff for research and education (NICMERE)
- Education and research equipment needed for full participation in the ocean efforts of management and conservation
- Enhancement of Aquaculture facilities
- K-12 ocean science program
- Fishermen assistance in catch/value added products
- Transfer of aquaculture techniques to fishermen (mussels, clams, oysters, fish rearing techniques)
- Innovative habitat restoration projects involving the community
- Community education programs on individual and collective efforts for pollution control
- Tribal tourism, land management, forestry
- Salmon issues, ESA policies, including ocean survival
- Shellfish disease and propagation
- Hatchery reform and use to insure fish enhancement meets the needs of Tribal fishermen
- Mass marking techniques

Lummi Nation and Northwest Indian College appreciates the opportunity to provide input into the U. S. Commission for Ocean Policy. Development of a policy that includes grass roots participation in every area of the oceans use, conservation and development will help insure success.

Darrell Hillaire, Chairman
Lummi Nation

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10,000 years in our Traditional Homeland, Prince William Sound, the Copper River Delta, & the Gulf of Alaska

U.S. Commission on Ocean Policy
1120 20th Street, NW
Suite 200 North
Washington, D.C. 20036

To Whom It May Concern:

Please accept our comments regarding the Critical Recommended Actions outlined in the U.S. Commissions Executive Summary Report on U.S. Ocean Policy.

The Native Village of Eyak is the largest federally recognized Native tribe in our region with a tribal membership of approximately 500 individuals. Our traditional Tribal Territory extends throughout PrinceWilliam Sound, the Copper River and the Gulf of Alaska.

In 1997 the Native Village of Eyak, or NVE, began a formal environmental program within our region. We have focused our attention mainly on Marine issues and resources, and indeed our highest environmental priority as a tribe is water quality. We have considered ourselves stewards of the sea in our area since time immemorial, and continue to be involved.

Our tribe utilizes marine resources as a primary source of subsistence foods, travel within the region, commercial fishing livelihoods, recreational, and spiritual values. Therefore, it is in our tribe's best interest to be involved to the highest extent possible with any policy changes to the Oceans which gave us life and continue to sustain us economically, nutritionally and spiritually.

A New National Ocean Policy Framework: Our comment regarding this component of the report have to do mainly with the increased involvement of tribal organizations as it relates to decision making at the state and federal levels. Our tribe is increasingly involved with marine policy and fisheries management concepts, and we have government to government relationships with various entities that control marine resources. These relationships are documented in the form of MOU's and MOA's with the State of Alaska, EPA, Forest Service, BIA, and the City of Cordova, among others. We conduct our own Tribal fisheries research, and have been called upon to provide our expertise cleaning up oil spills. Due to the fact that many of our Tribal members are commercial fishermen, subsistence users, and rely heavily upon Marine resources, we request that we be involved as a stakeholder in this process, and request a seat on the Presidential Advisory Committee that is formed due to this policy. We agree that improving federal leadership and coordination is essential as the World's oceans become more impacted by human use, and we would like to provide our centuries of Ocean stewardship experience, and take an active role in reforming the way that various management agencies and management tools are utilized in our area. We have already come a long way in developing regional goals and priorities, improving response to critical issues, and building capacity to protect our resources from degradation. Building a new framework for policy -making fits very well with our continued effort to become increasingly involved with Marine issues.

Strengthen Science and Meet Information Needs: As previously mentioned we are involved with many aspects of marine science. Our tribe conducts studies related to the commercial and subsistence use of salmon; life history, abundance estimates, early season indexing using state of the art sonar, tagging and tracking, and water quality issues as they relate to the health of salmon habitat. We have one of the most viable and sustainable commercial fisheries in North America, and indeed the Copper River salmon are sought after worldwide. Any science that is conducted regarding the status of our marine environment is of interest to us, and we are in a strong position to facilitate and encourage an increase in high quality information that will help us and other managers of these resources when making decisions at a regional level. We would like to see money allocated to tribes and other local governments who already study these precious resources, and an opportunity to work directly with the federal government in crafting new research protocols for studying the marine environment in our area. An increase in funding to study the impacts to fish, shellfish, and other marine resources from other development, is necessary as the World's oceans become increasingly utilized.

We agree with the commitment to spend 138 million initially on an Integrated Ocean Observing System, and would like to support the U.S. Ocean Commission in its request to Congress to allocate funds to observe, monitor, and forecast ocean conditions. We believe that this action in itself will be a positive step in the right direction towards a more ecosystem-based approach to Ocean management.

Enhance Ocean Education: Traditional knowledge of resource use and life histories of marine species is often overlooked when creating curriculum for education regarding ocean ecosystem science and management. Native Village of Eyak requests that Native knowledge be included in this component of the Commissions new Policy, and we will offer what information we can in order to facilitate this process. One of the goals we have developed regionally is to provide better scientific understanding of our resources to the various decision makers and managers, and this has been successful with our salmon science projects. We would be very interested in being involved at a higher level in regards to increasing collaboration between our tribe and the federal government when it is appropriate. Our tribal youth need resources available to them to become educated on regional and international ocean issues, and funding to facilitate that process in the form of increased scholarships and financial aid to Native youth interested in marine science is a long-term goal of ours. In order to cultivate a broad public ethic of stewardship on the oceans, we need to start with youth in each region, and provide them with what they need to become and stay involved with issues in their own ecosystems.

In conclusion, the Native Village of Eyak respectfully requests that we be involved as a partner in this worthwhile endeavor, and we would like a seat at the table when the Presidential Committee is formed. We are key participants in the management and protection of our local resources, and believe that our experience would be a valuable addition to this effort. We hope that Congress realizes the importance of this process, and we would like to commend the Ocean Commission on their foresight and initiative. Thank you for allowing us the chance to participate as a tribal government in your visionary mission to monitor, protect and restore the Earth's oceans.

Sincerely,

Bruce Cain
Executive Director
Native Village of Eyak

Sitka Tribe of Alaska

Tribal Government for Sitka, Alaska



U.S. Commission on Ocean Policy
1120 20th Street, NW
Suite 200 North
Washington, DC 20036

May 21, 2004

Dear Commissioners:

The Sitka Tribe of Alaska represents over 3,100 tribal citizens and has a traditional territory that encompasses the oceanic shores and waters of Chichagof and Baranof Islands in the archipelago of islands that comprise most of Southeastern Alaska. The Tlingit of this area have always been a maritime people and traveled long distances in the large sea-going canoes that typify the cultures of this coastline.

It has been noted by the Elders that over 90% of the food traditionally came from the sea. The ocean ecosystems in this area were our research laboratories and determined most of our customary and traditional laws and practices. We have gone to great lengths to protect our heritage and in modern times assert our sovereignty in numerous ways.

We have not been able to comprehensively review the Preliminary Report that you have worked on for these last many months, but would like to provide a few comments that may offer a perspective on how we view the proposed recommendations. The implications to the Sitka Tribe may be ones that we will need to revisit as time goes by and there are implementation plans for these recommendations considered.

Therefore we will request here that we receive consultation relevant to the nature of impacts to our culture and subsistence way of life that may occur from these recommendations. It appears that changes to the structure of governance to the seas are being considered. It is vital to our Tribal Council that we understand these changes and be able to comment in more detail when these changes impact us, and/or the many federal agencies we are presently partnering with.

Sincerely,

A handwritten signature in black ink, appearing to read "Lawrence Widmark", written in a cursive style.

Lawrence Widmark, Chair

Sitka Tribe of Alaska

Tribal Government of Sitka, Alaska



June 4, 2004

Public Comment on Preliminary Report
U.S. Commission on Ocean Policy
1120 20th Street, NW
Suite 200 North
Washington, D.C. 20036
FAX: (202) 418-3475

Dear U.S. Commission on Ocean Policy:

The Sitka Tribe of Alaska is the federally recognized tribal government for more than 3,100 enrolled tribal citizens in Sitka, Alaska organized under the Indian Reorganization Act of 1934 as amended. The Sitka Tribe of Alaska is responsible for the health, safety, welfare and cultural preservation of its tribal citizens and their use of the Sitka Tribe's traditional territory. The Sitka Tribe of Alaska's traditional territory reflects the lands and waters historically and presently the stewardship responsibility of the Sheet'ka Kwaan and as such are composed of the western side of Baranof Island, the greater reaches of Peril Strait, southwestern portions of Chichagof Island and the myriad of islands as well as the waters between these locations and extending seaward.

As Chairman of the Sitka Tribal Council, I sent you a letter on May 21, 2004 asking for relevant consultation on how the proposed recommendations in your Preliminary Report may impact the Sitka Tribe of Alaska. With the extended time to review these recommendations, I can now make some comments on the Preliminary Report however we will have to bring many of the recommendations up with the relevant agencies who are tasked with implementing changes to their programs. I ask you to please receive these following comments as representing an initial response to your report, with the understanding that when actual programmatic changes begin to occur to federal governance in the ocean environment we will be able to consult on how these changes will affect the Sitka Tribe of Alaska.

Introduction:

Regarding the recommendations of the Preliminary Report, it is necessary to understand that STA has several levels of policy already in place concerning the ocean and oceanic resources. Under the Constitution, the STA Tribal Council exercises governing powers, including:

- a. To negotiate with tribal, federal, state, foreign and local governments and others on behalf of the Tribe and to advise and consult with representatives of the United States and the State of Alaska and other states on all activities, which may affect the Tribe.
- h. To manage, lease, exchange, acquire, or otherwise deal with Tribal or other property, and to protect and preserve the Tribal property and the wildlife and natural resources within those areas under jurisdiction of the Tribe.
- i. To make assignment of land or water areas of the Tribe for use and occupancy to citizens of the Tribe in accordance with the customs of the Tribal citizens or with the laws and regulations of the Tribe.

Under the authority of the Tribal Council, there are several Commission and Committees, including a Sitka Marine Mammal Commission and a Customary and Traditional (C & T) Resources Committee. Both of these have a high level of interest and authority to deal with ocean policy and resources.

STA has three departments with natural resources programs that are concerned with ocean policy issues. STA's Field Resources Department manages three sockeye lake weirs in partnership with the US Fish & Wildlife Service, the US Forest Service, and Alaska's Department of Fish & Game. STA's Customary and Traditional Resources Department is staff to the Sitka Marine Mammal Commission and the C & T Committee, and is a collaborative manager of the Sitka Sound Herring Fishery under a MOA with Alaska's Department of Fish & Game. STA's Resources Protection Department is staff to the Tribes Cultural Committee, and provides legal advice on natural resources issues.

STA Tribal Citizens also participate on several bodies with interest in ocean policy, including John Littlefield, Chair of the Southeast Regional Advisory Council to the Federal Subsistence Board.

General Comments on Ocean Policy

1) Tribes are not fully considered in the report. Perhaps this is an oversight, but it should be corrected. In Alaska, the importance of subsistence resources to Tribes is enormous, and ocean ecosystems are vital to sustaining the Customary and Traditional Life-way that is commonly referred to as subsistence resource harvesting. As ocean ecosystem management evolves, along with the research and education functions on which it depends, the consideration of Traditional Ecological Knowledge needs to be integrated into the picture. Tribes are the source location for much of this knowledge, and can translate the information for scientists, educators, and managers.

2) Ecosystem boundaries need better definition. There are a few considerations that we have to suggest, to make the use of the ecosystem concept in our area of Southeastern Alaska. The gyre in Dixon Entrance not only marks an international boundary, but also

is an engine of mixing fresh and oceanic waters; we suggest that salinity features adjacent to the archipelago of islands north of the gyre function differently from those of the fjord coastline of British Columbia north of Vancouver Island. Oceanographers may have an objective of creating manageable ecosystems for large-scale studies, but humans have occupied the coastlines for a long time and cultures have adapted to the currents that are typical to their traditional territories. The human knowledge base needs to fit into our boundaries in such a way to take advantage of longer sets of information such as cultural knowledge. Oral history is an important component, to be set beside information that is collected by such techniques as bottom core sampling. People who had to travel by canoes certainly knew where the gyres could be found.

3) Regarding a proposed restructuring of Federal Agencies and Departments, it is necessary to consider that Tribes have formalized government-to-government relations in a number of ways. Agencies have established Tribal Policies, consultation protocols, and consistency review procedures over time, and often have Tribal Liaison Offices to ensure that these policies, protocols and procedures are followed. In the rush to bring federal agencies into a more effective team to operate on oceanic ecosystems, please make sure that there are no losses to Tribes. We suggest that a qualified national tribal organization be charged with advising the government as restructuring goes forward, and that all Tribes have time to consider and ratify the changes following adequate consultation.

4) Further to the need to consider the impacts to Tribes from restructuring, it is necessary to acknowledge that Tribes are already actively partnering with all levels of government on research, education and management projects in ocean ecosystems. For example, the Sitka Tribe is the lead entity on sockeye salmon projects in partnership with Alaska's Department of Fish & Game, the US Forest Service and the US Fish & Wildlife Service. The Tribe also is conducting an ecosystem research project on herring and sockeye that is funded by the Fish & Wildlife Service, and cooperates with the City & Borough of Sitka on watershed and coastal district planning issues.

5) For the past eight years the Sitka Tribe has been funded by the US EPA General Assistance Program. Major emphasis over these years has been spent on such issues as the closing of the pulp mill in Sitka, and a TMDL on the inlet that the pulp mill discharged into. Another issue initiated by the Sitka Tribe has resulted in a published watershed assessment on the Katlian River, that has just been released by the Forest Service in preparation for a TMDL.

6) The State of Alaska has taken positions that are adversarial to interests of Alaska Tribes on a number of issues. The Alaska Coastal Management Plan (ACMP) has been weakened and made less accessible to Tribes and local communities, and further cuts in ACMP jurisdiction and authority are being considered. Subsistence resource protection and management have been taken away from Alaska by the US government, and major disputes remain over jurisdiction. Considering the proposed level of authority being offered the State of Alaska in Ocean Policy, there should be a dispute resolution mechanism in place to avoid litigation from Tribes seeking to defend such rights as access to subsistence resources.

7) Tribes have invested time and energy to comment when other processes to take on ecosystem science have been advocated. For instance, when invited to comment on the "Proposed Unified Federal Policy for a Watershed Approach to Federal Land and Resource Management" in 1999, Tribes asked that the "science-based approach to watershed assessment" be broadened to include Traditional Ecological Knowledge. In Southeastern Alaska, Tribes were invited to participate in a workshop to determine the criteria for prioritizing 25 impaired watersheds in the Tongass National Forest. Tribes requested review of the list before it was submitted. The list was submitted without tribal review, despite numerous requests. Similarly, Tribes were invited to submit their priority watersheds to EPA under the Clean Water Action Plan, but those designations appear to have been lost in subsequent political processes.

8) When the 2001 National Watershed Forum was held in Washington, DC, the delegation from Alaska included several Tribal Leaders. Efforts to educate federal agencies on the unique political organization of Alaska were made. (For instance, Alaska does not have Counties, so databases that depend on county statistics do not work for this state.) The unique status of federally recognized Tribes, subsistence-based economies, and relatively poor base-line environmental information all need to be factored into addressing marine ecosystem needs in Alaska. Because high levels of cultural retention still exist in Alaska there is a higher need to take advantage of Traditional Ecological Knowledge, but this will require a level of commitment and sensitivity.

These complete the general comments regarding Ocean Policy. Following are comments that cover concerns specific to recommendations that have been made in the Preliminary Report. These do not attempt a comprehensive coverage of all the sections of the report, but are given to address priority issues that are of importance to the sovereignty and inherent rights of the Sitka Tribe of Alaska.

Specific Comments on Recommendations

To begin with, the Sitka Tribe of Alaska is supportive of many of the Recommendations found in the Preliminary Report. STA requests consultation in particular regarding changes to the fisheries management and enforcement proposals found in Chapter 19. The opportunities proposed for Joint Enforcement Agreements (JEAs) could build on relationships that STA has already established in the Collaborative Herring Fishery in Sitka Sound. As Recommendations 19-17 to 19-20 begin to be implemented, it is requested that the US Coast Guard meet with STA and explain what potential roles there are for Sitka Tribal Citizens to engage in training opportunities, and to begin to define STA's role in cooperative enforcement agreements. STA expects that as the US Coast Guard is integrated into the JEAs, that knowledge of local waters held by Tribal Citizens will be appreciated. It is further suggested that cultural sensitivity training and a basic course covering subsistence harvest practices will benefit all JEA partnering agencies. Native experience in safeguarding ecosystems, such as the "Watchmen Program" of the Haida Nation in British Columbia, should be integrated into local enforcement agendas.

As changes to the Magnuson-Stevens Fishery Conservation & Management Act are made to adjust the economics and privileges of access to fisheries (**Recommendations 19-15 & 19-16**), STA requests that a long-view of equity be adopted and that Tribal Citizen be interviewed as to the history of their families' involvement in the fisheries harvesting.

When the training course called for in **Recommendation 19-14** is developed, STA would like to contribute elements to ensure that NMFS and RFMC members are educated in Customary and Traditional harvest patterns and rights, as well as the values of Traditional Ecological Knowledge.

STA is particularly supportive of the intent of **Recommendations 19-21 & 19-22**, and would have suggestions to contribute as transitions are made toward ecosystem-based management. Given the importance of this subject, it is surprising to find that these are the only two recommendations to address this subject. We would suggest that the idea of "comprehensive management plans" described on page 241 of the report be elevated to a recommendation with some specific language covering: how NEPA is integrated into the protection of resources; assurances for sharing knowledge on ecosystem access between the planning entities; and the methods used to set biomass or mortality rate goals. In this specific language, STA suggests that the ecological context of Customary and Traditional resource harvesting be addressed. (New: **Recommendation 19-20A** suggested....)

In considering the move to broaden participation on the RFMCs, we note that there is no requirement in **Recommendation 19-12** to ensure that governors nominate subsistence fishermen (Customary and Traditional harvesters is our preferred term) for filling vacancies. As a general comment, we feel that the whole nomination procedure needs to be revisited and we agree with the Northwest Indian Fisheries Commission (NWIFC) comment on **Recommendation 19-13** on the appointment of tribal seats to RFMCs.

Given the importance of fish to the economy and culture of STA, there are other elements of this chapter that need discussion such as: procedures for setting allocations; developing expert review; prioritizing management information needs; and integration of recreational fishing data. We would like to discuss collaborative projects with NOAA, as funding is expanded in the regional research area, to make sure that STA objectives are included.

As the proposed National Ocean Council begins to develop multi-year plans, we note the absence of the tribes in **Recommendation 25-2**. STA is involved in several research projects in marine ecosystems and also holds a unique perspective that will assist science as it begins to integrate social/cultural components into ecosystem management. STA would like to extend their research projects within a 10-year science plan and contribute towards a dialogue with agencies doing the same. It should be noted that STA has programs already in place with several of the key agencies, to address marine ecosystem impacts in their traditional territory, and so has an interest in the development of agency 10-year planning where those programs are involved. STA invites the National Science Foundation to discuss roles that the tribe could develop to integrate natural and social sciences.

The National Ocean Council should include subsistence economies in **Recommendation 25-3** and seek to include STA as it develops information based on resident expertise and the local functioning of governance arrangements that STA has developed with partners. Should **Recommendation 25-5** be implemented, STA should participate to include such cultural information as place names in federal resource assessment and mapping within their traditional territory. Relevant training for STA to participate in these activities needs to be planned for as soon as possible, so that commitment of STA staff and resources can be funded and integrated into the Sitka Tribe's strategic planning process.

The Sitka Tribe of Alaska has government-to-government relationships with many of the federal agencies that have changes suggested to their responsibilities under the recommendations in this preliminary report. It will be necessary for the tribe to work through these changes with the agencies involved, as they affect programs within STA. Rather than go through a list of these details, it is expected that adequate notice and consultation will be given to STA during the period of transition.

One comment needs to be made on the Coastal Zone Management Act (CZMA). The Alaska Coastal Management Plan (ACMP) regulations will change on July 1, 2004, and may change how tribal and local governments interact to protect coastal resources. As CZMA changes such as those suggested in **Recommendations 9-1 & 9-4** are considered, STA may need to make further comments regarding ACMP/CZMA interactions.

Thank you for the opportunity to comment. Please refer questions to Doug Dobyns, Subsistence Biologist for the Sitka Tribe of Alaska at (907) 747-3207.

Sincerely,



Lawrence Widmark, Chair
Sitka Tribe of Alaska
456 Katlian Street
Sitka, Alaska 99835

cc. IRA Tribes in SE Alaska
US EPA
US FWS
US ACE
US Coast Guard
US DOD
ADF&G
NWIFC
City & Borough of Sitka



THE TULALIP TRIBES

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The Tulalip Tribes are the successors in interest to the Snohomish, Snoqualmie, and Skykomish tribes and other tribes and band signatory to the Treaty of Point Elliott.

May 28, 2004

Public Comment on Preliminary Report
 U.S. Commission on Ocean Policy
 1120 20th Street, NW
 Suite 200 North
 Washington, D.C. 20036
 Fax: (202) 418-3475

Dear U.S. Commission on Ocean Policy:

The Treaty Indian Tribes served by the Northwest Indian Fisheries Commission commend your report on oceans—the first comprehensive governmental review of the nation's ocean policy in 35 years. We believe it is far more than coincidence that this report was the second major one released in the last year. The privately created Pew Oceans Commission's "America's Living Oceans: Charting a Course for Sea Change," was released in June. Both reports call for significant changes in the way the oceans are managed, and for good reason. The oceans are not well.

We applaud the hard work done by Bill Ruckelshaus, Professor Marc Hershman and other members of the U.S. Commission on Ocean Policy to produce this report. It is a historically significant feat and it is absolutely essential to prioritize meeting the needs of the oceans to the highest possible level. Nothing is more important. This is an issue that directly affects our Mother Earth, herself, and every form of life she sustains—including every one of us. As Chief Seattle (Sealth) said, all things are connected. It is very important for the Ocean Commission Report to recognize this fact and to specifically identify that the ocean, the rivers and the inland waters are all connected, just as all of these are connected with every other element of our world. Environmental assessments of the oceans and all inland waters are critically needed. On the West Coast, this should lead to an expansion of the role of the Pacific Fisheries Management Council, to include broader habitat assessment in the ocean and inland waters. It should also include full involvement of and government-to-government collaboration with tribal managers.

It is impossible to over-emphasize the significance of these facts. The oceans and their connected environments are vital to the survival of all life on Earth. Again, it is no surprise to us that two major Oceans Commissions have now acknowledged this, and made numerous recommendations for change. Our ancestors have always taught us that we must treat the Earth with respect and reverence. Yet we have borne witness to the disrespectful treatment of the eco-system. We have not been silent as poisons have been poured into the air and water. Nor when the land and resources created to sustain us have been over-exploited and treated with disdain. We have spoken out, consistently and persistently, in a futile effort to warn the federal government, industry and non-Indian people that their ways have been wrong.

There are those who have made efforts to do better, of course. Senator Warren Magnuson, for example, fought to wake up the nation following the Stratton Commission—the last government commission to make a comprehensive report on the nation's ocean policy. Senator Maria Cantwell, a member of the

Senate Committee on Commerce, Science, and Transportation and its Subcommittee on Oceans, Fisheries, and Coast Guard, pledged to follow in "Maggie's" footsteps after the release of your report. Such things are heartening to us. But let us always remember, actions speak louder than words. It is critical for the Commission to follow up on the report, pushing for action on your recommendations. But we have doubts that the issues addressed in the report will be given the high priority attention they deserve from the federal bureaucracy. We beseech you to use your findings to make a dent in that bureaucracy due to the enormous gravity of the ocean condition. As indicated in your report, there is a dire need to create a new national ocean policy framework for improved decision-making. We agree with the need to strengthen science to provide better information to decision-makers and with the need to enhance ocean education to encourage future leaders and an informed citizenry. These themes are tied together by the Commission's emphasis on ecosystem-based management, a concept we have long understood. Through tribal participation on the United Nations Conference on Biodiversity, the U.S.-Canada Pacific Salmon Commission, the Pacific Fishery Management Council, the Washington/Oregon Outer Continental Shelf Task Force, and other efforts, we have advocated greater understanding that the ecosystem does not recognize state or national boundaries. We have emphasized the need for better management to protect cultural resources. The need to sustain sea life, from eel grass to salmon, has cultural implications for people that transcend any boundary. Such resources should be managed with this fact in mind, with the highest possible degree of international coordination.

We do have some differences with the report, which we also consider to be of the highest priority. (Please see our attachment for specifics.) Tribes are sovereigns with long-standing relationships with the oceans and all the various resources and environs that connect with the oceans of the world. Yet our role as resource managers has been virtually omitted from the report. We have been here for thousands of years and have always been advocates for the care of the oceans. We have treaty-protected rights to have viable fisheries. We have a long-standing stake in healthy populations of salmon, groundfish, shellfish, whales and many additional resources to sustain our bodies, culture and spirits. In Washington State, much of the coastline belongs to the tribes, tribes retain management and jurisdiction rights extending far out into the ocean, and tribes have long been active managers of rivers and uplands throughout the region. Yet, our role and our very identity has been ignored in your report. That is simply not acceptable.

Are we to assume from this that there is no intent to involve us as managers or invest in our programs if your recommendations are implemented? If that were to occur, it would be tragic because we have been the governments that have consistently vied for better ocean-related practices. We have been engaged in efforts to restore and protect the entire eco-system, through good management, good monitoring, good science, and good education efforts for many years. We live on the rivers, the Puget Sound and the ocean every day of our entire lives, because that is who we are. Hopefully, the omission of the tribes as managers was an oversight. If not, we may be placed in the unfortunate position of having to oppose the implementation of the report as written. That, too, would be tragic in our minds because we are such strong proponents of increased focus on the problems outlined in the report. To re-emphasize, the oceans and connected waters are sick and, although the tribes did not cause the problem, we must most assuredly be involved in the cure—at the government-to-government management level.

Let us state an example. We understand—above all others—that the well-being of everyone depends on the survival of fish and wildlife. Yet both of these ocean reports, particularly the Pew Report, advocate marine protected areas without acknowledging that treaty-protected rights to fish are paramount. We recommend that the language in Mr. Ruckelshaus' Northwest Straits Commission report regarding the inclusion of tribes in the establishment of marine protected areas be adopted in the Ocean Commission's report. This would be more in line with treaty-protected rights, and with the federal trust responsibility to the tribes. Please be aware that tribes have known the importance of curtailing harvest when the resource can't sustain it. That's why we reduced our salmon fisheries 80-90 percent over the past 20 years. To us, that often means hungry and unemployed people. But we do it because the ocean and its resources are our

outcome of good management. People eat fish, and that is a good thing. The Creator gave them to us, to feed our bodies and nourish our spirits, and that is as it should be.

Even with the harvest cutbacks, however, the general trend for our resources is one of decline. And we know that unless serious changes are made with respect to the environment, that trend will continue. We, above all others, understand the connection between clean water, healthy people, and healthy fish. We have often referred to salmon as the measuring stick of a healthy environment.

So, again, we applaud your efforts, and encourage you to move forward with your recommendations. But we ask you to do so with greater understanding of the rights, roles and interests of the tribes. Together, we must send a clear message to the federal administration that the status quo is not working, nor acceptable. As it now stands, no one is in charge. These great resources are getting sicker and sicker, and no one is doing anything about it. Let us hope that, with more acceptable levels of tribal inclusion, the Ocean Commission's report will be the wake up call this nation needs, and that it will help provide the road map to the collaborative action needed to turn the tide on the poisoning of our seas.

Sincerely,

A handwritten signature in cursive script that reads "Terry Williams". The signature is written in black ink and is positioned above the printed name and title.

Terry Williams
Fisheries & Natural Resources Commissioner

Attachment: Specific comments

Specific Tribal Comments

U.S. Commission on Ocean Policy

Overall:

In the Environmental Analyses referenced above, and in all efforts associated with this report and the National Ocean Council, it is critical that in addition to contemporary science, Tribal Traditional Knowledge be used for all scientific and policy purposes.

- **Also, let it be clear. The Regional Fisheries Management Councils, e.g., the Pacific Fisheries Management Council will not be replaced by the Committee on Ocean Resource Management, or any other programs proposed by this report. The Councils must be tasked with broader environmental responsibilities, including the production of Environmental Analyses, which must address the relationship of abundance of production with environmental diversity and spatial structure of anadromous fish stocks to fresh water and marine habitat conditions. (The Committee on Ocean Resource Management can function under the umbrella of the Councils.)**
- **Tribal governments must have direct access to funding for restoration and recovery activities under their jurisdiction/joint management authority, particularly shorelines and the nearshore environment.**
- **Let it be clear that nothing in this report over-rides treaties. Any such impacts will be assessed by tribes, themselves.**

Figure 3.1 Large Marine Ecosystems Corresponding to Natural Features

- **We believe the depiction of the boundary between the Gulf of Alaska Large Marine Ecosystems (LME) and California Current LME to be in error. The figure currently depicts the line to coincide with the U.S./Canada border between the State of Washington and British Columbia. This is an artificial boundary relative to the true demarcation of marine ecosystems off the Pacific Northwest coastline.**

The boundary line should be drawn between the northern end of Vancouver Island and the Queen Charlotte Islands. This marks the transition zone between the Coastal upwelling Domain and the Coastal Downwelling Domain. The dominate pelagic and demersal stocks associated with these oceanic domains are very different. The boundary between these two domains should be where the line is draw to depict the break point for the Gulf of Alaska LME and the California Current LME.

4.8 Committee on Ocean Resource Management

- **Request modification of this Committee to include an advisory subcommittee for non-federal resource management entities comprised of tribal and state managers. Such an administrative structure should be incorporated to insure a direct line of communication between the Committee and tribal and state agencies with regulatory responsibilities and authority over ocean resources.**

4.9 The National Ocean Council's review of all existing ocean-related councils.

- **Again, the regional fishery management councils that were created under the 1976 Magnuson Act need to be maintained. These councils require a formal pathway for communication to the**

National Ocean Council (NOC) to avoid the artificial separation of fishery management decisions from those that directly affect essential fish habitat.

4.10 and 4.11 Regional Ocean Councils

- These recommendations require modification to fully recognize tribal treaty rights and resources. The current structure relegates the tribes to merely stakeholders within the federal advisory process for developing ocean policy. Currently within the draft report there is no recognition of the tribe's management authority or federal trust responsibility. The structure of the regional ocean councils requires modification to include a non-federal resource management entities comprised of tribal and state managers. This structure would provide a more appropriate government-to-government communication of tribal and state policy and positions to the NOC.

6.3 Marine Protected Areas

- This recommendation only can be supported by the tribes if there is a clear recognition of tribal rights and resources within this section. In addition, there should be a clear recognition that this management approach must be developed in conjunction with a comprehensive resource management plan for the targeted specie(s) or biota. Attached is our tribal policy statement for further guidance on this issue.

19.1 Scientific and Statistical Committee

- This recommendation must be amended to include tribal agencies. Tribal personnel have and continue to serve on the Pacific Council's SSC, as well as its other technical committees. Their expertise and professional standing can be recognized by the fact that numerous past committee members have served as chairs for their respective committees.

19.10 New Statutory Authority for the Pacific States Marine Fisheries Commission

- The tribes cannot support the development of new statutory authority for this Commission that does not formally recognize treaty rights or tribal management authority.

19-13 Regional Fishery Management Council Appointments

- The tribes oppose this recommendation to transfer the appointment responsibility to NOAA.. Currently, the tribal seat on the Pacific Council is appointed by the Secretary of Commerce in consultation with the Secretary of the Interior. This consultation process must be maintained.

The stature of the Council members would be diminished by a change to appointment from the Administrator of NOAA instead of a Secretarial appointment. The Pacific Council deals with several straddling stocks that require routine dealings with Mexican and Canadian governmental representatives. These foreign representatives make a distinction between presidential, secretarial, and agency appointments. Future discussions with these foreign representatives may become unduly complicated because of this recommendation.

30-1 Ocean Policy Trust Fund

There must be language that allows tribes direct access to funding on a par with states.



June 4, 2004

Admiral James D. Watkins, U.S. Navy (Retired)
Chairman
U.S. Commission on Ocean Policy
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Washington, D.C. 20036

BOB TAFT
CHAIRMAN
Governor of Ohio

ROD BLAGOJEVICH
Governor of Illinois

JIM DOYLE
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JENNIFER M. GRANHOLM
Governor of Michigan

JOSEPH E. KERNAN
Governor of Indiana

GEORGE E. PATAKI
Governor of New York

TIM PAWLENTY
Governor of Minnesota

ED RENDELL
Governor of Pennsylvania

DAVID NAFTZGER
Executive Director

Dear Admiral Watkins:

The Great Lakes Governors thank you for the opportunity to comment on the April 2004 Governors' draft of the *Preliminary Report of the U.S. Commission on Ocean Policy (Preliminary Report)*. I am pleased to submit these comments on behalf of the Council of Great Lakes Governors in addition to the more detailed comments being submitted by our member Governors. The importance of protecting our coastline and waters cannot be minimized. We applaud the recognition that has been given to our collective efforts and the call for further, coordinated action.

The waters in the Great Lakes represent approximately 20% of the world's surface freshwater and approximately 95% of North America's. Recognized in law as America's fourth sea coast, the Great Lakes have over 10,000 miles of coastline and provide water for the region's 40 million citizens. Understanding the importance of this shared resource, two decades ago our States jointly formed the Council of Great Lakes Governors. In part, the Council was created to fulfill our lead responsibilities as stewards of the Great Lakes Basin's water resources and in recognition of the tremendous ecological, economic and social benefits they provide.

The Great Lakes Governors remain committed to protecting and restoring the natural habitat and water quality of the Great Lakes Basin; preserving diverse and thriving plant and animal communities; protecting the water supply; and, safeguarding human health. To that end, the Great Lakes region has taken great strides in creating the scientific and governance framework for addressing the numerous threats to the Great Lakes. We therefore applaud the Ocean Commission's recognition that problems are often regional in nature, and that it is the regions' leaders that must be looked to when formulating policies to protect, preserve, restore and improve resources like the Great Lakes. We also applaud the long-overdue call for a more robust federal investment toward these objectives.

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Fundamentally, we believe that ocean policy should be guided by the following principles:

- minimal bureaucracy, allowing efforts to be directed toward protection and restoration rather than toward process and paperwork;
- affordable non-federal match requirements, particularly in light of ongoing and significant State investments;
- coordination of the efforts of the many government and non-governmental entities involved in protection and restoration activities; and,
- recognition of the leadership role of the Great Lakes Governors in defining regional priorities.

We encourage the Ocean Commission to recognize these important themes as a final report is developed.

Common Challenges Facing the Oceans and the Great Lakes

Many common challenges currently face the oceans and the Great Lakes and this is recognized in the *Preliminary Report*. From the need for more robust coastal protection mechanisms, greater investment and improved research, much can be accomplished through a national ocean policy framework. We certainly recognize the need for more federal resources to address these issues in the Great Lakes and support mechanisms to make these funds available. As you know, members of Congress recently introduced legislation that would devote \$4-6 billion more to Great Lakes restoration and protection. We applaud this legislation and other means to make funds immediately available.

The recent report from the General Accounting Office illustrated that the States are already making significant investments toward restoring and protecting the Great Lakes. These State resources exceed those being committed by the federal government. In this respect, it is important to recognize that greater federal investment will supplement, not supplant, the significant resources already being committed by the States, municipalities and private sector.

We support the Commission's call for a strengthening of scientific understanding and research for our ocean and freshwater resources. Without a significant investment in research and data collection, we will not have in place the appropriate decision support mechanisms that policymakers including the Great Lakes Governors need. The *Preliminary Report* calls for doubling the federal investment in research and this is a useful starting point.

While more research is clearly needed, substantial long-term funding is needed immediately to address the restoration and protection needs we already understand well. For example, much more must be done and done immediately to combat the scourge of aquatic invasive species. This can only be accomplished with added financial support from the federal government. Measures such as making the Chicago Ship and Sanitary Canal dispersal barrier permanent must be prioritized in order to thwart the introduction of the Asian carp and other invasive species.

In October, I joined with my fellow Great Lakes Governors in outlining nine priorities for Great Lakes restoration and protection. Many, if not all, of these priorities address challenges common to the oceans. These priorities should be given primary consideration in framing both short and longer-term federal investments in the context of ocean policy:

- Ensure the sustainable use of our water resources while confirming that the States retain authority over water use and diversions of Great Lakes waters.
- Promote programs to protect human health against adverse effects of pollution in the Great Lakes ecosystem.
- Control pollution from diffuse sources into water, land and air.
- Continue to reduce the introduction of persistent bioaccumulative toxics into the Great Lakes ecosystem.
- Stop the introduction and spread of non-native aquatic invasive species.
- Enhance fish and wildlife by restoring and protecting coastal wetlands, fish and wildlife habitats.
- Restore to environmental health the Areas of Concern identified by the International Joint Commission as needing remediation.
- Standardize and enhance the methods by which information is collected, recorded and shared within the region.
- Adopt sustainable use practices that protect environmental resources and may enhance the recreational and commercial value of our Great Lakes.

Unique Challenges Facing the Great Lakes

The *Preliminary Report* recognizes the Great Lakes as one of the regions to be addressed in a national ocean policy framework. But, the *Preliminary Report* fails in many instances to recognize the unique challenges facing our region and the prominence these challenges demand in the final report. For example, the Great Lakes are not mentioned in the Executive Summary of the *Preliminary Report*. Further, references are made throughout the *Report* to “ocean, coastal and marine” resources and issues. Our freshwater resources and, in particular, the Great Lakes must also be recognized where appropriate. Where issues in the report are meant to solely refer to oceans, separate consideration must be given to the Great Lakes.

It must be recognized that managing our oceans and salt water resources present many different challenges when compared to managing the Great Lakes. A ‘one size fits all’ approach is not appropriate. This is particularly clear when considering that the Great Lakes, unlike the oceans, serve as an important source of water for drinking, for industry and for agriculture.

For this reason, the Ocean Commission must develop recommendations that fully utilize existing water resource management institutions. In the Great Lakes region, this is particularly important as we enjoy a rich institutional and governance structure that has evolved over many years of cooperation and collaboration.

Future policies must be State and region-based, enlist partnerships at all levels within and outside of government and place an emphasis on strong Federal/State relationships.

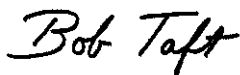
Further, the Great Lakes Governors have concerns about creating additional regional organizations that may, in effect, compete with the numerous institutions already in place.

Conclusion

We welcome the opportunity to join you in building momentum for this historic policy initiative. We believe progress toward our shared goals is essential to the environmental health and economic vitality of our nation. We continue to engage the public in our dialogue and appreciate the opportunity to participate in this discussion with you.

We look forward to building on the partnership among the region's Governors, Members of Congress, Mayors and others committed to the protection and restoration of our ocean and freshwater resources. Thank you for your continued engagement and perseverance. Should there be questions, please do not hesitate to contact David Naftzger, Executive Director of the Council of Great Lakes Governors, at (312) 407-0177.

Sincerely,

A handwritten signature in black ink that reads "Bob Taft". The signature is written in a cursive, slightly slanted style.

Bob Taft
Governor, State of Ohio
Chair, Council of Great Lakes Governors