



STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0001

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



PRINTED ON RECYCLED PAPER

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

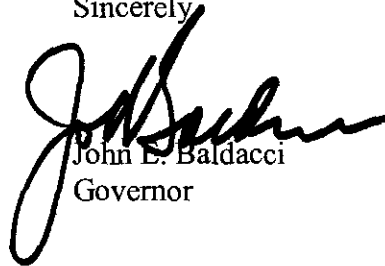
In Maine, we recognize that our ocean resources are as vital a component of our future as our seafaring past. Overall, there is much to commend in the Commission's report, which identifies the many challenges we face in preserving and protecting our ocean and coastal resources and related economies, 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

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
May 20, 2004

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.

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
May 20, 2004

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.

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
May 20, 2004

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.

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
May 20, 2004

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

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
May 20, 2004

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.

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
May 20, 2004

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.

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
May 20, 2004

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.

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
May 20, 2004

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.

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
May 20, 2004

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

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
May 20, 2004

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.

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
May 20, 2004

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

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
May 20, 2004

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. .

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
May 20, 2004

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

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
May 20, 2004

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.

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
May 20, 2004

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

ATTACHMENT I
Maine Governor John Baldacci – US Commission on Ocean Policy
May 20, 2004

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
May 20, 2004

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.

