



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.

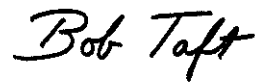
Ocean Trust Fund

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.