

Sitka Tribe of Alaska

Tribal Government for Sitka, Alaska



U.S. Commission on Ocean Policy
1120 20th Street, NW
Suite 200 North
Washington, DC 20036

May 21, 2004

Dear Commissioners:

The Sitka Tribe of Alaska represents over 3,100 tribal citizens and has a traditional territory that encompasses the oceanic shores and waters of Chichagof and Baranof Islands in the archipelago of islands that comprise most of Southeastern Alaska. The Tlingit of this area have always been a maritime people and traveled long distances in the large sea-going canoes that typify the cultures of this coastline.

It has been noted by the Elders that over 90% of the food traditionally came from the sea. The ocean ecosystems in this area were our research laboratories and determined most of our customary and traditional laws and practices. We have gone to great lengths to protect our heritage and in modern times assert our sovereignty in numerous ways.

We have not been able to comprehensively review the Preliminary Report that you have worked on for these last many months, but would like to provide a few comments that may offer a perspective on how we view the proposed recommendations. The implications to the Sitka Tribe may be ones that we will need to revisit as time goes by and there are implementation plans for these recommendations considered.

Therefore we will request here that we receive consultation relevant to the nature of impacts to our culture and subsistence way of life that may occur from these recommendations. It appears that changes to the structure of governance to the seas are being considered. It is vital to our Tribal Council that we understand these changes and be able to comment in more detail when these changes impact us, and/or the many federal agencies we are presently partnering with.

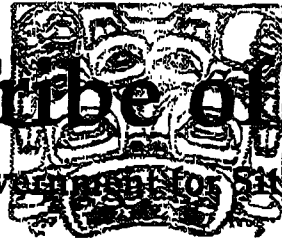
Sincerely,

A handwritten signature in cursive script, appearing to read "Lawrence Widmark".

Lawrence Widmark, Chair

Sitka Tribe of Alaska

Tribal Government of Sitka, Alaska



June 4, 2004

Public Comment on Preliminary Report
U.S. Commission on Ocean Policy
1120 20th Street, NW
Suite 200 North
Washington, D.C. 20036
FAX: (202) 418-3475

Dear U.S. Commission on Ocean Policy:

The Sitka Tribe of Alaska is the federally recognized tribal government for more than 3,100 enrolled tribal citizens in Sitka, Alaska organized under the Indian Reorganization Act of 1934 as amended. The Sitka Tribe of Alaska is responsible for the health, safety, welfare and cultural preservation of its tribal citizens and their use of the Sitka Tribe's traditional territory. The Sitka Tribe of Alaska's traditional territory reflects the lands and waters historically and presently the stewardship responsibility of the Sheet'ka Kwaan and as such are composed of the western side of Baranof Island, the greater reaches of Peril Strait, southwestern portions of Chichagof Island and the myriad of islands as well as the waters between these locations and extending seaward.

As Chairman of the Sitka Tribal Council, I sent you a letter on May 21, 2004 asking for relevant consultation on how the proposed recommendations in your Preliminary Report may impact the Sitka Tribe of Alaska. With the extended time to review these recommendations, I can now make some comments on the Preliminary Report however we will have to bring many of the recommendations up with the relevant agencies who are tasked with implementing changes to their programs. I ask you to please receive these following comments as representing an initial response to your report, with the understanding that when actual programmatic changes begin to occur to federal governance in the ocean environment we will be able to consult on how these changes will affect the Sitka Tribe of Alaska.

Introduction:

Regarding the recommendations of the Preliminary Report, it is necessary to understand that STA has several levels of policy already in place concerning the ocean and oceanic resources. Under the Constitution, the STA Tribal Council exercises governing powers, including:

- a. To negotiate with tribal, federal, state, foreign and local governments and others on behalf of the Tribe and to advise and consult with representatives of the United States and the State of Alaska and other states on all activities, which may affect the Tribe.
- h. To manage, lease, exchange, acquire, or otherwise deal with Tribal or other property, and to protect and preserve the Tribal property and the wildlife and natural resources within those areas under jurisdiction of the Tribe.
- i. To make assignment of land or water areas of the Tribe for use and occupancy to citizens of the Tribe in accordance with the customs of the Tribal citizens or with the laws and regulations of the Tribe.

Under the authority of the Tribal Council, there are several Commission and Committees, including a Sitka Marine Mammal Commission and a Customary and Traditional (C & T) Resources Committee. Both of these have a high level of interest and authority to deal with ocean policy and resources.

STA has three departments with natural resources programs that are concerned with ocean policy issues. STA's Field Resources Department manages three sockeye lake weirs in partnership with the US Fish & Wildlife Service, the US Forest Service, and Alaska's Department of Fish & Game. STA's Customary and Traditional Resources Department is staff to the Sitka Marine Mammal Commission and the C & T Committee, and is a collaborative manager of the Sitka Sound Herring Fishery under a MOA with Alaska's Department of Fish & Game. STA's Resources Protection Department is staff to the Tribes Cultural Committee, and provides legal advice on natural resources issues.

STA Tribal Citizens also participate on several bodies with interest in ocean policy, including John Littlefield, Chair of the Southeast Regional Advisory Council to the Federal Subsistence Board.

General Comments on Ocean Policy

1) Tribes are not fully considered in the report. Perhaps this is an oversight, but it should be corrected. In Alaska, the importance of subsistence resources to Tribes is enormous, and ocean ecosystems are vital to sustaining the Customary and Traditional Life-way that is commonly referred to as subsistence resource harvesting. As ocean ecosystem management evolves, along with the research and education functions on which it depends, the consideration of Traditional Ecological Knowledge needs to be integrated into the picture. Tribes are the source location for much of this knowledge, and can translate the information for scientists, educators, and managers.

2) Ecosystem boundaries need better definition. There are a few considerations that we have to suggest, to make the use of the ecosystem concept in our area of Southeastern Alaska. The gyre in Dixon Entrance not only marks an international boundary, but also

is an engine of mixing fresh and oceanic waters; we suggest that salinity features adjacent to the archipelago of islands north of the gyre function differently from those of the fjord coastline of British Columbia north of Vancouver Island. Oceanographers may have an objective of creating manageable ecosystems for large-scale studies, but humans have occupied the coastlines for a long time and cultures have adapted to the currents that are typical to their traditional territories. The human knowledge base needs to fit into our boundaries in such a way to take advantage of longer sets of information such as cultural knowledge. Oral history is an important component, to be set beside information that is collected by such techniques as bottom core sampling. People who had to travel by canoes certainly knew where the gyres could be found.

3) Regarding a proposed restructuring of Federal Agencies and Departments, it is necessary to consider that Tribes have formalized government-to-government relations in a number of ways. Agencies have established Tribal Policies, consultation protocols, and consistency review procedures over time, and often have Tribal Liaison Offices to ensure that these policies, protocols and procedures are followed. In the rush to bring federal agencies into a more effective team to operate on oceanic ecosystems, please make sure that there are no losses to Tribes. We suggest that a qualified national tribal organization be charged with advising the government as restructuring goes forward, and that all Tribes have time to consider and ratify the changes following adequate consultation.

4) Further to the need to consider the impacts to Tribes from restructuring, it is necessary to acknowledge that Tribes are already actively partnering with all levels of government on research, education and management projects in ocean ecosystems. For example, the Sitka Tribe is the lead entity on sockeye salmon projects in partnership with Alaska's Department of Fish & Game, the US Forest Service and the US Fish & Wildlife Service. The Tribe also is conducting an ecosystem research project on herring and sockeye that is funded by the Fish & Wildlife Service, and cooperates with the City & Borough of Sitka on watershed and coastal district planning issues.

5) For the past eight years the Sitka Tribe has been funded by the US EPA General Assistance Program. Major emphasis over these years has been spent on such issues as the closing of the pulp mill in Sitka, and a TMDL on the inlet that the pulp mill discharged into. Another issue initiated by the Sitka Tribe has resulted in a published watershed assessment on the Katlian River, that has just been released by the Forest Service in preparation for a TMDL.

6) The State of Alaska has taken positions that are adversarial to interests of Alaska Tribes on a number of issues. The Alaska Coastal Management Plan (ACMP) has been weakened and made less accessible to Tribes and local communities, and further cuts in ACMP jurisdiction and authority are being considered. Subsistence resource protection and management have been taken away from Alaska by the US government, and major disputes remain over jurisdiction. Considering the proposed level of authority being offered the State of Alaska in Ocean Policy, there should be a dispute resolution mechanism in place to avoid litigation from Tribes seeking to defend such rights as access to subsistence resources.

7) Tribes have invested time and energy to comment when other processes to take on ecosystem science have been advocated. For instance, when invited to comment on the "Proposed Unified Federal Policy for a Watershed Approach to Federal Land and Resource Management" in 1999, Tribes asked that the "science-based approach to watershed assessment" be broadened to include Traditional Ecological Knowledge. In Southeastern Alaska, Tribes were invited to participate in a workshop to determine the criteria for prioritizing 25 impaired watersheds in the Tongass National Forest. Tribes requested review of the list before it was submitted. The list was submitted without tribal review, despite numerous requests. Similarly, Tribes were invited to submit their priority watersheds to EPA under the Clean Water Action Plan, but those designations appear to have been lost in subsequent political processes.

8) When the 2001 National Watershed Forum was held in Washington, DC, the delegation from Alaska included several Tribal Leaders. Efforts to educate federal agencies on the unique political organization of Alaska were made. (For instance, Alaska does not have Counties, so databases that depend on county statistics do not work for this state.) The unique status of federally recognized Tribes, subsistence-based economies, and relatively poor base-line environmental information all need to be factored into addressing marine ecosystem needs in Alaska. Because high levels of cultural retention still exist in Alaska there is a higher need to take advantage of Traditional Ecological Knowledge, but this will require a level of commitment and sensitivity.

These complete the general comments regarding Ocean Policy. Following are comments that cover concerns specific to recommendations that have been made in the Preliminary Report. These do not attempt a comprehensive coverage of all the sections of the report, but are given to address priority issues that are of importance to the sovereignty and inherent rights of the Sitka Tribe of Alaska.

Specific Comments on Recommendations

To begin with, the Sitka Tribe of Alaska is supportive of many of the Recommendations found in the Preliminary Report. STA requests consultation in particular regarding changes to the fisheries management and enforcement proposals found in Chapter 19. The opportunities proposed for Joint Enforcement Agreements (JEAs) could build on relationships that STA has already established in the Collaborative Herring Fishery in Sitka Sound. As Recommendations 19-17 to 19-20 begin to be implemented, it is requested that the US Coast Guard meet with STA and explain what potential roles there are for Sitka Tribal Citizens to engage in training opportunities, and to begin to define STA's role in cooperative enforcement agreements. STA expects that as the US Coast Guard is integrated into the JEAs, that knowledge of local waters held by Tribal Citizens will be appreciated. It is further suggested that cultural sensitivity training and a basic course covering subsistence harvest practices will benefit all JEA partnering agencies. Native experience in safeguarding ecosystems, such as the "Watchmen Program" of the Haida Nation in British Columbia, should be integrated into local enforcement agendas.

As changes to the Magnuson-Stevens Fishery Conservation & Management Act are made to adjust the economics and privileges of access to fisheries (**Recommendations 19-15 & 19-16**), STA requests that a long-view of equity be adopted and that Tribal Citizen be interviewed as to the history of their families' involvement in the fisheries harvesting.

When the training course called for in **Recommendation 19-14** is developed, STA would like to contribute elements to ensure that NMFS and RFMC members are educated in Customary and Traditional harvest patterns and rights, as well as the values of Traditional Ecological Knowledge.

STA is particularly supportive of the intent of **Recommendations 19-21 & 19-22**, and would have suggestions to contribute as transitions are made toward ecosystem-based management. Given the importance of this subject, it is surprising to find that these are the only two recommendations to address this subject. We would suggest that the idea of "comprehensive management plans" described on page 241 of the report be elevated to a recommendation with some specific language covering: how NEPA is integrated into the protection of resources; assurances for sharing knowledge on ecosystem access between the planning entities; and the methods used to set biomass or mortality rate goals. In this specific language, STA suggests that the ecological context of Customary and Traditional resource harvesting be addressed. (New: **Recommendation 19-20A** suggested....)

In considering the move to broaden participation on the RFMCs, we note that there is no requirement in **Recommendation 19-12** to ensure that governors nominate subsistence fishermen (Customary and Traditional harvesters is our preferred term) for filling vacancies. As a general comment, we feel that the whole nomination procedure needs to be revisited and we agree with the Northwest Indian Fisheries Commission (NWIFC) comment on **Recommendation 19-13** on the appointment of tribal seats to RFMCs.

Given the importance of fish to the economy and culture of STA, there are other elements of this chapter that need discussion such as: procedures for setting allocations; developing expert review; prioritizing management information needs; and integration of recreational fishing data. We would like to discuss collaborative projects with NOAA, as funding is expanded in the regional research area, to make sure that STA objectives are included.

As the proposed National Ocean Council begins to develop multi-year plans, we note the absence of the tribes in **Recommendation 25-2**. STA is involved in several research projects in marine ecosystems and also holds a unique perspective that will assist science as it begins to integrate social/cultural components into ecosystem management. STA would like to extend their research projects within a 10-year science plan and contribute towards a dialogue with agencies doing the same. It should be noted that STA has programs already in place with several of the key agencies, to address marine ecosystem impacts in their traditional territory, and so has an interest in the development of agency 10-year planning where those programs are involved. STA invites the National Science Foundation to discuss roles that the tribe could develop to integrate natural and social sciences.


The National Ocean Council should include subsistence economies in **Recommendation 25-3** and seek to include STA as it develops information based on resident expertise and the local functioning of governance arrangements that STA has developed with partners. Should **Recommendation 25-5** be implemented, STA should participate to include such cultural information as place names in federal resource assessment and mapping within their traditional territory. Relevant training for STA to participate in these activities needs to be planned for as soon as possible, so that commitment of STA staff and resources can be funded and integrated into the Sitka Tribe's strategic planning process.

The Sitka Tribe of Alaska has government-to-government relationships with many of the federal agencies that have changes suggested to their responsibilities under the recommendations in this preliminary report. It will be necessary for the tribe to work through these changes with the agencies involved, as they affect programs within STA. Rather than go through a list of these details, it is expected that adequate notice and consultation will be given to STA during the period of transition.

One comment needs to be made on the Coastal Zone Management Act (CZMA). The Alaska Coastal Management Plan (ACMP) regulations will change on July 1, 2004, and may change how tribal and local governments interact to protect coastal resources. As CZMA changes such as those suggested in **Recommendations 9-1 & 9-4** are considered, STA may need to make further comments regarding ACMP/CZMA interactions.

Thank you for the opportunity to comment. Please refer questions to Doug Dobyns, Subsistence Biologist for the Sitka Tribe of Alaska at (907) 747-3207.

Sincerely,



Lawrence Widmark, Chair
Sitka Tribe of Alaska
456 Katlian Street
Sitka, Alaska 99835

cc. IRA Tribes in SE Alaska
US EPA
US FWS
US ACE
US Coast Guard
US DOD
ADF&G
NWIFC
City & Borough of Sitka

