

Sarah W. Cooksey

Administrator, Delaware Coastal Programs

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Thank you very much for the opportunity to speak to you again. I am sure you remember that I spoke to you earlier during your meeting in Washington DC as a representative of the National Governors Association. Today I speak to you as a representative of the state of Delaware. It is wise of you to have Regional meetings and seek comments from particular geographical areas. Coastal States share many common issues regarding Ocean Management, but the variety of issues is diverse and often can be solved quicker when approached on a regional basis.

The most important point I want to make today is that whatever outcome this process provides, its ultimate success depends upon state government actions. State government executive officers, legislatures, natural resource agencies, port authorities, transportation departments and others will be the primary implementation arm of most of your strategies. We are excited that you are taking on this difficult job. The current disjointed approach to Ocean

Governance takes up too much of my colleagues and my time. Yet, we are not necessary the only ones who know best how to fix it. You will be hearing from several marine and ocean policy experts today and I ask that you keep an open mind on their suggestions. I also ask that you keep the state executive offices deeply involved with the process, because as I said at the beginning of my remarks, we will ultimately implement most of the changes needed to protect our oceans.

### States need guidance

I would like to give you three examples of situations facing Delaware that your efforts should help. We need guidance to help us sort out complex issues. These examples are unfolding at the boundary between the ocean and land, i.e. shorelines, they involve the interdependent management of ocean and terrestrial animals, i.e. shorebirds and horseshoe crabs, and the final example illustrates how states have to deal with conflicting federal mandates.

### Ocean Shorelines

Oceans are bounded by shorelines. Beautiful sandy beaches characterize the shoreline in Delaware and other Middle Atlantic States. At certain times of the year they are dotted with conchs, starfish, and mussel shells. These beaches provide habitat for species at risk, such as piping plovers, and their dunes provide habitat for rare plants, such as sea beach amaranth. At other times of the year you can't see what has washed ashore because it is covered by thousands of humans and hundreds of surf fishing vehicles. Admittedly, state and local

governments have had a role in bringing these conflicts to a head by encouraging growth in our coastal zone, even when following the principles of smart growth. Although Delaware's Beach Construction Regulations are often praised as some of the best in the nation, by not allowing new structures seaward of our dunes, we still need to implement sand nourishment programs because of damaging storms. Nor'easters and tropical storms wreak havoc on both man-made infrastructure and natural beach infrastructure. We now are nourishing shorelines to protect and provide habitat for important species like horseshoe crabs and shorebirds. But our projects are often reactionary instead of visionary and we are setting policy as we go.

States need guidance to help resolve the inherent conflicts between man and nature. Should we lean toward helping the local municipality protect their boardwalk at the total expense of the sea life? Of course not, we would thereby destroy what tourists come to Delaware to enjoy as well as the sea life. But we need help balancing these multiple use conflicts. The Coastal Zone Management Act has helped immensely over the past twenty years, and I believe still serves as the model to work these issues out, but new information on policy setting for multiple use conflicts and an influx of financial resources are needed. Delaware, through the help of US DOT, is spending \$1 billion dollars building a new road to get people to our beaches faster, but we only spend two million dollars a year on average nourishing them.

## Interdependent species management

I expect that most of you have heard about the amazing natural phenomenon that happens each year along Delaware Bay regarding horseshoe crabs and shorebirds. Millions of horseshoe crabs come ashore in early spring to lay eggs on beaches at the same time that thousand of migrating shorebirds arrive to gorge on these eggs before they continue their hemispheric journey that started at the southern tip of South America and ends above the Arctic Circle. For a three-week period the majority of the hemisphere's Red Knot population probes our shoreline preparing for the final leg of this 10,000-mile journey (one way trip - round trip is 20,000). For similar reasons - a superabundance of the resource in one location - horseshoe crabs are simultaneously harvested for human use. Horseshoe crabs are harvested, either for bait (conch & eel) or for medical research firms. The medical research firms depend on horseshoe crab blood (Limulus amebocyte lysate) to test the purity of pharmaceuticals, while the watermen who collect them depend upon their harvest for supplemental income (sometimes they sell for up too two dollars a piece, allowing several thousand dollars to be gained in one day). Avid birdwatchers also arrive on shore and are aghast that the State allows any horseshoe crabs to be removed because of their importance to the migrating shorebirds. The state is trying to come up with a management plan to accommodate all interests.

The Atlantic States Marine Fishery Commission has developed a management plan that addresses management of the fishery. NOAA/NMFS

have established a marine protected area for HSC in federal waters just off the Delaware and New Jersey shore.

The recent horseshoe crab harvest restrictions promulgated by the Atlantic States Marine Fisheries Commission have brought the issue of potentially declining horseshoe crab populations to the forefront of the public's attention. It is believed that the recent restrictions will sustain the fishery. However, large questions about the impact of these restrictions on sustaining migratory bird populations, which may require a significantly higher horseshoe crab population than the level required to sustain the fishery, still remain due to a lack of information about these species. These questions have fueled a high level of controversy at the local, state, national, and international level. It has been described by members of a scientific team, including my staff, as the worst case of environmental McCarthyism they have ever observed. Despite the lack of information, let's take strong actions - - - and worry if we are right or wrong later.

These species ignore all jurisdictional and territorial boundaries. Horseshoe crabs winter in federal waters, migrate through state waters, spawn on beaches, and have young juveniles that cannot be found. Shorebirds use habitat in 5-8 different countries. Addressing this issue requires close coordination of the ASMFC, State Fish and Wildlife Staffs, Coastal Managers, NOAA/NMFS for Federal Waters, USFWS for Migratory Birds, the waterman, the birders, the biomedical industry, and others - not to mention the international issues for shorebirds. It even requires us to evaluate our beach

replenishment actions, which in Delaware are now the sites utilized by over 90% of the shorebirds due to high horseshoe crab spawning. Currently, the issue is being driven far more by politics and addressed primarily with rhetoric, as each agency points the figure at another or jumps out to take an action they think is politically prudent. All this is overshadowed by the only thing that they can agree on, is that we simply do not have the information to know the extent of the problem, let alone the best actions to be taken. We need to work together to answer the outstanding scientific questions before taking broad sweeping actions (some say this should be a mandated responsibility), then take the agreed upon conservative management actions that are bound by requirements to follow up with appropriate scientific monitoring to see that our corrective actions had the intended effect.

#### Conflicting Federal Mandates

There are so many examples of conflicting federal mandates, situations where one federal agency promotes or requires a certain natural resource and environmental control action and another federal agency promotes or requires an entirely separate and often opposite action, that I had a hard time picking my example. I chose the inherent conflict between the Army Corps of Engineers (ACOE) mandate for today's navigation projects and the National Marine Fisheries Services (NMFS) designation of Essential Fish Habitat (EFH). State Coastal Zone Management (CZM) programs are charged with ensuring that federal actions, permits and licenses and Outer Continental Shelf Activities are

consistent with duly adopted state CZM plans. Therefore, all ACOE dredging projects as well as NMFS essential fish habitat designations come across my desk for federal consistency review and approval. For those of you who haven't looked at these types of documents, Environmental Impact Statements (EIS) developed by the ACOE (for large projects) generally contain more than a ream of double-sided paper and take weeks to digest. The EFH designations don't take up that many pieces of paper but the overall result is that all submerged land is usually deemed "essential". Yet, ironically, NMFS generally, not in all cases, but generally, signs off on EIS's issued by the Corps, but makes much smaller public dredging projects fully comply. They do this by requiring short timeframes, usually weeks, when dredging is allowed. So on one side of my desk I have a very tall stack of government papers explaining a huge dredging project that will take years to complete and NMFS says its OK, and on the other side of my desk I have a small permit application, on which NMFS says it can only go forward under these extremely restrictive situations, because the bottom is essential for fish life. The federal government needs to examine their own actions and ensure that their policies are consistent across agencies.

### Suggestions for Change

As you collate the issues interest parties bring before you to solve, I expect that you will see similar patterns from state to state and region to region. Federal marine programs have proliferated without the necessary coordination between states, academia, and resource users. Sufficient financial resources have not been

allocated to answer the research and policy questions. The resources that have been allocated are stretched thin because of duplicative and conflicting mandates. Someone or something needs to look over this sticky web and provide the leadership that can get all of the programs and policies marching in the same direction. States must be a full partner in sorting this out and implementing the change.

Thank you for the opportunity to present my view. I look forward to working with you and am happy to answer any questions you may have.