

June 7, 2002

Admiral James D. Watkins
Commission on Ocean Policy
1120 20th St., NW
Suite 200 North
Washington, DC 20036

Dear Admiral Watkins:

Thank you for your letter with follow-up questions regarding my testimony at your Florida and Southeast regional meeting. I am pleased to include my responses below:

Question 1 - It seems that funding has been the primary impediment to carrying out the management plans of the various National Marine Sanctuaries. Why has funding not kept pace with Sanctuary establishment?

This question suggests that: (1) the failure to carry out management plans is the primary shortcoming of the National Marine Sanctuary System (Sanctuary System); (2) funding is the primary current impediment to the Sanctuary System living up to its potential; and (3) funding has not kept pace with Sanctuary establishment. None of these implications is entirely accurate. Although it is true that over the last two decades, sanctuary designations have typically preceded appropriations, creating a lag period when funding has limited progress in designating and managing the Sanctuary System, funding for the sanctuary system has increased significantly in recent years.¹ Although current levels of funding remain inadequate to attain the long-term vision for the Sanctuary program, if appropriations maintain their current upward trajectory and if those resources are well spent, we do not believe this is the most significant challenge facing the Sanctuary System.

The Ocean Conservancy believes that a more significant challenge facing the Sanctuary System has been the relative lack of support for the program within its parent agency, the National Oceanic and Atmospheric Administration (NOAA). Although the Sanctuary Program has had some notable successes, such as the development of the Florida Keys National Marine Sanctuary and the highly collaborative and acclaimed effort to designate the Tortugas Ecosystem Reserve, the System has not lived up to the Act's potential. In the thirty years since the system was first established, only 13 sanctuaries have been established. NOAA did not even request appropriations for the program until 1979. Since 1981, only the .5 square nautical mile Fagatele Bay and the freshwater Thunder Bay Sanctuary have been established by the agency, absent Congressional direction. Moreover, the level of protection afforded resources within Sanctuary boundaries has been inadequate. In large part, this is due to how NOAA

¹ Total Sanctuary System funding has increased nearly tenfold in a little more than a decade to nearly \$50,000,000 (\$34.2M for Operations + \$14.75M for Construction). Although some of this funding has been used for new sanctuaries, funding increases have outpaced new designations.

has chosen to interpret and implement the Sanctuary Act. Even though the Sanctuary Act is one of our best tools for protecting and preserving marine life, biodiversity, habitats and ecosystems, NOAA has often portrayed the Sanctuary System as a multiple-use program, claiming that it lacks adequate authority to address fishing and other priority threats. Further, when provided with explicit authority, it has frequently not exercised it.

In this context, we offer the following specific recommendations:

1. Support appropriations for the Sanctuary System at authorized levels through 2004 and maintain that rate of growth and upward trajectory through 2010: The program is authorized through 2004 at levels that provide for modest program growth at a sustainable rate. Maintaining that upward trajectory from fiscal year 2004 through 2010 would bring funding close to the level necessary for adequate program implementation.
2. Address the impacts of fishing to Sanctuary resources, including the implementation of an effective networks of marine “no-take” reserves within the Sanctuary System and beyond: The National Research Council (NRC), recent articles, and numerous scientific entities have identified fishing as a primary threat to marine ecosystems and reserves as an effective tool to address fishing impacts. The continued failure to address fishing impacts to sanctuary resources will fundamentally undermine the program’s success.
3. Further develop the Florida Keys NMS (FKNMS) so that it serves as a model for the entire System: The successful and highly acclaimed FKNMS and Tortugas Ecosystem Reserve demonstrate that applying adequate funding, carrying out the Sanctuary System’s legislative mandate, and collaboration can address critical issues, such as fishing and pollution impacts. Lessons learned from this effort must be adapted, improved, and applied elsewhere as circumstances warrant.
4. Complete collaborative development of an effective “no-take” marine reserve to protect the resources within the Channel Islands National Marine Sanctuary (CINMS): The CINMS presents an excellent opportunity to build on and apply the collaborative decision-making process developed in the Florida Keys. The creation of an effective “no-take” marine reserve network to protect the marine resources within the CINMS, initially recommended by a scientific advisory panel, needs to be finalized.
5. Fully implement the legislative requirements for five-year reviews of NMS management plans: The National Marine Sanctuaries Act requires review and revision of management plans and regulations for each sanctuary at least every five years. Despite on-going reviews at a number of sites, several of these seem to be stalled, limited in scope, and/or ignoring the requirement to revise the plan and regulations to fill the purposes and policies of the Act. Updating and bringing plans and regulations into compliance with the Sanctuary System’s mandate, purposes, and policies is critical to its success.

6. Fully implement the existing Northwest Hawaiian Islands (NWHI) Coral Reef Reserve while developing the Northwest Hawaiian Islands National Marine Sanctuary: NOAA is the guardian and steward of the NWHI, pursuant to the National Marine Sanctuaries Amendments Act of 2000 and by Executive Order (E.O.) 13196, which created the Northwest Hawaiian Islands Coral Reef Ecosystem Reserve. NOAA has stated that they are enforcing and supporting the E.O., however, recent announcements and actions have not provided adequate protection and have hinted at weakening the protection afforded under the E.O. We strongly urge you to recommend that NOAA initiate a rulemaking process to fully implement E.O. 13196 and in the future designate a Sanctuary which supplements the current protections that the E.O. provides.

7. Implement agency consultation requirements to identify, highlight, and address activities that may damage sanctuary resources: In 1992, Congress required that federal agencies consult with NOAA concerning activities with potential to harm sanctuary resources. Ten years later, however, NOAA has yet to develop regulations to carry out this mandate. Systematically reviewing all proposed activities that may adversely affect a sanctuary will enable site managers to better monitor such activities and protect sanctuary resources.

8. Develop high-quality, visible, state-of-the-art public facilities and programs for the Sanctuary System: Historically, many sanctuaries have been nearly invisible to the public, even within their local communities. For much of that time, limited funding was at least partially responsible. However, with a federal appropriation of \$14.75 million in fiscal year 2002 for sanctuary facilities, the marine sanctuaries program should develop such facilities as quickly as is practicable. Similarly, education and outreach are necessary components of comprehensive sanctuary management and need to be improved.

9. Strengthen and implement more effective research and monitoring programs for each National Marine Sanctuary: Both research and monitoring must be part of comprehensive sanctuary management. While NOAA and individual sanctuaries have made progress in this area, meeting research and monitoring needs should be a higher priority.

Question 2 - How do you convince the public that the "precautionary principle" is a useful tool?

The public is very familiar with the precautionary principle. Most people use it every day when making decisions from paying health insurance premiums to looking both ways before crossing the street. Other examples include bridge engineering (not designed to exactly meet the maximum sustainable load, thank goodness!), airplane maintenance, and the advice of financial planners to not keep all your eggs in one basket by diversifying your investments.

The precautionary approach in all of these examples is motivated by two properties: uncertainty and the potential for disastrous consequences if we do not act in a precautionary manner. Federal ocean fisheries management also shares these two properties.

First, resource managers must regularly make management decisions or choose indecision in the face of substantial uncertainties. The federal government admits that it cannot even judge the overfished status of three-fourths of the fish stocks it manages. The uncertainties surrounding even the best studied stocks leave strong potential for fishing rates to be set incorrectly by a factor of two or more.

Second, federal ocean fisheries management has a rich history of disasters. From New England groundfish to West Coast rockfish, from South Atlantic snapper-grouper to North Pacific crab, the bulk of stocks are overfished and/or being rebuilt. Overall, more than a third of known U.S. fish stocks are considered overfished. The regulations required to rebuild these stocks cause substantial economic hardship and prompt federally funded disaster relief programs across the country. Yet these cutbacks are insufficient, as two-thirds of known overfished stocks are still experiencing overfishing.

The public will embrace a precautionary approach to fisheries management if educated about how common the precautionary approach is in daily life, and the disastrous consequences our nation has experienced and will continue to suffer unless we take into account the uncertainty surrounding fisheries management decisions and therefore the necessity of employing the precautionary approach.

Question 3 - What recommendations would you make regarding Marine Protected Areas if you were a member of the Commission?

The Commission in its recommendations to Congress and the President should recommend the creation of a national network of marine protected areas (MPAs), including no-take zones and wilderness areas (large no-take zones). The Commission should ensure that the national network meets minimum scientific criteria, including representative coverage of all ocean habitat types and regions, and overrepresentation of vulnerable habitats, or key habitats, for vulnerable species in reserves large enough to sustain populations of resident species. In the following paragraphs, we suggest some important steps toward this ultimate goal.

1. Formally recognize the value of and need for MPAs, especially no-take marine reserves: Hundreds of scientists have concluded that marine reserves are a valuable tool for managing fish populations and the people and ecosystems they support. Panels convened by the National Academy of Sciences and the National Center for Ecological Analysis and Synthesis have issued consensus statements endorsing the benefits of MPAs.

2. Acknowledge the multiple benefits of MPAs: Marine protected areas are capable of achieving a variety of goals and objectives. These include the conservation of fished populations and habitats, and the sustenance of fisheries, ecosystems, and biodiversity

itself. They also provide opportunities for scientific research, education, recreation, and protection of ocean heritage values.

3. Inventory existing MPAs: Identify and compile information on existing MPAs throughout U.S. waters. We can make better decisions once it is clear what we currently have, although it is already clear that less than one-tenth of one percent of the U.S. exclusive economic zone are fully protected no-take marine reserves. The National MPA Center is undertaking a nationwide survey to achieve this step (see <http://www.mpa.gov> on the web), but the process appears to be underfunded and slow.

4. Classify MPAs: Develop a national classification system for MPAs so that terminology is consistent across jurisdictions. Ensure that there is a range of MPA classifications—from no-take marine reserves to partially protected areas—in the management toolbox. In addition to developing a national classification system, the Commission should call for increased federal support for state initiatives e.g. California.

5. Engage stakeholders: Create forums where stakeholders (both consumptive and non-consumptive) can discuss options for MPAs and advise federal officials on MPA policy. A federal MPA advisory committee is still pending and overdue. The Commission should call upon the Bush Administration to expedite the process of establishing this advisory committee.

6. Educate the public: Provide the public with compelling information on the need for MPAs, including the poor state of fisheries, the extent of ocean habitat damage, and the extremely limited extent at present of fully protected no-take marine reserves (less than one-tenth of one percent of U.S. ocean waters). We should also educate the public about the benefits and limits of MPAs. This task is within the mandate of the National MPA Center, but is a big job requiring substantial federal support in partnership with stakeholder organizations.

7. Set National MPA Goals and Take Steps Necessary to Achieve Those Goals: Set clear goals for MPAs (both for the entire system and individual MPAs) such as protecting ocean biodiversity, sustaining fisheries, and promoting science, research, education, and recreation, that will create a national network of MPAs with no-take marine reserves as its cornerstone. Ensure adequate mechanisms and standards are in place to achieve these goals. Provide opportunities for public stakeholder participation to make better use of local knowledge in deciding where individual MPAs should be established and to enhance public support and compliance with regulations governing future use of these areas. Provide sufficient funding for implementation, monitoring, and adaptive management of federal MPA programs. Provide financial and other incentives for states to establish their own system of MPAs in coastal waters, such as the effort now underway in California.

By recommending these steps, the Commission can help the nation establish an effective and publicly-supported network of marine reserves.

Admiral Watkins, thank you again for the opportunity to testify before the Commission and to respond to your questions. The Ocean Conservancy looks forward to continuing our dialogue during the Commission's deliberations. Meanwhile, please don't hesitate to contact me if you have any additional questions or would like copies of any of the references I have cited.

Sincerely,

David White
Director, Southeast Atlantic and Gulf of Mexico Regional Office
The Ocean Conservancy