

Comments on All 9 Strategic Action Plans: Public Comments Received 1/24/2011-4/29/2011

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Name

Samantha Belyeu

Organization**Which Priority Objective would you like to provide comment on?**

Multiple SAPs

What near-term, mid-term, and long-term actions would most effectively help the Nation achieve this policy objective?

In light of Deepwater Horizon's catastrophic Gulf oil spill, it is encouraging to see that our nation's leadership is coming together to address the gross lack of regulation against powerful corporations in the oil and commercial fishing industries who put our marine ecosystems and coastal communities at risk. I urge you to keep the Arctic off-limits for oil and gas exploration and extraction. The Arctic is the only home many indigenous people have ever known, and a truly unique wilderness area of incalculable value.

I understand that you support marine spatial planning, and encourage you to set ambitious targets for creating a network of fully protected marine reserves covering 40% of US waters. The available science is clear: marine reserves are a valuable tool for protecting biodiversity and rebuilding fish stocks. Marine reserves also play a valuable role in increasing resiliency of marine ecosystems to the rapid changes underway from climate change and ocean acidification.

Your leadership in developing a National Ocean Policy that reflects the values of a majority of Americans and protects our oceans, coasts, and Great Lakes is needed more than ever. As the stresses facing marine ecosystems increase, we can not afford the risk of more oil spills. The creation of this National Ocean Policy is an opportunity for the transformative change to how we treat our oceans. By bringing new offshore drilling to an immediate halt and establishing a network of fully protected marine reserves, we can leave a legacy of clean, productive and healthy oceans for generations to come.

Sincerely,
Samantha Belyeu

What are some of the major obstacles to achieving this objective; are there opportunities this objective can further, including transformative changes in how we address the stewardship of the oceans, coasts, and Great Lakes?**What milestones and performance measures would be most useful for measuring progress toward achieving this priority objective?**

Name

Ellen Miller Anderson

Organization

Which Priority Objective would you like to provide comment on?

All SAPs

What near-term, mid-term, and long-term actions would most effectively help the Nation achieve this policy objective?

I want to bring to your attention the issue of spent plastics from ignited fireworks that litter our waters at ALL levels. Certainly we see TONS of this just on our short 28-mile Long Beach Peninsula coastline in Washington State. Some of it is originally deposited on our own beach, much of it comes from the Columbia River that gets fed by so many other waterways in many western states. By educating decision-makers, I am hoping we have a better chance of including the plastics from fireworks environmental littering problem in ALL decisionmaking. Please go to ourbeach.org to learn more about ocean debris that washes ashore in Washington state and plasticsinfireworks.org for pictures and info about spent fireworks plastics littering.

Thanking you, I am:
Ellen Anderson
Ocean Park, Washington 98640

What are some of the major obstacles to achieving this objective; are there opportunities this objective can further, including transformative changes in how we address the stewardship of the oceans, coasts, and Great Lakes?

What milestones and performance measures would be most useful for measuring progress toward achieving this priority objective?

Name

Karin Holser

Organization

St. George Island Institute

Which Priority Objective would you like to provide comment on?

All SAPs

What near-term, mid-term, and long-term actions would most effectively help the Nation achieve this policy objective?

I was hoping to comment on the Strategic Action Plans, but the website is not available.

So I will let you know that I approve 100% your strategy and would only say it is very important that it be implemented ASAP! The Bering Sea is going to be over fished if we don't start implementing ecosystem management and map the canyons and around our islands - the Pribilof Islands. So please lets not just have this as wish list - let get it implemented NOW!

What are some of the major obstacles to achieving this objective; are there opportunities this objective can further, including transformative changes in how we address the stewardship of the oceans, coasts, and Great Lakes?

What milestones and performance measures would be most useful for measuring progress toward achieving this priority objective?

Index:
Attachments to Comments
And Letters Received
Pertaining to All 9 Strategic Action Plans



April 28, 2011

Submitted Electronically

Ted Wackler
Deputy Chief of Staff
Office of Science and Technology Policy
The National Ocean Council
722 Jackson Place
Washington, DC 20503

Comments: Development of Strategic Action Plans for the Nine Priority Objectives for Implementation of the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes

Dear Mr. Wackler:

On behalf of the National Ocean Policy Coalition (“Coalition”), I am pleased to submit comments on the development of Strategic Action Plans for the nine priority objectives for implementation of the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes (“National Ocean Policy”).

I. Executive Summary

The Coalition is an organization of diverse interests united in our desire to ensure that the implementation of the new National Ocean Policy is done in such a way that it is helpful rather than harmful to the National interests, including the interests of commercial and recreational users of the oceans and marine-related natural resources. As presently constructed, the National Ocean Policy has the potential to impact both terrestrial and marine interests, including, but not limited to, many that the Coalition represents such as agriculture, commercial fishing, construction, consumers, energy, manufacturing, mining, ports, recreational boating, recreational fishing, and waterborne transportation. Our membership in particular represents entities and sectors that support tens of millions of jobs and contribute trillions of dollars to the U.S. economy. These interests, and the jobs and communities that they support, could be unnecessarily and adversely affected if the policy’s potential impacts are not adequately studied and addressed prior to implementation.

It is vital that the National Ocean Policy enhance the public’s ability to utilize the nation’s oceans, coasts, Great Lakes, and inland areas—and their critical resources—in a manner that provides maximum benefit to the economic and societal interests of the American people.

NATIONAL OCEAN POLICY COALITION
209 PENNSYLVANIA AVENUE, SE
WASHINGTON, DC 20003

While the Coalition appreciates the opportunity to provide comments, unfortunately it is not yet possible to adequately address the questions presented by the National Ocean Council.

To ensure a sound and balanced National Ocean Policy that is based on well-informed input with regard to the policy's nine national priority objectives, policy implementation should be suspended in order to allow for comprehensive studies—coupled with the full engagement of Congress—that are subject to public review and comment and carefully analyze all potential economic, societal, and legal implications associated with implementation. The need for such analyses is highlighted by statements in the Final Recommendations¹ about uncertainty and anxiety, the hundreds of policies, laws, and regulations that are implicated, and the fundamental shift in resource management that the policy represents, as well as the significant concerns that exist regarding statutory and constitutional authorities and impacts and the lack of understanding of the full costs associated with implementation. The analyses will help ensure that the policy is fully vetted regarding potential harm to economic and recreational activities prior to implementation and reduce the risk of litigation.

Furthermore, given the many federal laws and resulting potential conflicts involved, and the inevitable reinterpretation of those statutes in light of the mandate that federal entities implement the National Ocean Policy to the maximum extent allowed by existing statutes, it is wrong that Congress has been preempted. Congress has a meaningful role to play, and at minimum, should have an integral role in advising the Executive Branch on the legislative intent of existing statutes.

The absence of such studies and engagement prior to implementation could result in significant harm to economic and societal interests in marine, coastal, and even inland areas, and would serve as an obstacle to achieving the national priority objectives. Without such analyses, issues related to the economy and jobs, budget constraints at all levels of government, statutory and constitutional authority, and questions of state sovereignty, among others, will not have been adequately addressed.

Concerns about potential harm to economic and societal interests are underscored by recent statements in administration documents, comments by a former Interagency Ocean Policy Task Force member, and observations from an internationally renowned marine conservation expert, all of which are detailed below and link Coastal and Marine Spatial Planning, a core component of the National Ocean Policy, to zoning activity. Additional economic and legal concerns arise from inclusion of Regional Ecosystem Protection & Restoration as a priority objective, coupled with previous EPA statements calling for replication of the federal government's Chesapeake Bay effort in other areas of the country.

With regard to stakeholder engagement efforts, such activities must meet the “robust” and “meaningful and frequent” threshold set forth by the National Ocean Council and the

¹ See Final Recommendations of the Interagency Ocean Policy Task Force (“Final Recommendations”), released July 19, 2010, available at http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf.

Interagency Ocean Policy Task Force in the Final Recommendations,² be open and transparent, and include any and all potentially impacted commercial and recreational groups, sectors, and interests at national and regional levels, including through balanced stakeholder advisory groups whose members (sector-appointed) are representative of the potentially impacted commercial and recreational interests and whose advice receives significant deference. Otherwise, there will continue to be a lack of public awareness associated with this policy, and perceptions will be reinforced that opportunities for public and stakeholder input are merely check-the-box exercises rather than serious efforts to learn from stakeholders and members of the public representing a broad range of interests and viewpoints.

The Coalition supports a National Ocean Policy that serves as a mechanism for jobs creation, infrastructure revitalization, and economic growth, and relies on full utilization of existing programs and well-established authorities that are already in place, rather than the creation of new bureaucracies, procedures, and regulations that only serve to create additional uncertainty and unnecessary restrictions and delay.

Suspending policy implementation until studies analyzing the potential economic, societal, and legal impacts have been carried out (and been made subject to public review and comment) and full engagement with Congress has taken place will help ensure that the policy is based on informed input, legally sound, and fully recognizes and accounts for the critical role our oceans, coastal areas, and marine ecosystems play in our nation's economy, national security, culture, health, and well-being. After such time, testing the National Ocean Policy in a pilot project in a limited geographic area, rather than starting nationwide, will allow for any necessary adjustments and further mitigate the risk for unintended consequences that could accompany a policy of this magnitude.

II. Background

Pursuant to the Final Recommendations that were adopted in Executive Order 13547,³ the National Ocean Council is charged with developing Strategic Action Plans for each of the following nine national priority objectives:

- (1) Ecosystem-Based Management;
- (2) Coastal and Marine Spatial Planning;
- (3) Inform Decisions and Improve Understanding;
- (4) Coordinate and Support;
- (5) Resiliency and Adaptation to Climate Change and Ocean Acidification;
- (6) Regional Ecosystem Protection and Restoration;
- (7) Water Quality and Sustainable Practices on Land;
- (8) Changing Conditions in the Arctic; and
- (9) Ocean, Coastal, and Great Lakes Observations, Mapping, and Infrastructure

² See Final Recommendations at 9, 77, and National Ocean Council, Frequently Asked Questions, *available at* <http://www.whitehouse.gov/administration/eop/oceans/faq>.

³ See Executive Order on Stewardship of the Ocean, Our Coasts, and the Great Lakes, issued July 19, 2010, *available at* <http://www.whitehouse.gov/files/documents/2010stewardship-eo.pdf>.

The national priority objectives, intended to further the National Ocean Policy, “provide a bridge between policy and specific actions.” The Strategic Action Plans will implement the priority objectives, and thus the National Ocean Policy, by “prescrib[ing] in detail how individual entities will undertake their responsibilities.”⁴

Specifically, in order to meet each priority objective, Strategic Action Plans are to address the Obstacles and Opportunities and key areas identified under each objective in the Final Recommendations and identify: (1) specific and measurable near-term, mid-term, and long-term actions, including milestones, performance measures, and outcomes; (2) key lead and participating agencies; (3) gaps and needs in science and technology; (4) potential resource requirements and efficiencies; and (5) steps for integrating or coordinating current and out-year budgets. In addition, Strategic Action Plans are to “consider smaller-scale, incremental, and opportunistic efforts that build upon existing activities, as well as more complex, larger-scale actions that have the potential to be truly transformative.”⁵

To ensure effective implementation of the Strategic Action Plans, the Final Recommendations noted the need for “clear and easily understood requirements and regulations, where appropriate, that include enforcement as a critical component.”⁶

In seeking public input on the development of the Strategic Action Plans, the National Ocean Council has requested comments that address the opportunities, obstacles, and metrics of progress relevant to each of the nine national priority objectives, specifically seeking comments on the following points:

- Near-term, mid-term, and long-term actions that would most effectively help the Nation achieve each priority objective;
- Obstacles to achieving the priority objectives and opportunities the priority objectives can further (including transformative changes in how stewardship of the oceans, coasts, and Great Lakes is addressed); and
- Milestones and performance measures most useful for measuring progress toward achieving the priority objectives

Following President Obama’s June 12, 2009 memorandum establishing an Interagency Ocean Policy Task Force and directing it to develop recommendations for a National Ocean Policy and a framework for “effective coastal and marine spatial planning,”⁷ the Task Force released interim recommendations on September 17⁸ and December 14, 2009.⁹ Final recommendations, which

⁴ See Final Recommendations at 6.

⁵ See Final Recommendations at 7.

⁶ See Final Recommendations at 30.

⁷ See Memorandum for the Heads of Executive Departments and Agencies on the National Policy for the Oceans, Our Coasts, and the Great Lakes, June 12, 2009, available at http://www.whitehouse.gov/sites/default/files/page/files/2009ocean_mem_rel.pdf.

⁸ See Interim Report of the Interagency Ocean Policy Task Force, September 10, 2009, available at http://www.whitehouse.gov/assets/documents/09_17_09_Interim_Report_of_Task_Force_FINAL2.pdf.

⁹ See Interim Framework for Effective Coastal and Marine Spatial Planning, December 9, 2010, available at <http://www.whitehouse.gov/sites/default/files/microsites/091209-Interim-CMSP-Framework-Task-Force.pdf>.

largely combined the interim recommendations, were released and adopted in Executive Order 13547 on July 19, 2010. Among other things, the Executive Order established a National Ocean Policy and National Ocean Council, directed federal entities to implement the new policy, including participation in the coastal and marine spatial planning (CMSP) process, and ordered federal implementation of the nine national priority objectives to be carried out through Strategic Action Plans that are the subject of the current comment period.

As the Task Force developed interim recommendations, the Coalition and others grew increasingly concerned that the policy was being constructed in a way that did not properly account for economic, societal, and legal implications. Elements of the recommendations attracting concerns from the Coalition include:

(1) Institution of “ecosystem-based coastal and marine spatial planning”—which we fear will be used as a zoning tool to unnecessarily restrict or prohibit commercial and recreational activities—departing from the long-held principle of multiple use of our public lands and oceans. We reject the notion that an inherent conflict exists among various and incompatible human activities that requires such a response, particularly with regard to (but not limited to) the co-existence between offshore energy development and commercial and recreational fishing activity.

(2) Lack of consideration of the impacts of the National Ocean Policy and CMSP on commerce, society, and economic activity, as demonstrated by the absence of any analysis of the potential adverse consequences that could result from the institution of such a broad and sweeping initiative. According to the Final Recommendations, through CMSP, the policy seeks to “better manage” a host of sectors that contribute significantly to the nation’s economy, including commerce and transportation, commercial and recreational fishing, energy, ports and harbors, boating, and tourism.¹⁰

(3) National certification requirements, dispute resolution procedures, and the process for establishing regional planning bodies charged with developing National Ocean Council-certified CMS Plans, all of which could lead to decisions made under a federally-driven, top-down management approach. Concerns in this regard include constitutional questions surrounding the ability of regional planning bodies and non-advice and consent National Ocean Council members to bind the policy decisions of federal agencies.

(4) Inclusion of state waters (and inland areas when deemed appropriate) in CMSP, the continuation of regional CMS Plans even if certain states/tribes in a particular region opt not to participate, and the ability of regional planning body members, the National Ocean Council, or the President to override the concerns of a particular state. All of these points raise state sovereignty concerns and present potentially significant and burdensome budgetary burdens for states that are forced to participate in, or are otherwise impacted by, National Ocean Policy implementation.

(5) Use of the “precautionary approach,” as reflected in Principle 15 of the Rio Declaration of 1992, to guide decision-making under all aspects of the National Ocean Policy, even though the policy is said to be based on “sound science.”

¹⁰ See Final Recommendations at 42.

(6) Establishment of a new bureaucracy, including the National Ocean Council and nine regional planning bodies, that could delay commercial projects, hampering economic growth and increasing our dependence on foreign sources of energy. Such an outcome would negatively impact the receipt of critical government revenues at a time of severe budgetary constraints, jeopardizing efforts to reduce the annual deficit and national debt and putting existing federally-funded programs and activities at risk.

(7) The impact of National Ocean Policy implementation on the discretionary authority of federal officials and programs and processes carried out under existing statutes such as the Coastal Zone Management Act, Outer Continental Shelf Lands Act, Magnuson-Stevens Fishery Conservation and Management Act, Clean Air Act, and Clean Water Act.

(8) Inclusion of the Great Lakes in the National Ocean Policy, even though there are no Great Lakes waters under exclusive federal jurisdiction.

(9) Potential use of Regional Ecosystem Protection & Restoration and Water Quality & Sustainable Practices on Land priority objectives to bring virtually any activity and U.S. geographic location under National Ocean Council jurisdiction. For example, using the National Ocean Policy as justification to replicate the federal government's Chesapeake Bay initiative in the Mississippi River watershed alone could affect activities in states from along the Gulf Coast stretching all the way to the U.S.-Canadian border.

(10) A lack of transparency thus far with regard to: (1) public notification of stakeholder outreach activities; (2) disclosure of estimated costs of implementation for both government and impacted stakeholders; and (3) public updates on policy implementation measures that have been taken within the federal government.

III. Development of Strategic Action Plans

Just as we stated in our previously submitted comments,¹¹ the Coalition strongly believes that it is essential that the National Ocean Policy be based on expansive stakeholder input and be fully vetted regarding potential harm to economic and recreational activities prior to implementation. While the Coalition appreciates the opportunity to provide comments, unfortunately, it is not yet possible to adequately address the questions presented by the National Ocean Council.

Comprehensive Economic, Societal, and Legal Analyses and Engagement of Congress

To ensure a sound and balanced National Ocean Policy that is based on well-informed responses to the questions listed above with regard to all nine national priority objectives, a comprehensive study that carefully analyzes all potential economic, societal, and legal policy impacts is necessary. A comprehensive analysis would be consistent with the Coalition's previous comments calling for the new National Ocean Policy to be fully vetted regarding potential harm to economic and recreational activities prior to implementation,¹² and would

¹¹ See National Ocean Policy Coalition Comments on the Interim Framework for Effective Coastal and Marine Spatial Planning, February 12, 2010, available at <http://www.whitehouse.gov/sites/default/files/webform/NOPC%20Comments%2002-12-10%20Final.pdf>.

¹² See National Ocean Policy Coalition Comments on the Interim Framework for Effective Coastal and Marine Spatial Planning, February 12, 2010, available at <http://www.whitehouse.gov/sites/default/files/webform/NOPC%20Comments%2002-12-10%20Final.pdf>.

provide important insight as to exactly how, if at all, “the investments and improvements in these [Final] [R]ecommendations will advance the economic interests of the United States.”¹³

The analysis should be conducted by the administration in close collaboration with all potentially impacted stakeholders at the local, state, regional, and national levels, and developed in accordance with the Administrative Procedure Act.¹⁴ The study, which should be made available for public review and comment, would help inform answers to essential unanswered questions, such as how ecosystem-based management would be defined and implemented.¹⁵ The analysis should be supplemented by additional studies conducted by an independent third party.

The comprehensive analyses would serve to inform comments on: (1) near-term, mid-term, and long-term actions that would most effectively help achieve the national priority objectives; and (2) obstacles and opportunities; and (3) milestones and performance measures for measuring progress toward achieving the priority objectives. Combined with a truly collaborative approach that utilizes objective data and sound science, the studies could present an opportunity to further promote healthy, resilient, and productive oceans, coastal areas, and marine ecosystems.

The lack of comprehensive studies conducted prior to implementation that examine all potential impacts of the National Ocean Policy would be a major obstacle to achieving the national priority objectives. Without such analyses, major issues, including those related to federal, state, and local budget constraints, the current economic and jobs environment, and questions of state sovereignty, among others, will not have been adequately addressed.

The need for such analyses is underscored by the Interagency Ocean Policy Task Force’s observations in the Final Recommendations, including the following:

- “The Task Force is mindful that these recommendations may create a level of uncertainty and anxiety among those who rely on these resources and may generate questions about how they align with existing processes, authorities, and budget challenges.”¹⁶
- “The implementation of ecosystem-based management embodies a fundamental shift in how the United States manages these [ocean, coastal, and Great Lakes] resources, and provides a foundation for how the remaining objectives would be implemented.”¹⁷
- “How ecosystem-based management will be defined and implemented would be further addressed by the NOC [National Ocean Council] as it develops a strategic action plan for this priority objective.”¹⁸

¹³ See Final Recommendations, Appendix C, at CIX.

¹⁴ See 5 U.S.C. 500 *et seq.*

¹⁵ See Final Recommendations, Appendix C, at C-III (“How ecosystem-based management will be defined and implemented would be further addressed by the NOC [National Ocean Council] as it develops a strategic action plan for this priority objective.”).

¹⁶ See Final Recommendations at 9 and 77.

¹⁷ See Final Recommendations at 32.

¹⁸ See Final Recommendations, Appendix C, at C-III.

- “United States governance and management of these areas span hundreds of domestic policies, laws, and regulations covering international, Federal, State, tribal, and local interests. Challenges and gaps arise from the complexity and structure of this regime.”¹⁹

With regard to activities carried out under existing policies, laws, and regulations, the Final Recommendations themselves reference some of the many programs and authorities already in place that address ocean and coastal activities, including the Coastal Zone Management Act, Clean Water Act, Clean Air Act, National Environmental Policy Act, Magnuson-Stevens Fishery Conservation and Management Act, and Outer Continental Shelf Lands Act.²⁰

Thus, while there are certainly goals that National Ocean Policy stakeholders might welcome, such as better mapping and charting in the Arctic and an improved ocean observing network in that region, a National Ocean Policy with new bureaucracies, procedures, regulations, governance structures, and unnecessary restrictions is not needed in order to achieve those goals or objectives. Coastal and marine-related goals can be furthered by leveraging existing authorities as well as existing efforts such as the North Slope Science Initiative (NSSI). NSSI was developed by federal, state, and local governments with land and ocean management trust responsibilities to “facilitate and improve collection and dissemination of ecosystem information pertaining to the Alaskan North Slope region, including coastal and offshore regions.” Its mission is to “improve scientific and regulatory understanding of terrestrial, aquatic and marine ecosystems for consideration in the context of resource development activities and climate change.”²¹ The Coalition supports full utilization of existing programs such as these.

The need for congressional involvement is also central to the discussion about application of existing statutes in furtherance of the National Ocean Policy. In addition to referencing the hundreds of policies, laws, and regulations that address governance and management of the oceans, coasts, and Great Lakes, the Final Recommendations also state that the National Ocean Policy has been established in part to address “the challenges we face...in the laws, authorities, and governance structures intended to manage our use and conservation” of these resources, and CMSP is to be carried out “under the authority of” existing statutes.²²

Since coastal and marine spatial plans are expected to vary by region, application of the federal laws used to allegedly authorize such plans may vary by region as well, thus causing these federal statutes to no longer be uniformly applied in a national manner as originally intended. Given the many federal laws and resulting potential conflicts involved, and the inevitable reinterpretation of those statutes in light of the mandate that federal entities implement the National Ocean Policy to the maximum extent allowed by existing statutes, it is wrong that Congress has been preempted. After all, the many statutes being relied upon to implement this policy exist because they were deliberated on and enacted by Congress. Though never enacted, many of the key elements of the National Ocean Policy were also put before three successive

¹⁹ See Final Recommendations at 2 and 13.

²⁰ See Final Recommendations at 42, 50, 53, and C-IX.

²¹ See North Slope Science Initiative, Scope, Mission and Vision of the North Slope Science Initiative, *available at* <http://www.northslope.org/>.

²² See Final Recommendations at 2, 13, and 47.

Congresses. Thus, Congress has clearly shown, under Democratic and Republican majorities, that there is no consensus in the Congress for a vast restructuring of laws governing ocean and coastal resources and uses. Congress has a meaningful role to play in this initiative, and at minimum, should have an integral role in advising the Executive Branch on the legislative intent of existing statutes.

Analyses from the comprehensive studies discussed above, coupled with the full engagement of Congress, would ensure a more effective and sound policy by reducing the risk of detrimental economic, societal, and legal impacts. Policy implementation should therefore be suspended in order to allow for such analyses and engagement to take place and enable the submission of comments that are fully informed by the results of the studies.

Economic and Societal Impacts

As the nation seeks to recover from the worst economic contraction since the Great Depression, creating jobs and economic benefits must be the primary objective of all policy initiatives, including the National Ocean Policy. A National Ocean Policy could have great benefits to the United States, serving as a mechanism for job creation, infrastructure revitalization, and economic growth. The Coalition remains deeply concerned, however, that without the aid of analyses from comprehensive studies, the policy outcome will adversely impact a wide array of commercial and recreational interests and bring about unintended economic and societal consequences.

Terrestrial and marine sectors potentially impacted by the National Ocean Policy include, but are not limited to, agriculture, aquaculture, commercial fishing, construction, energy, manufacturing, mining, ports and harbors, recreational boating, recreational fishing, and waterborne transportation. These industries, and the jobs and communities that they support, could be unnecessarily and adversely affected if the policy's potential impacts are not adequately studied and addressed prior to implementation.

In fact, even though Strategic Action Plans—the vehicles for policy implementation—have not yet been developed, a recent administration decision shows that such adverse effects may already be taking place. In December 2010, the U.S. Department of the Interior revised the Outer Continental Shelf 5-Year Leasing Program and closed the door to new leasing opportunities outside Central and Western Gulf of Mexico through 2017, citing the National Ocean Policy in part as justification.²³ In addition to adverse employment impacts, such decisions also exacerbate revenue shortfalls during a time of severe budgetary constraints at all levels of government. Furthermore, existing Bureau of Ocean Energy Management, Regulation & Enforcement regulations and Outer Continental Shelf Lands Act and National Environmental Policy Act provisions negate the need for such justification, as they already require: (1) consideration of ecosystem-management issues; (2) balancing energy development with

²³ See “Salazar Announces Revised OCS Leasing Program,” Press Release, December 1, 2010, *available at* <http://www.doi.gov/news/pressreleases/Salazar-Announces-Revised-OCS-Leasing-Program.cfm> (“Consistent with the President’s Executive Order on National Ocean Policy, today’s modified plan also confirms many actions announced in March, including environmental analysis to determine whether seismic studies should be conducted in the Mid and South Atlantic, and rigorous scientific analysis of the Arctic to determine if future oil and gas development could be conducted safely.”).

environmental impacts; (3) intergovernmental review and coordination; (4) public comment mechanisms; (5) a multi-disciplinary decision-making approach; (6) environmental sensitivity analysis; and (7) evaluation of all major federal actions that may significantly impact the quality of the human environment.

The potential for CMSP to result in exclusionary zoning is a central component of the Coalition's concerns with regard to economic and societal impacts. While the administration has at times stated that CMSP is not zoning,²⁴ in other instances it has indicated precisely the opposite. For example, in an interview with OnEarth Magazine last year, then-U.S. Coast Guard Commandant and Interagency Ocean Policy Task Force member Adm. Thad Allen said that ecosystem-based marine spatial planning is "basically taking the notion of urban planning and putting it into the water column, as well as the estuary systems that connect to it and everything that impacts ocean ecosystems."²⁵ More recently, the National Ocean Council linked CMSP to "systematic ocean zoning,"²⁶ and a FY 2012 budget request for a National Oceanic and Atmospheric Administration office seeks funds in part to develop "planning and zoning tools" for coastal managers in the context of CMSP.²⁷

The Coalition's concerns are reinforced by observations of those such as Tundi Agardy, an internationally renowned marine conservation expert, who has noted that "the idea of integrating management and using strategic tools such as ocean zoning is very central to the Obama administration's new interim policy. And though ocean zoning is deliberately not mentioned, the term 'marine spatial planning' appears 20 times in the framework document, and the steps in the marine spatial process are essentially the same as those for developing ocean zoning plans."²⁸

Another source of concern arises from the Regional Ecosystem Protection & Restoration national priority objective. The Final Recommendations noted that "[w]hile progress has been made in addressing some of these challenges through ecosystem-based management, the threat of critical habitat loss and degradation of ecosystem services is still apparent in the Gulf

²⁴ See Frequently Asked Questions, National Ocean Council, *available at* <http://www.whitehouse.gov/administration/eop/oceans/faq> ("The National Policy does not establish any new regulations or restrict any ocean uses or activities... The National Policy is not a map drawing exercise and does not contain a zoning plan or establish any restrictions on activities, nor does it restrict access."), and Summary Record, Hydrographic Services Review Panel, Public Meeting, May 5, 2010, Providence, Rhode Island, *available at* http://www.nauticalcharts.noaa.gov/ocs/hsrp/archive/2010/May/Providence_Summary_Report.pdf ("Ms. [Jennifer] Lukens [Senior Policy Advisor to the NOAA Undersecretary] responded that CMSP is not zoning").

²⁵ See OnEarth Magazine, "Q&A: On the Waterfront," by David Helvarg, May 6, 2010, *available at* <http://www.onearth.org/article/on-the-waterfront>.

²⁶ See Legal Authorities Relating To The Implementation Of Coastal and Marine Spatial Planning, National Ocean Council, *available at* <http://www.whitehouse.gov/sites/default/files/microsites/ceq/CMSP%20Legal%20Compendium%201-31-11%20FINAL.pdf> ("Many of the state Sea Grant Programs have used Sea Grant expertise to support coastal and marine spatial planning activities...Activities related to some aspects of systematic ocean zoning in specific locations include both environmental studies...and human-related studies...").

²⁷ See NOAA FY 2012 President's Budget, Chapter 3, Office of Oceanic and Atmospheric Research, Page 534, *available at* http://www.corporateservices.noaa.gov/~nbo/fy12_presidents_budget/Office_Oceanic_and_Atmospheric_Research_FY12.pdf ("NOAA...will...focus the extramural research community on research gaps addressed in the 2008 GAO report...development of planning tools or approaches to aid site selection for new or expanded aquaculture facilities in the context of coastal and marine spatial planning, including planning and zoning tools for coastal managers, which will aid permitting and site selection...").

²⁸ See "Ocean Zoning: Making Marine Management More Effective," Pages 161-162, By Tundi Agardy, 2010, Earthscan.

Coast, the Chesapeake Bay, Puget Sound, South Florida, San Francisco Bay, and the Great Lakes,” and that “[b]y addressing coastal and ocean challenges that cross jurisdictional boundaries and sectors on a regional and ecosystem scale, we can more effectively manage these resources.”²⁹ In addition, EPA has previously stated that “[s]uccess in cleaning up the Chesapeake Bay watershed will be a model for watershed protection in other parts of the country.”³⁰

The costs associated with potentially nationalizing the federal government’s Chesapeake Bay effort—a 2004 Chesapeake Bay Program Blue Ribbon Finance Panel estimated that restoration efforts for the entire Chesapeake Bay watershed alone would cost \$28 billion³¹—highlight the need for a comprehensive economic analysis. Given legal concerns and active litigation surrounding implementation of the Chesapeake Bay program, the report must also include legal analysis to ensure that any strategy seeking to replicate that effort is also compliant with existing federal law.³²

Lastly, the Final Recommendations recognize “the reality of the limited availability of new resources,”³³ and CMSP in particular will require “significant initial investment of both human and financial resources.”³⁴ Given budget constraints in the current economic environment and the potential impact from the diversion of resources to support the new National Ocean Policy at a time of immense competition for scarce resources, it is essential that the administration be fully transparent in providing the public with complete information as to what the National Ocean Policy-related federal budgetary costs are likely to be (including those at the non-federal level, where applicable). Such information should be broken down by individual entity and identify both new funding as well any existing funds to be used in support of the National Ocean Policy.

For example, although the National Ocean Council specified that the administration’s FY 2011 Budget Request included \$37 million in additional funding to advance the National Ocean Policy (without identifying the specific agencies/offices to be funded), it only noted generally that the request also included “investments across many Federal agencies for activities that support these recommendations, including habitat restoration, water quality improvement, port and coastal security, improvements in marine transportation safety and efficiency, coastal and

²⁹ See Final Recommendations at 37.

³⁰ See Coming Together for Clean Water: EPA’s Strategy for Achieving Clean Water, Public Discussion Draft, August 2010, *available at* <https://blog.epa.gov/waterforum/wp-content/uploads/2010/08/Coming-Together-for-Clean-Water-Disc-Draft-Aug-2010-FINAL.pdf>.

³¹ See Chesapeake Bay Program, Funding and Financing, *available at* <http://www.chesapeakebay.net/fundingandfinancing.aspx?menuitem=14907>.

³² For example, the American Farm Bureau Federation and Pennsylvania Farm Bureau recently filed suit in federal district court seeking a judgment vacating EPA’s final Chesapeake Bay Total Maximum Daily Load (TMDL) requirements on the grounds that: (1) EPA used an “unprecedented process to micromanage waterways” in a manner that “unlawfully circumvented the Clean Water Act procedures that give primary authority to the states to protect water quality;” (2) that the TMDL’s are based on erroneous information; (3) that the erroneous information used to determine the TMDL’s “was fed into computer models that are unsuitable for deriving such loads—even with accurate information;” and (4) that the public did not have access to the information “it needed to comment effectively on the modeling results and the assumptions in the Final TMDL.” See Complaint by American Farm Bureau Federation and Pennsylvania Farm Bureau Seeking Declaratory and Injunctive Relief Against United States Environmental Protection Agency, Filed January 10, 2011, *available at* http://www.fb.org/legal/files/id_51/2011.01.10%20AFBF%20Complaint.pdf.

³³ See Final Recommendations at 30.

³⁴ See Final Recommendations at 43.

estuarine land protection, research and development of ocean sensor technology, catch-share based fisheries management, environmental tools to support resilient coastal communities, and ocean acidification research.”³⁵ Figures should be updated to reflect all National Ocean Policy-related budgetary items included in the administration’s FY 2012 Budget Request.

Legal Impacts

The Coalition remains concerned that the National Ocean Policy, and the CMSP effort in particular, has a strong potential to infringe on the power and authority of federal officials as well as the sovereignty of coastal and inland states, with a likely result of increased litigation regarding activities proposed in ocean, coastal, Great Lakes, and inland areas. Comprehensive studies that include thorough legal analyses must be conducted to reduce such risk by examining how the policy will impact the authority of both states and federal entities, helping to clarify and address important questions about potential legal and practical implications surrounding:

- (1) The establishment of regional planning bodies and the authority provided to them under the Final Recommendations, including potential conflicts with the Appointments Clause of the U.S. Constitution resulting from non-federal officials sitting on bodies that issue policies that are binding on federal officials;
- (2) The scope and authority of the National Ocean Council, including the statutory basis for its establishment and related potential conflicts with existing laws, in addition to potential constitutional implications surrounding the inclusion of non-advice and consent officials on the National Ocean Council;
- (3) The establishment of the geographic scope of CMSP to include state waters, inland bays, estuaries, and additional inland areas if deemed appropriate;³⁶
- (4) The power of regional planning bodies to impose their will on other sovereign states within their respective regional planning areas, even if the states may not agree on the point at issue;
- (5) The continuation of the development and implementation of a CMS Plan even if a particular state or tribe within a regional planning area chooses not to participate in CMSP;³⁷ and
- (6) Inclusion of the Great Lakes in the National Ocean Policy and CMSP, given non-federal jurisdiction of submerged lands in the Great Lakes region.

In addition, comprehensive legal analyses could serve to clear up confusion about the impact of the National Ocean Policy, including CMSP, on existing statutes. For example, in addressing a question from an audience member about the impact of the policy on existing processes carried out pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, a senior NOAA official said that “we will not be changing the specific laws.”³⁸ In addition, the National

³⁵ See Frequently Asked Questions, National Ocean Council, *available at* <http://www.whitehouse.gov/administration/eop/oceans/faq>.

³⁶ See Final Recommendations at 49.

³⁷ See Final Recommendations at 60.

³⁸ Sally Yozell, Director of Policy, National Oceanic & Atmospheric Administration, Question-and-Answer Session (14:07-14:09), National Ocean Policy Town Hall Forum for Ocean Stakeholders In New England, December 9, 2010, Faneuil Hall, Boston Massachusetts.

Ocean Council states that the National Ocean Policy “does not establish any new regulations or restrict any ocean uses or activities.”³⁹

However, the Final Recommendations repeatedly reference the potential for legislative changes as the new National Ocean Policy is implemented⁴⁰ and state that effective policy implementation will “require clear and easily understood requirements and regulations, where appropriate, that include enforcement as a critical component.” Executive Order 13547 adopts these recommendations and directs relevant federal entities to exercise their discretion to the maximum extent in furtherance of the new National Ocean Policy and CMSP.

Adherence to this directive will inevitably entail interpretations of statutory authority that could result in federal actions likely to be disputed based on conflicts with the mandates and provisions of existing statutes. Attempts to reinterpret and change the multitude of federal laws and regulations that govern activities in ocean, coastal, and Great Lakes waters—as well as the inland activities deemed to impact those areas—are significant undertakings that would likely be subject to major challenges and lengthy litigation, thereby impacting many of our members and the jobs and communities that they support. This risk is further heightened given the real potential for federal agency mandates and requirements under the National Ocean Policy to contravene Administrative Procedure Act and Regulatory Flexibility Act provisions, which respectively require agency consideration of all comments on an equal basis prior to issuing a regulation and agency consideration of potential impacts on small entities and less burdensome alternatives.

Indeed, as previously mentioned, actions that restrict certain activities have already been taken based in part on the new National Ocean Policy.⁴¹ Those involved with the implementation of elements of existing federal statutes such as the Magnuson-Stevens Fishery Conservation and Management Act have also voiced concerns about the prospect of new regulatory action under the policy and impacts on existing management processes.⁴²

³⁹ See Final Recommendations of the Interagency Ocean Policy Task Force – Frequently Asked Questions, *available at* <http://www.whitehouse.gov/administration/eop/oceans/faq>.

⁴⁰ See Final Recommendations at 47 (“Where pre-existing legal constraints, either procedural or substantive, are identified for any Federal agency, the NOC [National Ocean Council] would work with the agency to evaluate necessary and appropriate legislative solutions or changes to regulations to address the constraints.”), 62 (“Where existing regulatory or statutory requirements impose constraints on the ability of an agency to fully implement the CMS Plan, the agency would seek, as appropriate, regulatory or legislative changes to fully implement the CMS Plan.”), 66 (“The CMS Plan signatories would periodically review these processes, and where legal constraints are identified, would seek to remedy these constraints, including by working with the NOC to evaluate whether a legislative solution or changes to regulations are necessary and appropriate.”), and 70 and 71 (“The [CMSP] strategic action plan would be released in six to nine months and include...legal analysis and recommendations for legislative changes, if necessary... Also, as part of the strategic action plan, the NOC would oversee efforts to identify gaps and conflicts in Federal authorities and recommend potential steps to reconcile them.”).

⁴¹ See “Salazar Announces Revised OCS Leasing Program,” Press Release, December 1, 2010, *available at* <http://www.doi.gov/news/pressreleases/Salazar-Announces-Revised-OCS-Leasing-Program.cfm> (“Consistent with the President’s Executive Order on National Ocean Policy, today’s modified plan also confirms many actions announced in March, including environmental analysis to determine whether seismic studies should be conducted in the Mid and South Atlantic, and rigorous scientific analysis of the Arctic to determine if future oil and gas development could be conducted safely.”).

⁴² See Alaska Journal of Commerce, “Confusion lingers for council about new ocean policy,” by Andrew Jensen, December 3, 2010, *available at* http://www.alaskajournal.com/stories/120310/loc_clfc.shtml (“What we’re concerned from the [North Pacific Fishery Management] council perspective is why — if there is supposedly no regulatory authority established — there are passages in that executive order that basically say the recommendations from the regional planning body approved by the National Ocean Council are to be implemented by the relevant federal agencies...So there’s a disconnect, a bit of a conflict, frankly.” [Chris Oliver, Executive

Further analysis of the potential for such actions and their impacts on policies, programs, and processes carried out under existing laws would help enable more informed public and stakeholder input and a more sound and balanced National Ocean Policy.

Stakeholder Engagement

The Final Recommendations “embrace” a stakeholder engagement approach that features “[m]eaningful and frequent opportunities” for stakeholder and public engagement throughout the implementation process.⁴³ In addition, the National Ocean Council promises opportunities for “robust stakeholder and public engagement during implementation of the National Policy and the development of coastal and marine spatial planning,” adding that “[s]takeholder and public participation will be sought through a variety of mechanisms that may include...town halls...”⁴⁴

The Coalition agrees that robust, meaningful, and frequent stakeholder engagement is critical. However, significant questions and concerns remain as to the adequacy of stakeholder engagement efforts thus far.

For example, two federally-sponsored events billed as “Town Hall forum[s] for ocean stakeholders” were held in Anchorage, AK (November 12, 2010) and Boston, MA (December 9, 2010), and according to a recent NOAA newsletter, at least two additional town hall forums were held in West Long Branch, New Jersey (November 5, 2010) and Norfolk, VA (November 12, 2010).⁴⁵

The Anchorage and Boston meetings each included a policy overview and a question-and-answer session, and rose to a level of significance sufficient enough to draw senior officials from NOAA (Deputy Administrator and Director of Policy) and representatives from the Department of the Interior, the United States Navy, and the United States Coast Guard.

Unfortunately, however, public and stakeholder awareness of the meetings was significantly limited as notice of the events was conveyed by email to those on certain NOAA e-distribution lists. In addition, for those fortunate enough to receive notice of the town hall meeting in Boston, there were no means provided for remote participation, even though it was described as a forum for ocean stakeholders in all of New England. While a webinar option was made available for the Anchorage event, questions were not taken from webinar participants.

Director, North Pacific Fishery Management Council] Oliver said that particular passage of the executive order is an indirect, if not direct, establishment of regulatory authority. ‘When we’re told, ‘Don’t worry, it doesn’t create any new regulatory authority,’ and then you turn around and read that passage we go, ‘Wait a minute. This implies some sort of a regulatory action in response to recommendations of the regional planning body...Therefore of course we’re concerned this could be levered to go around the [North Pacific Fishery Management] council in terms of how we manage fisheries.’”

⁴³ See Final Recommendations at 9, 77.

⁴⁴ See National Ocean Council, Frequently Asked Questions, *available at* <http://www.whitehouse.gov/administration/eop/oceans/faq>.

⁴⁵ See NOAA Winter 2011 Newsletter, “NOAA in the North Atlantic,” *available at* http://www.ppi.noaa.gov/PPI_Capabilities/Documents/NOAA_NART_Winter_2011_newsletter.pdf.

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The lack of public notice and opportunity for maximum participation is disappointing in light of the administration's previous statements stressing the need for a robust and meaningful stakeholder and public engagement effort. Events like the town hall meetings previously held must allow for remote participation and be announced well in advance by public notice, ideally through *Federal Register* publication, but at minimum through an official announcement on the National Ocean Council web page, regardless of whether such events are coordinated by the National Ocean Council, NOAA, or any other federal entity. The absence of such actions will only serve to contribute to a continuing lack of public awareness of the policy and reinforce perceptions that opportunities for public and stakeholder input are merely check-the-box exercises, rather than serious efforts to learn from stakeholders and members of the public representing a broad range of interests and viewpoints.

Therefore, the stakeholder engagement effort going forward must include openness and transparency in all outreach activities and comply with the letter and spirit of the Administrative Procedure Act. Stakeholder engagement activities must also include any and all potentially impacted commercial and recreational groups, sectors, and interests at every stage of policy development and implementation and at the national and regional levels, including through balanced stakeholder advisory groups whose members (sector-appointed) are representative of the potentially impacted commercial and recreational interests and whose advice receives significant deference. It must also be recognized that distinctions among various stakeholders may warrant differing and targeted types of engagement activity based on the potential impacts to such groups.

IV. Conclusion

The Obama administration has held thirty-eight "expert" roundtables, conducted six regional public meetings, received over 5,000 public comments, and issued two interim reports, culminating with last July's Final Recommendations and Executive Order.⁴⁶ Yet, upon being asked to provide a National Ocean Policy overview at a December 2010 town hall meeting, one NOAA official compared the task to "defend[ing] a thesis, in some regards."⁴⁷

In order to successfully make the transition from what is still perceived by many as an academic exercise to a sound, balanced, and effective policy, comprehensive studies whose data will facilitate informed stakeholder and public input, coupled with the full engagement of Congress, will be required. Without such analyses, input, and engagement, there will be an increased risk of detrimental economic, societal, and legal impacts. We therefore urge the National Ocean Council to ensure that such studies and engagement are carried out and to suspend policy implementation until such time as such congressional engagement has occurred and such analyses have been prepared and been subject to public review and comment.

⁴⁶ See Final Recommendations at 2.

⁴⁷ Sally Yozell, Director of Policy, National Oceanic & Atmospheric Administration, National Ocean Policy Overview (0:57-1:02), National Ocean Policy Town Hall Forum for Ocean Stakeholders In New England, December 9, 2010, Faneuil Hall, Boston Massachusetts.

After such time, given the broad scope of the proposed National Ocean Policy, including CMSP, the Coalition reiterates its previous recommendation that the policy first be tested in a pilot project in a limited geographic area in order to allow for policy adjustments. The potential for significant harm to many industries and commercial and recreational interests would be further mitigated by such a pilot project. There is simply no reason to rush into nationwide application of such major policy changes with the likelihood of unintended consequences so high and the extent of impacts still largely unknown.

In closing, the Coalition remains concerned that the National Ocean Policy could be harmful rather than helpful to the National interests. To reduce the risk of such harm, the Coalition respectfully requests that the National Ocean Council heed the advice contained herein in order to aid the development and implementation of a legally sound policy that is based on informed input and fully recognizes and accounts for the critical role our oceans, coastal areas, and marine ecosystems play in our nation's economy, national security, culture, health, and well-being.

W. Jackson Coleman

A handwritten signature in black ink that reads "W. Jackson Coleman". The signature is written in a cursive style with a long horizontal flourish extending to the right.

National Ocean Policy Coalition

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American Sportfishing Association
Center for Coastal Conservation
Coastal Conservation Association
Congressional Sportsmen's Foundation
International Game Fish Association
National Marine Manufacturers Association
The Billfish Foundation

April 29, 2011

The Honorable Nancy Sutley
Chair, Council on Environmental Quality
Co-Chair, National Ocean Council
Executive Office of the President
Washington, DC 20500

Dr. John P. Holdren, Director
Office of Science and Technology Policy
Co-Chair, National Ocean Council
Executive Office of the President
725 17th Street Room 5228
Washington, DC 20502

Re: Notice of Intent to Prepare Strategic Action Plans for the Nine Priority Objectives for Implementation of the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes. Request for Comments.

Dear Ms. Sutley and Dr. Holdren,

The above listed organizations are pleased to submit the following formal written comments on the Priority Objectives of particular interest to the recreational fishing and boating community for implementation of the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes. Our organizations represent the overwhelming majority of recreational boating and angling interests in the United States, collectively a \$200+ billion industry in the United States that supports over 1.5 million jobs. The recreational fishing and boating community is anxious to engage in the National Ocean Policy development to insure our community is adequately represented in this significant policymaking process. We come to this engagement trying to answer an ever-increasing number of questions from our members, businesses and partners as to what exactly will be the impacts of this process on the interests of recreational anglers and boaters.

An overarching concern of our community with the National Ocean Policy, particularly as it pertains to coastal marine spatial planning, is the treatment of recreational uses as one of numerous ocean “sectors,” along with oil, gas, mining, commercial fishing, transportation, defense, security. We firmly believe that there is a distinct and inherent difference between recreational and industrial ocean uses, and their respective impact on the ocean environment. Members of the public who choose to spend leisure time on the water fishing with family and friends are fundamentally different than commercial activities in which a public resource is extracted for the purpose of selling that resource. Recreational use of our public waters is not only compatible with, but in fact is essential to sound conservation and natural resource stewardship, as highlighted by contributions made to such successful conservation programs as the Sport Fish Restoration Program. Because recreational angling and boating contribute directly to funding the conservation of our Nation’s aquatic resources and provide other significant social and economic benefits, we know these activities warrant special and elevated consideration as a national priority as National Ocean Policy development moves forward. In addition, saltwater recreational activities are compatible with the America’s Great Outdoors initiative and play an important role in providing outdoor recreation, exercise and life skills.

Objective 1: Ecosystem-based Management

The near-term, mid-term and long-term actions that would most effectively help the Nation achieve this policy objective are to NOT mandate the implementation of ecosystem-based management in a “one-size fits all” application. Ecosystem-based management is not legally defined and is not part of any statutory authority. In fact, the recent 2006 reauthorization of the Magnuson-Stevens Fishery Conservation & Management Act (MSA) specifically avoided mandating Regional Fishery Management Councils implement ecosystem-based management because there is not one consistent definition or application of this management practice. The Secretary of Commerce should review the findings of the study that was mandated by MSA to “complete a study on the state of the science for advancing the concepts and integration of ecosystem considerations in regional fishery management.”¹

The National Ocean Policy final recommendations note that the strategic action plan for implementing ecosystem-based management should establish “a process for working with States, tribal, and local authorities and regional governance structures to apply the most successful approaches.”² Certainly the Regional Fishery Management Councils will be important “regional governance structures” with which to work in attempting to develop effective ecosystem-based management systems. The concern is that under the National Ocean Policy structure, the National Ocean Council (NOC) will simply consider what the Regional Councils are doing in their respective regions and require additional requirements or entirely different approaches to implementing ecosystem-based management. This would ultimately undermine

¹ Magnuson-Stevens Fishery Conservation and Management Reauthorization Act, 16 U.S.C. 1882(f) (P.L. 109-479)

² Final Recommendations of the Interagency Ocean Policy Task Force (July 19, 2010), pg. 32.

the Regional Council process. It is understood that the Regional Council process is not perfect, however, the council process does provide for local, transparent public input on policies and regulations that will directly impact the use of the relevant marine environment.

One of the major obstacles to adopting ecosystem-based management as a foundational principle for the comprehensive management of the ocean is that this type of management approach is neither defined in the National Ocean Policy final recommendations nor anywhere else in law. Ostensibly, part of this request for comments is to get a better understanding of what ecosystem-based management might look like. But, the request for comments does not ask for information on what is ecosystem-based management, rather it simply poses a series of questions on how it might be implemented effectively. In addition, Appendix C – “Public Engagement” – the National Ocean Policy final recommendations explains that “[h]ow ecosystem-based management will be defined and implemented would be further addressed by the NOC as it develops a strategic action plan for this priority objective.”³

Thus, it appears comments are being received on how to implement ecosystem-based management and the NOC will then determine how to define it. This seems like a backward approach. The National Ocean Policy would be better served by having a clear definition of ecosystem-based management and then receiving comments on how to implement such an ocean management construct.

The closest the National Ocean Policy final recommendations comes to defining ecosystem-based management is by explaining that it “integrates ecological, social, economic, commerce, health, and security goals, and which recognizes both that humans are key components of ecosystems and also that healthy ecosystems are essential to human welfare.”⁴ An ocean management approach that attempts to consider everything ultimately considers nothing very well. To be effective, such a comprehensive and far-reaching approach would require a considerably greater understanding of the living and non-living factors in the environment than currently exists. For example, there are numerous recreationally and economically valuable fisheries with which humans have interacted for centuries, yet we have little knowledge of their basic life history traits. We believe it is premature to attempt to embark on this fundamental shift in management given the general lack of scientific data to support this approach.

Implementing ecosystem-based management must not be a top down federal mandate. The states and their fish and wildlife agencies play a significant and successful role in managing coastal resources, commercial uses and recreational uses. We observe that the states’ authority and role in the process has been diminished. In our view this slight must be changed and the states must have a role commensurate with their authorities, expertise and interest in this planning process.

³ Id., pg. C-III

⁴ Id., pg. 2

Objective 2: Coastal and Marine Spatial Planning.

Pursuant to Executive Order 13547, President Obama defines coastal marine spatial planning (CMSP) as “a comprehensive, adaptive, integrated, ecosystem-based, and transparent spatial planning process, based on sound science, for analyzing current and anticipated uses of ocean, coastal, and Great Lakes areas.”⁵ The Co-Chairs of the NOC are responsible for then approving the coastal marine spatial plans that are consistent with national objectives and “guidance the NOC has articulated, and any other relevant national priorities.”⁶

The near-term, mid-term and long-term actions that will help achieve this policy objective are maintaining constant input from the public and local users of the marine environment. This will help eliminate perceptions that this will be a planning process that will only be driven by the NOC and input from local users will not be fully considered.

The primary concern from the recreational fishing and boating community with the implementation of CMSP is that it could lead to large areas of the ocean environment being restricted to access. There are numerous competing interests in our oceans, be it shipping, commercial fishing, energy production, and defense. Recreational interests, however, are too often afterthoughts in marine policy, but this must not be the situation with the implementation of CMSP.

It is encouraging to see that the National goals of CMSP include the requirement to “provide for and maintain public access to the ocean, coasts, and Great Lakes.”⁷ In addition, the National Ocean Policy includes the need to “preserve our Nation’s maritime heritage, including our social, cultural, recreational, and historical values” as a core policy objective.⁸ These are important changes made to the Interim Report and ones that provide some comfort to recreational fishermen, who want to have access to the ocean and sustainable fishery resources.

Ultimately CMSP must be a policy/process that seeks to better inform decision-making in the ocean environment and address gaps in science and data to improve conservation, management and environmental objectives. It is imperative, however, that CMSP not be a means to catalogue, map and designate vast marine areas as marine protected areas (MPAs). While MPAs may serve as potential tools amongst many in a given marine fishery management toolbox, in recent years there has been an alarming drive toward adopting MPAs without adequate regard for science, data, economic impacts, or public access.

⁵ Exec. Order No. 13547 pg. 3 (July 19, 2010)

⁶ Final Recommendations of the Interagency Ocean Policy Task Force (July 19, 2010), pg. 63.

⁷ Id., pg. 7.

⁸ Id., pg. 15.

The National Ocean Policy final recommendations still maintain numerous references to ambiguous terms such as “healthy,” “pristine,” and “resilient” and articulate broad management concepts that call for the protection of biological diversity – all of these terms are undefined and can be interpreted broadly. The report then couples these hard-to-define terms and concepts with a precautionary approach when there is scientific uncertainty.⁹ It is our concern that under this approach CMSP could lead to the preservation of the ocean based entirely on precautionary principles and arbitrarily exclude users – primarily recreational users, we fear – from the marine environment and its resources.

To avoid this potential and mitigate concern that this will be the result of the CMSP, the National Ocean Policy should simply follow the law under the MSA for how and when restricted areas are created in the marine environment. The legal requirements in MSA for establishing any marine restricted area are: 1) be based on sound science; 2) be the smallest marine area possible to achieve an articulated conservation goal, and 3) be continuously reviewed to determine whether the marine restricted area is necessary to achieve these conservation goals.¹⁰

It should not be the goal or result of CMSP to determine or catalogue marine areas that should be simply set-aside as marine reserves or no-go zones. Any policy to set-aside large areas of the marine environment from access to recreational fishing or the private boating public is not acceptable and will be inconsistent with goals and policy articulated in the National Ocean Policy final recommendations. CMSP should not be a means to lock-up the ocean to public access and recreation.

It is worth noting that within this Administration’s other major resource conservation initiative – America’s Great Outdoors (AGO) – increasing and improving recreational access is one of the primary goals.¹¹ Because of its elevated support for outdoor recreation access and opportunities on public lands and waters, our community has strongly embraced and promoted the AGO initiative, whereas the National Ocean Policy, particularly as it pertains to CMSP, has created considerable concern. To provide consistency between these two initiatives, recreational access should be cited as a priority in CMSP. When this administration promotes getting more Americans outside in our public spaces and getting more Americans physically active, please remember that America’s great outdoors do not end at the shoreline.

We are deeply concerned that the process thus far is not adequately acknowledging the difficult position states in general and their natural resource management agencies in particular are now facing. CMSP will clearly rely heavily on state agencies and if this is carried out in a “top-down” manner that is insensitive to the harsh economic burdens state agencies are carrying, the endeavor will be crippled before it has truly started at the regional level. This

⁹ *Id.*, pg. 16.

¹⁰ MSA, 16 U.S.C. 1853(b)(2)(C) (P.L. 109-479).

¹¹ America’s Great Outdoors: A Promise to Future Generations (February 2011), pg. 17.

problem is compounded by the inadequate outreach thus far in approaching states as partners in this effort. If CMSP is to succeed at any level, it must be carried out in a collaborative manner with the states, which have done a much better job historically of managing marine resources than has the Federal government.

Finally, to ensure that CMSP is developed through a fair and balanced approach, it is essential that the federal government not seek or collect private funding to aid in the development of the regional plans. Much of our community's concerns over CMSP are attributable to the perception that it will follow a similar course as the Marine Life Protection Act initiative in California, through which large areas of the state's coastal waters are now permanently closed to recreational fishing with no scientific justification. This once seemingly beneficial program for recreational anglers had remained idle for years due to lack of state funding, but became clearly biased towards excessive and unnecessary closures once development began in 2006 as a result of the funding partnership between the state and private organizations that support closures. Given the potential, real or perceived, for CMSP to follow a similar path, it is critical to avoid engaging in a public-private funding partnership.

Objective 3: Inform Decisions and Improve Understanding

The action that can best achieve the priority objective to increase knowledge to continually inform and improve management and policy decisions for the oceans is to make it a national priority to fund stock assessments for all federally managed fisheries. The basis for properly managing and conserving fishery stocks is to understand the abundance of the resource, and this can only be achieved with reliable and up-to-date stock assessments.

A major obstacle to implementing the priority objective for improving understanding in the ocean environment is the use of questionable science and making ocean policy decisions based on poor or out-of-date information. Unfortunately, this is the exact problem we have today with some fishery management decisions that shut down recreational fisheries based entirely on old stock assessments and incomplete information.

The National Ocean Policy must endeavor to increase our understanding of the oceans and this begins with maintaining sustainable fishery resources through sound science and up-to-date stock assessments.

Objective 4: Coordinate and support Federal, State, Tribal, local and regional management of the ocean, our coasts and the Great Lakes.

The National Ocean Policy final recommendations place a substantial focus on coordinating the numerous agencies and laws that ultimately intersect with the stewardship of our oceans. The report recommends a policy coordination framework that would provide a structure to

strengthen ocean governance and coordination by “providing clear and visible leadership and sustained high-level engagement within the Federal Government.”¹² Within this policy coordination framework, the report does recommend greater participation by local and regional governance structures. However, the policy provides absolutely no options for the public or recreational organizations to have a formal position or presence within policy coordination framework or regional planning bodies.

This is a failure of the policy and a significant long-term obstacle to the success and ultimate value of the National Ocean Policy. Maintaining regional input and expertise is absolutely critical for establishing a balanced and uniquely responsive national ocean policy.

A national ocean policy should not be a mechanism to establish an overarching bureaucracy that consists entirely of governmental officials implementing federal-down mandates. But over and over again in the National Ocean Policy it references “Federal, State, Tribal, and local authorities,” as the people who will either fill out the positions within the Policy Coordination Framework and also the nine Regional Planning Areas.¹³

Thus, the organizing structures for the National Ocean Policy will consist entirely of governmental officials, and will therefore lack the necessary perspectives of actual interested groups in the ocean environment. By establishing that only governmental officials can serve on the various committees and regional planning bodies, it will likely be the case that the public will become highly skeptical of the mandates coming from these new bureaucratic structures.

The national ocean policy must encourage better coordination between agencies and promote policies that focus the stewardship of our oceans, but not at the expense of regional ingenuity. To improve and succeed with this priority objective, provide a formal position within the coordination framework and the regional planning bodies for ocean users – recreational fishermen – to participate and have a formal role in making decisions regarding the National Ocean Policy.

Objective 6: Regional Ecosystem Protection and Restoration

The sportfishing and boating community’s approach to conservation and management of our natural resources is focused on the resources on which the public depends for high quality, easily accessible recreational fishing opportunities. Over the last 30 years, significant strides have been taken to improve the health of America’s aquatic resources, including water quality and fish habitat. We are faced with many fisheries resource challenges but by and large, state and federal agencies, backed by important pieces of legislation including the Clean Water Act, the Sport Fish Restoration and Boating Trust Fund and the Magnuson-Stevens Fisheries

¹² Interagency Ocean Policy Task Force (July 19, 2010), pg. 19.

¹³ *Id.*, pg. 52.

Conservation Act, have succeeded in reversing a declining trend in many of our nation's rivers, streams, lakes and coastal areas. Much of this success can be attributed to the tremendous infusion of funding for federal and state water and fisheries management in the form of excise taxes on fishing and boating related purchases and fishing license sales. American sportsmen have undoubtedly played an important role in the stewardship of our natural resources for over 100 years.

We support the National Ocean Policy's objective to "(e)stablish and implement an integrated ecosystem protection and restoration strategy that is science-based and aligns conservation and restoration goals at the Federal, State, tribal, local, and regional levels."¹⁴ Acknowledging the importance of natural resource conservation, it is also vital that protection and restoration strategies included in the National Ocean Policy also balance, maintain and enhance recreational access. Rather than locking up areas for protection and prohibiting access, these strategies should engage the public with the environment in a collaborative manner that educates them on the importance of resource conservation and promoting environmental stewardship. Public use promotes care and stewardship.

There are several efforts underway that promote ecosystem restoration and allow individuals and communities to actively participate in the conservation of our nation's coastal habitats that are vital to recreational fisheries, such as the National Fish Habitat Action Plan, NOAA's Community-based Restoration Program, and the Great Lakes Restoration Initiative. Combining the collective energy of state and federal agencies with local partners offers the best chance of success. The National Ocean Policy should embrace and promote these programs which operate from a "bottom-up" approach, assuring that priority areas, species, and systems are identified by partners with a working knowledge of what habitats most need to be addressed.

Conclusion

The recreational fishing and boating community will continue to try to impress upon those shaping the National Ocean Policy that it is critical to cite public access for recreation as a specific top priority and criteria when contemplating CMSP and other relevant objectives. In the nine National Priority Objectives of the policy, "recreation" and "access" are not mentioned. We strongly recommend that the National Ocean Policy follow examples within the Department of the Interior (DOI) and its public lands management. For example, the National Wildlife Refuge System explicitly lists recreation and access as a top management priority.

We have appreciated the outreach from CEQ and others throughout the development of this policy. We are grateful for the progress made to date to in elevating the importance of providing and maintaining public access to the ocean, coasts and Great Lakes. However, many in our community remain hesitant to support this policy given the treatment of recreational activities as one of numerous ocean uses with which it may have to compete for continued

¹⁴ Id., pg. 37.

access to marine recreation areas and the use of publicly managed resources. Much of this concern could be alleviated by elevating recreational activities as a priority ocean use given their conservation, cultural and economic values.

We look forward to a continued positive dialogue with the National Ocean Council, its staff and the Administration on effective ways to enhance oceans policy coordination and governance. Thank you for your consideration.

Sincerely,

Mike Nussman, President
American Sportfishing Association

Jeff Angers, President
Center for Coastal Conservation

Pat Murray, President
Coastal Conservation Association

Jeff Crane, President
Congressional Sportsmen's Foundation

Rob Kramer, President
International Game Fish Association

Thom Dammrich, President
National Marine Manufacturers Association

Ellen Peel, President
The Billfish Foundation



April 29, 2011

Ted Wackler
Deputy Chief of Staff, OSTP
National Ocean Council
722 Jackson Place, NW
Washington, DC 20503

Re: Comments on the National Ocean Council's Development of Strategic Action Plan for the Implementation of Coastal and Marine Spatial Planning

Dear Mr. Wackler:

On behalf of the Oceans Public Trust Initiative (OPTI), a project of the Earth Island Institute's International Marine Mammal Project, please accept these comments on the *Development of Strategic Action Plans for the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes*. 76 Fed. Reg. 4,139 (Jan. 24, 2011).

The purpose of this letter is to provide OPTI's comments on the development and implementation of the National Ocean Council's strategic action plans for the nine priority objectives outlined in President Obama's Executive Order 13,547 (July 19, 2010). OPTI strongly supports the Council's continued efforts to develop a National Ocean Policy.

Priority objective 1 calls for the adoption of ecosystem-based management as a foundational principle for the management of ocean and coastal resources. OPTI supports this objective, and believes that management based on the health and vitality of the ecosystem as a whole will ultimately lead to smarter, more sustainable practices and a healthier, more productive environment. Likewise, OPTI supports the implementation of regionally-based management, protection, and restoration measures called for in priority objective 6.

OPTI also supports the increased intergovernmental and stakeholder coordination and involvement called for in priority objectives 3, 4 and 9. By integrating as many frames of

reference and types of expertise as possible into the process, the Council will increase the overall quality and viability of and support for the Policy. Similarly, by integrating all available data and information, the Council will enable the construction of a foundation of information that makes cohesive and thoughtful management and decision-making possible.

Priority objectives 5 and 8 address environmental stewardship and adaptation in the face of climate change, both generally and specific to the Arctic. OPTI supports these objectives and urges the Council to continue to recognize the potentially catastrophic impacts of ocean acidification on the marine environment and the fishing community, sea level rise on coastal communities, and the magnified and immediate impacts that climate change is having on Arctic communities and the environment.

OPTI especially supports the development of Coastal and Marine Spatial Planning (CMSP), identified as priority objective 2. OPTI supports the strategy identified in the July 2010 Final Framework and recognizes the timeliness of this process in light of the continuing "land rush" to develop offshore wind and hydrokinetic projects.

OPTI has consistently favored the implementation of an ocean zoning framework prior to the development of offshore areas. CMSP is an important tool that has been effectively utilized by a number of coastal states to identify marine and coastal resources, and identify which current and future uses of those resources are best suited to particular areas. The end goal of CMSP is to protect sensitive areas and reduce conflict among resource uses, while providing for the sustainable use and development of those resources.

The success and promise of the National Ocean Policy is undermined, however, by the virtually unrestrained development push of offshore energy resources by the Department of the Interior. Both oil and gas and renewable energy exploration activities are proceeding without regard to the priority objectives of the National Ocean Policy, and it appears that Secretary Salazar believes his Department to be exempt from these basic principles. For example, despite the Gulf of Mexico disaster from only one year ago, the Department of the Interior is already engaged in the rapid permitting of new deepwater oil wells. In addition, while OPTI supports the development of offshore renewable energy projects, an ecosystem-based spatial planning approach should be employed, rather than the haphazard "Smart-from-the-Start" approach currently being utilized by the Department of the Interior. In addition, OPTI firmly believes that the ocean zoning framework should be established *before* pending or future offshore projects are allowed to move forward. OPTI is concerned that allowing offshore projects to first move forward without first implementing an ocean zoning framework will

Ted Wackler
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inevitably result in projects that are harmful to the environment and ecosystem and potentially contradict the final spatial planning process put forth by the Council.

Despite this serious likelihood of conflict, the Department of the Interior continues to move forward with proposed and future projects. Over the past six months, the Department has published Requests for Interest for commercial leases for the development of offshore wind facilities in Maryland, Delaware, Rhode Island, and Massachusetts. In addition, the Department has issued final approval on the Construction and Operation Plan for the Cape Wind energy project in Nantucket Sound, which is the subject of extensive conflict that could have been readily avoided under CMSP. The continued push by the Department to move forward on these projects prior to the completion of the CMSP process will inevitably lead to the construction of large-scale projects that seriously conflict with the best use of our marine resources. This outcome will violate the public trust, and undermine the Council's entire Ocean Policy effort. OPTI urges the Council to ask the Department to halt such proposed and future projects until such time as the CMSP process has been completed. The Administration is either serious about CMSP and the National Ocean Policy principles, or it should admit that the current proposal is largely rhetoric. OPTI hopes it is the former.

Thank you for the opportunity to comment on the continued development of the National Ocean Policy. We look forward to working with you as the framework for CMSP is further developed and put into action.

Very truly yours,

A handwritten signature in black ink that reads "Cindy Lowry". The signature is written in a cursive, flowing style.

Cindy Lowry
Director



Council of Great Lakes Industries(CGLI) Comments on Development of Strategic Action Plans for the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes

29 April 2011

The Council of Great Lakes Industries (CGLI), representing the common interests of more than two dozen U.S. and Canadian industrial organizations and associations that have investments in the Great Lakes Basin, is pleased to submit the following comments on selected priority objectives.

General comments

We continue to support cooperative planning between jurisdictions and agencies that have management responsibilities within marine and fresh water ecosystems. The action plans being developed need to consider the multi-roles the oceans and marine ecosystems fulfill including the Great Lakes in supporting the health, security, economy and culture of the regions.

The unique needs of the Great Lakes as a bi-national fresh water system should be paramount in developing any action plans that apply to the region. Regional efforts, currently in place, must be integrated in any plans. The Great Lakes Region has a long tradition of multi-stakeholder involvement in policy action and well-developed structures for intergovernmental coordination to protect and restore the waters. Plans for the Region should incorporate stakeholder involvement that is extensively promoted to make stakeholders aware of actions and opportunities to participate. Stakeholders both within the Region and those in other coastal areas are unaware of this extensive ocean policy planning. Strong scientific information is used to inform Great Lakes decision-making in the Region and needs to be used in all planning. If the needed scientific information is not available, comprehensive scientific studies should be performed before action is taken. In addition, there is growing concern that the real economic and societal impact has not been sufficiently studied to understand the potential outcomes.

The development of the action plans should not create additional permitting burdens in the Great Lakes. Environmental permitting in the Region has been developed through complex legislative and legal processes and should not be superseded by additional or otherwise more burdensome permitting processes. Existing permits should be “grandfathered” in accordance with their respective permissions and conditions.

Specific priority issues:

- **Ecosystem-based management** - the Great Lakes Region has developed extensive ecosystem-based management models with strong stakeholder involvement for the Great Lakes Region. Reinforcing the implementation of the existing management plans is needed rather than creating a new management system.
- **Coastal and Marine Spatial planning** – Regional stakeholders should lead planning efforts, not only by providing comments but also reviewing scientific information.
- **Coordinate and Support** – All efforts in the bi-national area of the Lakes will require coordination with Canada.
- **Resiliency and Adaptation to Climate Change and Ocean Acidification** – Current stakeholder efforts in the Great Lakes Region are developing climate adaptation agendas.
- **Regional Ecosystem Protection and Restoration** – The Great Lakes Restoration Strategy developed by stakeholders in the Great Lakes Collaboration Strategy is the result of years of work, adaptive modification and improvement. The existing programs should be utilized in the planning process.
- **Water Quality and Sustainable Practices on Land:** States in the Basin have been particularly diligent in aggressively pursuing innovative land practices for water quality. These activities are ongoing, often advanced and tracked by multi-stakeholder and bi-national Lakewide Management Plans (LaMPs). These are spatial planning style programs.
- **Ocean, Coastal, and Great Lakes Observations, Mapping, and Infrastructure** – Continued support for the Great Lakes Observing System will enhance data collection and data management in the Lakes.

It should be evident from the above that there is extensive, ongoing activity in the Basin that relevant U.S. Federal agencies are already be aware of. Spatial planning is already underway in the Basin. Assembling the objectives, “obstacles and metrics of progress relevant to each” is a huge task currently being undertaken by the State of the Lakes Eco-system Conference (SOLEC). Duplication and/or making any of these existing activities redundant would not speed up the achievement of existing eco-system preservation/restoration goals.

We appreciate this opportunity to provide comments. For more information contact:
George H. Kuper, President
Council of Great Lakes Industries
Email: ghk@cgli.org
Phone: 734-663-1944



April 29, 2011

Chairwoman Nancy Sutley
National Ocean Council Task Force
722 Jackson Place, N.W.
Washington, DC 20503

Submitted via www.whitehouse.gov/administration/eop/oceans/comment

Re: Development of Strategic Action Plans

Dear Ms. Sutley,

On behalf of the City of Nome, we want to thank you again for your visit with Commandant Thad Allen to get your feet on the ground and we welcome you to visit the Norton Sound Region anytime. The City of Nome's residents are very active, along with the region's residents, in using the ocean for economic development (commercial fishing, mining, and eco-tourism), recreation and most importantly subsistence activities.

The City of Nome supports the concept of creating the ocean policy as long as all stakeholders are given the opportunity to collaborate and are consulted in regards to the development of strategic action plans for the national policy on the stewardship of the ocean and our coast, and their potential impacts on Alaska and Alaskans. Most importantly, Alaskan communities along the coastline should be consulted. We recommend that meetings be held at the hub communities in rural Alaska with city and tribal leaders from the villages and industry representatives such as the CDQ's/commercial fishermen, subsistence users, mining, tourism, recreation users, transportation, etc.

The Bering Strait will be the next choke point within the Arctic navigation route and will play a major role in the emerging ocean policy. We have seen a measureable increase in ocean vessel traffic, based on data tracked since 1988, and made significant improvements to our port and harbor as a result of these growing numbers.

The proposed plans should build on existing programs, enhance services and not create a bureaucratic burden on Alaskan communities and local industry.

Here are our comments:

Objective 1: Ecosystem-Based Management

Scientific baseline data needs to be gathered and local or traditional knowledge needs to be incorporated into those studies to allow policy makers to make informed decisions. The Bering Sea, Norton Sound and Arctic Ocean need further research and mapping.

Objective 2: Coastal and Marine Spatial Planning (CMSP)

The State's Coastal Zone Management Program (ACMP) already exists, and as any other program, can



be improved to provide the public an opportunity to comment on resource development. The National Ocean Policy's CMSP should incorporate what the State is doing under the ACMP and build on it so that the process is fair and not burdensome. Some studies have been completed that map the migration of marine mammals, birds and various fish species. There is also a need to identify ocean vessel traffic lanes with multi-use areas for subsistence and tourism activities, barging operations and resource development areas.

Objective 3: Inform Decisions and Improve Understanding

Again, consideration should be made to existing studies and procedures to avoid duplication and additional cost to stakeholders. Identify best practices and build on those policies to provide information to the public and stakeholders.

Objective 4: Coordinate and Support

There is no "one-stop shop" or agency that the public can reach out to, for instance if a person is interested in various studies (local, national, statewide, university, international), or wanting information about an organization (State, NGO, federal agencies, international governments) that is working toward creating policies (ie S&R, international agreements) that affect the local communities. Nor at times is that information being shared at the local level. There is a gap for services to coordinate all entities (NGO's, universities, institutes, non-profits, industry, state, federal, international governments) activities and to track state, federal and international actions and we support a creation of an agency or department to keep all stakeholders informed that will gather comments and concerns and provide the information to policy makers. More importantly, coastal communities and boroughs, villages and Alaska Native leaders, subsistence users, fishing and fish processing, mining industry and transportation users need to be included in the discussion, along with the oil and gas industry.

Objective 5: Resiliency and Adaption to Climate Change and Ocean Acidification

We are witnessing the impacts of climate change and are concerned about ocean acidification. The scientific community needs to continue to monitor our oceans.

Greenhouse gas emissions/climate change and its potential impacts should not be regulated by ocean zoning. Best practices for less emissions of green house gas for industry is desired.

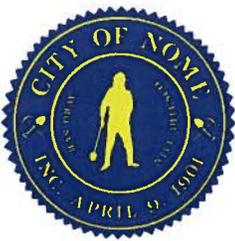
Objective 6: Regional Ecosystem Protection and Restoration

We support policies to build on existing resource management practices that bring balanced sustainable fisheries, subsistence harvest, marine mammal protection and fair and equitable quotas. Ensure baseline scientific data is used to make scientific recommendations in creating sustainable management.

We support policies to install response mechanisms for development projects in and around water bodies. We support the process that ensures the oil/gas and mining industries have well developed oil spill contingency plans specific to Alaska's unique Arctic conditions. If additional response plans are implemented, efforts should be made to ensure that it does not add another bureaucratic layer that will hinder the opportunity for responsible development in Alaska. We support the need for more Coast Guard presence in the Arctic to enforce safety regulations and conduct inspections.

Objective 7: Water Quality and Sustainable Practices on Land

Existing protection measures are in place and working, such as the National Environmental Policy Act



(1969), Coastal Zone Management Act (1972), Magnuson-Stevens Fishery Conservation Act (1977), the Clean Water Act (1977), and as part of the Magnuson-Stevens Act, Essential Fish Habitat (1996). There is a need for an enforcement presence to ensure compliance. Any discharge from land will affect the ocean and monitoring should be a basic part of the operation plans for resource development.

Objective 8: Changing Conditions in the Arctic

With the increase in economic opportunities in the Arctic, we are experiencing changes and continue to see more ocean vessel traffic with potential user conflicts and the need to establish traffic lanes. We support the ratification of the UN Law of the Sea to allow the USA to make claims beyond the 200 mile EEZ. With this increase in ocean vessel activities there is an immediate need for an increased Coast Guard presence for enforcement and environmental response capability, plus significant search and rescue functions. We support the need for new seasonal Coast Guard Forward Operation Locations in Alaska that will improve safety to remote villages, while also increasing national security.

Objective 9: Ocean, Coastal, and Great Lakes Observations, Mapping, and Infrastructure

We support and request that the US Government implement the recommendation of the Arctic Marine Shipping Report and invest in the infrastructure required, especially in rural coastal communities. Although Unalaska, Alaska can support large ocean vessels, Nome is the northern-most commercial port to support small and medium sized ocean vessels. Beyond Nome, there are no other suitable docking facilities that provide potable water, bunker fuel, medical facilities, local grocery stores large enough to resupply vessel stores, daily flights to Anchorage for crew changes and other required services for marine operations. Investment is required to extend Nome's Causeway out to a -34 MLLW to allow for the necessary infrastructure to support large ocean-going vessels.

The City of Nome urges a balanced development of strategic action plans for the national ocean policy, and encourages the task force to take into consideration programs that have already been established and proven to protect and manage the oceans and enhance or build those programs as needed. National ocean policies should include measures to address the need for more research and data collection in the oceans. Any ocean policy should coordinate with existing management programs and stakeholders with a focus on avoiding duplication and maintaining access.

Thank you for the opportunity to comment on this important issue.

Sincerely,

Denise Michels
Mayor

cc: City Council



April 29, 2011

SUBMITTED ELECTRONICALLY

Ted Wackler
Deputy Chief of Staff, OSTP
National Ocean Council
722 Jackson Place, NW
Washington, DC 20503

**Re: Comments on Development of Strategic Action Plans for the
Implementation of the National Policy for the Stewardship of the Ocean, our
Coasts, and the Great Lakes**

Dear Mr. Wackler:

The Western Urban Water Coalition (WUWC) submits these comments in response to the National Ocean Council (NOC) request for comments on the preparation of Strategic Action Plans (SAPs) for the nine priority objectives for implementation of the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes. 76 Fed. Reg. 4,139 (Jan. 24, 2011).

The WUWC consists of the largest urban water utilities in the West, serving over 30 million western water consumers in 13 metropolitan areas in six states.¹ WUWC members own and operate water management, water supply, and hydroelectric

¹ The membership of the WUWC includes the following urban water utilities: Arizona – Central Arizona Project, City of Phoenix; California – East Bay Municipal Utility District, Metropolitan Water District of Southern California, San Diego County Water Authority, City and County of San Francisco Public Utilities Commission, Santa Clara Valley Water District; Colorado – City of Aurora, Denver Water; Nevada – Las Vegas Valley Water District, Southern Nevada Water Authority, Truckee Meadows Water Authority; and Washington – Seattle Public Utilities.

projects, including dams, water conduits, reservoirs, and other facilities involved in water supply, transfer, and power generation services.

Many of the WUWC's members have an interest in the management of marine resources. Indeed, through the interconnection of the rivers upon which our members rely and the waters of our oceans and coasts, all of our members are affected by ocean resource management decisions. For example, numerous members use water from the Colorado River, which flows into the Gulf of California. Additionally, WUWC members recognize that climate change can have a negative effect on ocean and coastal ecosystems through ocean acidification, sea level rise, and precipitation changes. These changes will adversely impact the operations of WUWC members and the customers that depend on them. The WUWC recognizes the importance of developing and carrying out an effective, long-term, comprehensive strategy for managing ocean and coastal resources.

Background

As a preliminary matter, the WUWC has followed the development of the National Ocean Council and National Policy with great interest since President Obama issued a memorandum creating the Interagency Ocean Task Force in June 2009. The WUWC attended the July 17, 2009, water utilities stakeholder meeting.

On July 31, 2009, the WUWC submitted a comment letter to the Task Force setting forth four elements that we believe should have been included in the framework, including: 1) as a general matter, the WUWC supports the development of comprehensive resource management programs that clearly define federal objectives and requirements while recognizing the rights and responsibilities of various parties, including state and local government, who participate in, and are affected by, the program; 2) noting that long-term commitments will likely be necessary, the WUWC supports the establishment of a consensus-based mechanism for adjusting the program when nonfederal parties are involved or affected by federal actions; 3) recognizing that the issue of how to identify the legitimate preference for certain marine uses over and above competing uses, the WUWC recommends that the clear priority be recognized for drinking water supply; and 4) the WUWC supports an ocean policy in general, and marine spatial planning program in particular, that accommodates stakeholder and public involvement at every stage.

The WUWC also identified nine specific issues that required further consideration by the Task Force: 1) control of invasive species, including those that travel from ocean to fresh water; 2) protection of water rights and supplies that otherwise reach coastal waters; 3) protection of interstate compacts and obligations thereunder; 4) the need to

honor the seven-state agreement on the Colorado River, including the storage/release criteria; 5) the need to abide by and honor National Pollution Discharge Elimination System (NPDES) limits in permits and the infrastructure investments made to meet the same; 6) exploration of the use of the “net environmental benefit” concept in ecosystem protection; 7) examination of desalination opportunities and brine disposal technologies; 8) respect for “local” land use decision-making; and 9) increased efforts and financing for studies and data gathering with respect to ocean conditions and activities, and the impact on anadromous fish runs, and, to the extent effected, pelagic organisms.

On October 16, 2009, the WUWC submitted comments in response to the September 2009 Task Force Interim Report, stressing the need for integration of rivers and watercourses into the overall framework and reiterating the policy points made above.

On February 12, 2010, the WUWC submitted comments on the Interim Framework. The comments noted the WUWC's preliminary support for the inclusion of land-based activities and their relationship to Coastal and Marine Spatial Planning (CMSP), as well as the Framework's recognition that protecting the quality of our rivers and watersheds is an independently significant goal. The WUWC requested that further action be taken to clarify how decisions will be made under the National Policy and how affected stakeholders and the public will be incorporated into the decision-making process, including those parties, such as the WUWC, whose members may not all be located in coastal areas but are still impacted by the CMSP process.

Comments

The WUWC appreciates the continued opportunity to participate in the development of the National Policy through these comments. Below are the WUWC's relevant responses to the identified priority objectives.

Ecosystem-Based Management

Objective 1 calls for the adoption of ecosystem-based management as a “foundational principle” to the comprehensive management of the ocean, coasts, and Great Lakes.

The WUWC supports the use of ecosystem-based management as a foundational principle of the National Policy. As a group interested in maintaining a consistent supply of quality freshwater resources, the WUWC recognizes the importance of managing resources on an ecosystem scale, especially with regard to watersheds.

In the near-term, the WUWC encourages the Council to include inland activities in its efforts. In the long-term, the WUWC urges the Council to integrate the nine issues

identified in our July 2009 comments, including: control of invasive species, honoring water rights and inter-state agreements, and incorporating the use of “net environmental benefit” into regulatory activities.

The adoption of ecosystem-based management in the National Policy has many benefits. Numerous laws that apply to the activities of WUWC members, including portions of the Clean Water Act, the Coastal Zone Management Act, and the Endangered Species Act, already provide for ecosystem-based management. These, and other relevant laws, mean that the concept of ecosystem-based management is not a new one, or one without significant precedent and authority. However, it is important to avoid creating redundant procedures and regulations in pursuing a National Policy. The benefit to using existing legal authorities to implement this principle is that it will both be relatively easy to implement, and will have the result of continued regulatory consistency to parties and activities subject to those authorities. Ecosystem-based management also provides an opportunity for partnerships between different stakeholders over a combined larger interest to have positive impacts on the ecosystem; for example, environmental non-profits and water utilities are both interested in maintaining water quality, which is necessary both for ecosystem health and human use and consumption.

The WUWC urges the Council to be aware of the significant obstacles associated with ecosystem-based management and develop the National Policy accordingly. One danger associated with ecosystem-based management is the tendency to let the focus on biological qualities of the ecosystem surpass consideration of humans and human uses as legitimate components of the ecosystem. Management plans should consider all existing and reasonable uses of coastal and marine resources, as well as land-based practices that may be impacted by the regulation and management of coastal and marine resources.

Coastal and Marine Spatial Planning

Objective 2 calls for the implementation of “comprehensive, integrated, ecosystem-based coastal and marine spatial planning and management in the United States.”

The WUWC supports the development of CMSP as the foundational principle of the National Policy. In the near-term, the WUWC supports the development of CMSP under existing legal authorities and subject to full stakeholder participation. In the long-term, the WUWC urges the Council to undertake a series of measures to ensure that the increased potential for bureaucratic overlap is not resulting in an increased burden for regulatory agencies and regulated parties. *In particular, CMSP must recognize that most inland waters in the west are already subject to a complex set of integrated laws,*

including vested property rights. This status quo legal regime must be taken as given in any CMSP program, and no attempt should be made to interfere with or supersede the current legal regime for western rivers and other water supplies.

CMSP provides an opportunity to evaluate numerous, and sometimes competing, resource uses, in a way that involves stakeholders and all necessary decision-makers, with the end goal of identifying and promoting the appropriate placement of various activities. Implementing CMSP, like ecosystem-based management, will be simplified by reliance on existing authorities, as outlined in the NOC's January 2011 *Legal Authorities Relating to the Implementation of Coastal and Marine Spatial Planning*.

The WUWC asks that the Council implement CMSP with an eye to avoiding an increase in regulatory burdens. While CMSP has the potential to streamline the regulatory process for coastal, offshore, and related land-based activities, the number of related laws and decision-makers may result in decreased efficiency and an increase in the cost and time required to obtain necessary approvals. For CMSP to be useful and in furtherance of the President's objectives, it should make permitting more efficient and, in many cases, provide for a "one-stop shop" approach. The WUWC also requests that the Council avoid the tendency in CMSP to favor particular resource uses and activities over others. The tendency to promote single or exclusionary uses of coastal and marine areas should be avoided in favor of providing a balance between resource conservation and sustainable uses. Finally, any application of CMSP must take into account existing resource uses, such as maintenance of a municipal water supply.

Appropriate metrics include the identification of areas to be set aside for protection and areas for particular, or multiple, resource uses. The Council should involve stakeholders at every opportunity, to ensure that appropriate factors are considered in the identification of these areas.

Inform Decisions and Improve Understanding

Objective 3 calls for the Council to increase "knowledge to continually inform and improve management and policy decisions and the capacity to respond to change and challenges," as well as to "[b]etter educate the public through formal and informal programs."

The WUWC strongly supports adaptive management as a priority objective of the Council. Sound science and clear, comprehensive information is necessary to provide the backbone of any ocean and coastal governance plan and implement CMSP. One of the greatest challenges to implementing CMSP is the lack of a clear understanding of where particular resources exist, and what uses are best suited to particular areas.

An obstacle to this objective is a lack of adequate funding. At a time when federal, state, and municipal budgets are very constrained even by existing programs, the implementation of new costly studies may be politically and economically difficult if not, in some circumstances, impossible. The WUWC requests that every effort be made to fund necessary studies, and that in the interim, existing activities not be subject to new regulations.

Appropriate metrics here would include background analysis into existing data resources, including that obtained by government, private, and educational research to create a single data warehouse that efficiently takes in and makes available the information required by decision-makers. This background analysis should have the end goal of identifying data gaps and prioritizing field studies as necessary.

Coordinate and Support

Objective 4 calls for increased coordination and support among federal, state, tribal, local, and regional governments and stakeholders.

The WUWC supports this objective and urges the Council to seek input from heavily regulated groups, such as municipal water utilities, for guidance on how such coordination can best be implemented. Again, it is important to ensure that those involved in related inland activities be included here. In the long-term, the WUWC supports the development, with stakeholder input, of inter-agency guidance for National Policy-related activities.

As noted above, the WUWC cautions the Council against unnecessary levels of coordination and inefficient agency practices that will only lead to increased and untenable levels of bureaucracy, rather than any decision-making benefit.

The most important metric for this objective is an analysis of changes in the time required for permit processing and project authorization, along with the associated costs. Ideally, increased coordination and support will result in decreased permit processing time; any increases should be used as an indication that the process must be reevaluated.

Resiliency and Adaptation to Climate Change and Ocean Acidification

Objective 5 calls for the strengthened resiliency and adaptability of coastal communities and marine and Great Lakes environments in the face of climate change and ocean acidification. The WUWC has repeatedly voiced support for the consideration of climate change and ocean acidification in resource management decisions. We urge that this

be done based on sound science rather than on politically-motivated policies. The collection and use of high quality data for this purpose will strengthen the overall support of such policies and provide a suitable framework for addressing these changes.

In the short-term, the Council should focus on the collection and analysis of high quality data. In the long-term, analysis should be adapted to incorporate new science and changes in data. Additionally, the WUWC urges the Council to consider the inland impacts of climate change and ocean acidification, including increased estuarine areas and decreased coastal freshwater supplies.

The subject of climate change is one about which not enough is understood, and about which decision-makers tend to be swayed by politically-motivated policies. An effort should be made to focus on the science, in order to provide a meaningful framework for human discussion and environmental adaptation and the best available information for consideration by decision-makers.

Regional Ecosystem Protection and Restoration

Objective 6 calls for the establishment and implementation of an integrated ecosystem and restoration strategy at all levels of government.

The WUWC supports this objective and encourages the Council to both include the protection and restoration of inland regional ecosystems, and to develop partnerships with the regulated community, in order to facilitate this objective.

In the short-term, the Council should focus on cooperation and dialogue between different levels of government and impacted stakeholders. In the long-term, the Council should incorporate this objective into the framework for regionally-based CMSP, with opportunities for stakeholder and public involvement. The Council should cultivate opportunities for resource users to form restoration and protection partnerships through programs similar to the wetlands mitigation banking programs in inland areas.

The most significant challenge to this objective is, as with other objectives, the lack of sufficient data. More data, which requires increased government funding commitments, must be obtained.

Water Quality and Sustainable Practices on Land

Objective 7 calls for the promotion and implementation of sustainable land-based practices as a necessary measure for the enhancement of water quality in the ocean, coasts, and Great Lakes. The WUWC conceptually supports this objective and, as

noted above, calls for the continued implementation of measures to ensure a continued clean water supply both for inland human use and as it reaches the coasts. Also, as noted above, this objective must take into account the existing array of water laws and rights that must be regarded as a "baseline" in moving forward with this policy objective.

This objective presents the opportunity for ensuring the development and use of a sound scientific basis for regulatory actions, as required to demonstrate linkages between inland activities and coastal and ocean resources.

However, it is important to clearly define the scope of the National Policy moving forward. Especially important will be geographically defined limits that ensure the program will not be so broad, particularly for inland areas, that it becomes inefficient, ineffective, and overreaching. The WUWC requests the opportunity to be involved in any and all discussions regarding the scope of the Policy's influence on inland or shore-based practices, especially with regard to CMSP.

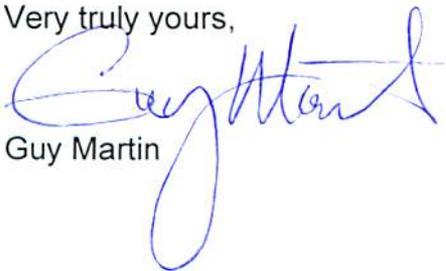
Conclusion

The WUWC thanks you for the opportunity to provide comments on this important initiative. We continue to support the development of a National Ocean Policy and request that the Council continue to demonstrate a commitment to stakeholder involvement and a thoughtful approach to policy development and implementation.

Finally, the WUWC is aware that the National Ocean Council has begun the process of forming the Regional Planning Bodies who will be responsible for developing and implementing the National Policy on a regional scale. The WUWC requests that we be included in this process as an affected stakeholder.

If you have any questions about these comments, please contact Donald Baur, Perkins Coie, at (202) 654-6234. Thank you for considering these comments.

Very truly yours,



Guy Martin

**Comments for the National Ocean Policy Strategic Action Plans
from the
National Council for Science and the Environment's
11th National Conference on Science, Policy and the Environment:
Our Changing Oceans**

For three days in January 2011, the National Council for Science and the Environment (NCSE) convened 1,250 leaders in ocean science, policy, management and education, conservation and business to explore issues affecting the world's changing oceans. Their objectives were to advance science based decision-making on oceans by:

1. sharing the most current state of the science;
2. linking science to policy and other decisions;
3. communicating key messages and reframing issues;
4. developing targeted and actionable recommendations; and,
5. catalyzing long-term collaborations

Meeting participants put forth a spectrum of ideas on specific challenges facing the world's oceans. Here we present those recommendations that are germane to the National Ocean Policy process, mapped onto the nine Priority Objectives from the Final Recommendations of the Interagency Ocean Policy Task Force. Recommendations that were not targeted for the National Ocean Policy Strategic Action Plans (e.g., recommendations directed at Congress or the private sector) are not included here.

Because there is considerable overlap among these priority areas, some recommendations are included in more than one area, but we also encourage those working on individual priorities to view recommendations in related areas (for example, ecosystem-based management is very much connected with marine and spatial planning).

Because of the nature of the conference, there is considerable diversity in the types of ideas put forth - research, policy, education and outreach; regional, national and international; single agency, multi-agency and public-private partnerships. There is also considerable diversity in the budgetary implications of the recommendations. We recognize that the current budgetary situation places considerable constraints on the NOC process; constraints that may limit that ability of the government to implement some excellent ideas contained in this document. We ask you to be a forward looking as possible in considering the recommendations included here and "do your best."

In addition to the nine priority areas, we encourage the National Ocean Council to develop sets of cross-cutting recommendations in the areas of education (including public education, and pre-professional STEM and workforce education as well as attention to diversity of those knowledgeable about the oceans) and science (inventory and monitoring, observations, and fundamental and applied research). We are concerned that without such cross-cuts, the need for a comprehensive and integrated approach to ocean and coastal education and research, is not likely to be addressed.

We also encourage cross-cutting looks at particular issues such as the importance of oceans for human health and well-being and energy – both traditional (oil and gas) and alternative (wind and waves).

These recommendations are presented in spirit of constructive suggestions from the conference participants. Not all of the conference participants endorse all of the recommendations, and no recommendation should be interpreted as official input from the organizations where conference participants work. For additional information about the conference please go to www.OurChangingOceans.org.

We hope that you find this input helpful. We would be pleased to meet with the members of the National Ocean Council and your various teams and to assist in other ways.

Best wishes and success with your important work.

Margaret Leinen
Conference Chair

Peter Saundry
Executive Director

Priority Area 1. Ecosystem-Based Management

Adopt ecosystem-based management as a foundational principle for the comprehensive management of the ocean, our coasts, and the Great Lakes.

- A. Elevate the understanding and influence of ecosystem services by:
- i. Supporting, directly and through Regional Planning Bodies, pilot studies to test the usefulness of information about ecosystem service values, ecosystem attributes, and human well-being in coastal and marine spatial planning and restoration strategies.
 - ii. Developing guidance describing the conditions, including multiple ecosystem services and multiple objectives, that would change the nature and outcome of decisions.
 - iii. Making explicit the governance principles (e.g., define rights, public trusts) for applying ecosystem services in coastal and marine spatial planning and other decision contexts.
 - iv. Conducting quantitative, spatially explicit assessments of ecosystem service values, ecosystem attributes, and human well-being.
 - v. Identifying a science advisory structure to include information about ecosystem service values, ecosystem attributes, and human well-being in coastal and marine spatial planning and other decision contexts.
 - vi. Using management and policy scenarios including baseline and future conditions for proactive decision-making.

Priority Area 2. Coastal and Marine Spatial Planning

- A. In order to implement comprehensive, integrated, ecosystem-based coastal and marine spatial planning and management in the United States:
 - i. Planners should capitalize on work already done in the U.S. territorial waters.
 - ii. Those involved in ecosystem-based Marine Spatial Planning (MSP) should develop a set of maps to recognize and identify resource sensitivity.
 - iii. The U.S. should require those who use the ocean resources to collect more inclusive data and make them available for public and private planners to make decisions.
 - iv. The Federal Government should encourage data aggregation in useful formats as a repository of information for planning.
 - v. Inventory and assess existing global coastal and ocean management practices in order to inform future practice in the US territorial waters and beyond (ref. Session 8).
 - vi. Create a centralized storehouse of information relevant to MSP.
 - vii. The national ocean planning process should result in at least 10 percent of U.S. waters being designated as “no take” zones.
 - viii. The National Ocean Council should ensure active cooperation among regional managers regarding different species and ecosystem types.
 - ix. Regional planning bodies (RPBs) should develop a data management plan that updates and re-evaluates the data base for regional planning.
 - x. The Council on Environmental Quality (CEQ) should ensure interface between the National Environmental Policy Act (NEPA) process and information that goes into Coastal and Marine Spatial Planning (CMSP).

- B. In order to maximize the positive role of Coastal and Marine Spatial Planning in stabilizing food security:
 - i. A national advertising blitz should be undertaken to inform the public about CMSP and food security with industries, conservation organizations, and governments working together.
 - ii. NOAA should develop and participate in a centralized data collection and management system. They should involve land use planning agencies in collecting coastal and watershed data, in developing understanding, and in connecting the system to the local level.
 - iii. Government agencies should collect data on social and economic impact from stakeholders.
 - iv. FDA and USDA should fund education and research about food security and ocean interactions.
 - v. Policymakers should use existing tools, such as Total Maximum Daily Loads (TMDLs) in decisions about CMSP and food security.

Priority Area 3. Inform Decisions and Improve Understanding

In order to inform and improve management and policy decisions and the capacity to respond to change and challenges. Better educate the public through formal and informal programs about the ocean, our coasts, and the Great Lakes, the Federal Government and its agencies should:

- A. Develop a federal interagency communication and education strategy addressed to decision makers and the public.
- B. Encourage and support environmental literacy in collaboration with state and local government, NGOs, and foundations.
- C. Increase funding for formal and informal science education. One specific recommendation is to direct 10% of each relevant federal grant related to aquatic sciences for K-12 formal and informal education and outreach.
- D. Support increased NOAA efforts to ensure that the public understands the importance of our oceans and coasts to their well being, particularly in urban areas where they are most vulnerable and where coastal states represent 83% of the nation's GDP.
- E. Ensure interoperability of existing data systems, for example, IOOS, OBIS, MMC, NAMERA, National Atlas of Ecosystem Services
- F. Recognize that the lack of public understanding of climate science and the role of the ocean in climate is a national security issue and that this issue is inadequately understood by the public and by decision makers. In connection to this:
 - i. There should be an increased effort to communicate to target audiences the ocean's role in weather, climate, transportation/commerce, recreation and fishing.
 - ii. Recognize the importance of communicating the time frame of possible impacts in the perspective of 50 years and provide understanding of how societal action can impact ameliorating problems.
 - iii. Improve understanding of the terminology of "tipping points" and "thresholds," and differentiate between changes that are irreversible (tipping points) and reversible (thresholds) in ecological time.
 - iv. Recognize the importance of communicating the degree of certainty associated with possible changes and impacts (esp. related to 'tipping points') and the "what" and "where" context of an impact on an audience (e.g., health, economic, etc.).
- G. Use existing authorities to enhance and expand public-private partnerships in support of education, research, monitoring and management, of protected areas.
- H. Develop an interagency online clearinghouse and community of practice for coastal adaptation information, databases, and models.
- I. Collect, evaluate, integrate, and share ocean monitoring and surveillance data that are relevant to human health, and that can be used to inform modeling and risk and economic assessments. In connection with this, determine the top 10 threats to oceans and humans and widely publicize what can be done to curtail them.

- J. Utilize communication and outreach tools such as citizen scientists to increase observations of biodiversity and to elevate public awareness of the importance of marine biodiversity.
- K. Emphasize programs that utilize existing protected areas to offer field experience, hands-on data collection, opportunities to gain interdisciplinary perspectives, and that contribute to time-series observations of global change.
- L. Emphasize greater public awareness of the importance of the remaining, intact marine ecosystems, through expanded management, outreach and education programs.
- M. Employ social media and emerging communication and data technologies to provide greater effectiveness of risk communication for health warnings, beach closures, and other events that require quick action by recipients.
- N. Establish an Oceans and Human Health “teach the teachers” (K – 12) program, using the “AMBIENT” program as a model.
- O. BOEM should lead in coordination with other federal agencies, NGOs, private industry and pertinent state agencies, to further educate the public about the strengths and weaknesses of offshore wind as an energy source.
- P. Have the new BOEM systematically study and apply the environmental, economic and regulatory history of wind energy development in Europe and make this information readily available to the U.S. public.
- Q. Monetize the impacts of ocean acidification.
- R. Increase monitoring of chemical, biological, and physical data within hatcheries, coastal waters, essential fish habitat, and open ocean (food web effects).
- S. Create a U.S. map of ocean acidification hotspots and use that information to guide research and marine spatial planning.

Priority Area 4. Coordinate and Support

To improve coordination, support and integration across Federal, State, tribal, local, and regional management of the ocean, our coasts, and the Great Lakes, the Federal Government should:

- B. Develop an Oceans and Climate Change Initiative led by the Department of Interior (DOI) to coordinate agency activities to collectively and collaboratively manage the 1.76 billion acres of marine area under DOI jurisdiction.
- C. Establish a national committee on marine biodiversity to set national goals and objectives.
- D. Develop mechanisms that support cross-sector and regional networking.
- E. Establish, with Cabinet level leadership, research priorities and policy regarding coastal and ocean carbon sequestration (e.g. establish an SOST working group, include in White House Council of Environmental Quality guidelines, and include in the National Ocean Policy). This should include:
 - i. coordinated U.S. federal research and policy regarding coastal and ocean carbon sequestration,
 - ii. developing comprehensive ocean carbon science programs that examine the fate of carbon from watersheds to the open ocean.

- F. Lead increased coordination among international, Federal, state and local agencies, academic institutions, and others to enhance capacity for detecting, responding to, and managing invasive species. This should include:
 - i. Establish an invasive species “czar” at NOAA to coordinate this issue, and others related to invasive species, with other agencies.
 - ii. Developing an international agreement for the management of pathways and to disseminate information on the risks and impacts from invasive species.
 - iii. Developing a national strategy for monitoring, detecting early, and rapidly responding to biological invasions.
- G. Ensure interoperability of existing data systems, for example, IOOS, OBIS, MMC, NAMERA, National Atlas of Ecosystem Services
- H. Increase, under BOEM leadership, support for education on renewable ocean energy sources at all levels and promote communication between involved groups.

Strengthen, under BOEM leadership, interagency collaboration to standardize the siting and permitting processes to the degree possible and to make the overall process easier and faster.

Priority Area 5. Resiliency and Adaptation to Climate Change and Ocean Acidification

In order to strengthen resiliency of coastal communities and marine and Great Lakes environments and their abilities to adapt to climate change impacts and ocean acidification, the Federal Government and its agencies should:

- A. Develop an Oceans and Climate Change Initiative to coordinate agency activities to collectively and collaboratively manage the 1.76 billion acres of marine area under federal jurisdiction.
- B. Help avoid "maladaptation" of the coast by:
 - i. Mainstreaming coastal adaptation and provide incentives for adaptation planning and activities across all federal programs, funding and regulatory approvals.
 - ii. Adopting policies that support implementation of large-scale ecosystem-based adaptation and green infrastructure into coastal adaptation and planning.
 - iii. Providing funding and incentives to plan and implement multidisciplinary coastal adaptation projects that include social, economic, and natural sciences.
 - iv. Developing an interagency online clearinghouse and community of practice for coastal adaptation information, databases, and models.
 - v. Develop a federal interagency communication and education strategy addressed to decision makers and the public.
 - vi. Requiring the inclusion of coastal adaptation planning into pre-disaster response and recovery plans.
- B. Strengthen ocean resiliency (e.g., Marine Protected Areas (MPAs)).

- C. Emphasize the importance of regional approaches to climate change adaptation solutions both within and outside the US;
- D. Incorporate climate change and sea level rise considerations in macroeconomic policymaking, prioritizing climate stability in relation to GDP growth in order to ensure long term ecological and economic security.
- E. Maintain satellite observations of sea level change as a priority.
- F. Recognize in climate change discussions, governments and intergovernmental bodies (e.g. IPCC, Climate Convention of Parties) the importance of coastal and ocean carbon sequestration.
- G. Within budget constraints, fund more research into sea level change, including adaptation strategies and current impacts on human population, ecosystems, and economies.
- H. Invest in mutli-disciplinary research on geoengineering to consider efficacy, ecological impacts and ethical aspects to consider whether such options can be utilized.
- I. Provide an annual projection of sea level rise for policymakers and the public.
- J. Take into account sea level rise of up to two meters in long-term coastal planning.
- K. Support local and regional planners to develop better knowledge on how activities within watersheds affect receiving waters.
- L. Restore and mitigate wetlands and floodplains, including through public-private partnerships.
- M. Take immediate action to conserve ecosystems that are already known to sequester carbon, while supporting research on coastal and ocean carbon sequestration.
- N. Update the CZMA regulations to require effective and strong enforcement of state and local coastal management plans and recertification of local plans.

Ensure that the U.S. Army Corps of Engineers' cost/benefit analysis includes ecosystem services and elevates the importance of these services to be a primary concern.

Priority Area 6. Regional Ecosystem Protection and Restoration

To help establish and implement an integrated ecosystem protection and restoration strategy that is science-based and aligns conservation and restoration goals at the Federal, State, tribal, local, and regional levels, the Federal Government and its agencies should:

- A. Develop new strategies to connect federal programs to local communities' need for scientific and practical knowledge to apply to planning and management of shoreline changes including natural, social and economic shifts.
- B. Emphasize the importance of regional approaches (such as Port Authorities in the U.S.A) to climate change adaptation solutions both within and outside the U.S.
- C. Set a goal of at least 10 percent of U.S. waters being designated as "no take" zones.
- D. Strengthen ocean resiliency through Marine Protected Areas (MPAs)
- E. Explore the creation of a legal mechanism for the designation, management, and enforcement of high seas Marine Protected Areas (MPAs) and MPA networks.

Priority Area 7. Water Quality and Sustainable Practices on Land

To enhance water quality in the ocean, along our coasts, and in the Great Lakes by promoting and implementing sustainable practices on land, the Federal Government and its agencies should:

- A. Enhance and increase water quality monitoring.
- A. Increase financial resources and research for estimating the value of natural assets including the ecological and recreational resources of waterfronts and shorelines (including beaches and wetlands) and for tracking the role of the oceans and Great Lakes in the national, state, and local economies. In support of this:
 - i. Climate risk and other specific risks associated with our coastlines should be integrated into the decision making process for economic development and planning in these regions.
 - ii. Researchers should carry out an affordable study to evaluate the socioeconomic consequences of sea level rise.
- B. Provide key signals about the risks of development in hazardous coastal regions, and they should work together to make sure that development fully accounts for those risks, including the option of not developing in exposed areas.
- C. Support local and regional planners to develop better knowledge on how activities within watersheds affect receiving waters.
- D. Restore and mitigate wetlands and floodplains, including through public-private partnerships.
- E. Take immediate action to conserve ecosystems that are already known to sequester carbon, while supporting research on coastal and ocean carbon sequestration.
- F. Update the CZMA regulations to require effective and strong enforcement of state and local coastal management plans and recertification of local plans.

Priority Area 8. Changing Conditions in the Arctic

To address environmental stewardship needs in the Arctic Ocean and adjacent coastal areas in the face of climate-induced and other environmental changes, the Federal Government and its agencies should:

- A. Strengthen the role of the Arctic Council to contribute to regional cooperation and science-based policy making. Arctic Council members should resolve which additional countries can become observers to the Arctic Council.
- B. More actively use traditional ecological knowledge in order to honor traditional views and effectively manage natural resources.
- C. Utilize strength of the U.S., Norway & Russia to encourage firm responses on governance.
- D. Encourage Arctic decision makers to:

- i. collectively commit to marine spatial planning and develop integrative and holistic plans and agreements for ecosystem management.
- ii. encourage national and international cooperation when considering the lack of regional resources.
- iii. fund and plan well for future Arctic actions and create an agenda to use the Arctic as a microcosm for similar regions or countries.
- iv. encourage strategic assessments of trans-boundary impacts of climate change on Arctic people and resources.
- v. pin point issues in order to make concrete decisions and provide direction on implementation.

Priority Area 9. Ocean, Coastal, and Great Lakes Observations, Mapping, and Infrastructure

To strengthen and integrate federal and non-federal ocean observing systems, sensors, data collection platforms, data management, and mapping capabilities into a national system, and integrate that system into international observation efforts:

- A. Implement an ocean observing system.
- B. The National Ocean Council (NOC) should endorse and implement a national marine biodiversity observing network (BON) to support the national ocean priorities (see *Attaining an Operational Marine Biodiversity Observation Network Synthesis Report*, available at www.nopp.org). To advance this goal:
 - i. Federal agencies should support demonstration projects for a national marine BON, through an interagency mechanism such as the National Oceanographic Partnership Program (NOPP).
 - ii. Entities overseeing ocean observing systems such as the Integrated Ocean Observing System (IOOS) should incorporate observations of biodiversity.
 - iii. Federal agencies with ocean-related missions should support the principle of data sharing. An early priority in establishing a marine BON is to establish a mechanism to encourage data sharing among agencies and to establish standardized policies about data. Data standards, interoperability and accessibility for physical and chemical data are well established; the same level of standards, interoperability and accessibility should be established for biodiversity observations, enabling their incorporation in analysis and modeling of global climate change.
 - iv. The State Department should support the establishment of an operational marine biodiversity observing network (BON) and coordinate with similar international efforts, and ensure incorporation in the International Mechanism of Scientific Expertise on Biodiversity (IMoSEB) and Global Earth Observing BON (GEO BON).
- C. Monitor for and Forecast Health Threats from the Oceans by:
 - i. NOAA should lead a collaborative interagency effort to support research, development, evaluation, and deployment of biological sensors for multiple applications, including health of

humans and marine animals. The effort should include agencies working on chemical and biological weapons detection of leverage expertise and resources to overcome common technical challenges.

ii. NOAA should lead an interagency effort to coordinate marine sensors into a comprehensive system of surveillance of pollution and ecosystem monitoring that includes humans, marine animals, and terrestrial animals in order to detect trends, changes, and health risks. These efforts should include the U.S. Global Change Research Program (USGCRP) Climate Change and Human Health Group and the Interagency Working Group on Harmful Algal Blooms, Hypoxia, and Human Health.

iii. Ocean Observing Systems should integrate marine sensors into a comprehensive surveillance system for monitoring and forecasting health risks.

iv. Supporting development of marine sensors to measure human and animal health.

v. NOAA and the interagency effort should define system requirements and facilitate development of real-world performance in order to support translation research and operations of marine sensors for human and animal health.

vi. Agencies should support analysis of existing data from marine sensors, including sentinel species, to determine baselines and to inform risks to human health.

vii. Agencies should utilize knowledge derived from marine sensors to educate policy and decision makers about the connections between ocean health and human health.

D. Establish more robust climate observing and modeling system to provide strategic planners at the Department of Defense (DoD) with actionable intelligence that can influence future planning and budgeting decisions.

E. Advance essential data for Marine Spatial Planning by:

i. ensuring interoperability of existing data systems, for example, IOOS, OBIS, MMC, NAMERA, National Atlas of Ecosystem Services

ii. acknowledging and acting on the fact that Coastal and Marine and Spatial Planning (CMSP) transcends static planning for 2-dimensional areas, CMSP should take into account the water column, benthos and changes over time.

iii. supporting Regional Planning Bodies (RPBs) to improve and evaluate relevant data sets as an integral part of adaptive management of CMSP plans.

iv. have the CMSP data subgroup establish a web-based community that provides best practices, recommended standards, implementation specifications, and ensures interoperability across regions.

Cross Cutting

A. The National Ocean Council (NOC) should make protecting and improving human health, including its integration with coastal and marine spatial planning, a central objective in its implementation of the national ocean policy. In support of this:

- i. Agencies should involve land-use planners and the business community both as stakeholders and as sources of business and other economic data for assessment of potential impacts of climate and ocean-health threats.
- ii. Decision-making agencies should collect and integrate economic data from the private sector in research and development of policy dealing with ocean-related health benefits and risks.

B. Diversity:

- i. The multitude of resources and ecosystem services within our oceans and coastal areas makes management a challenging task. With this plethora of resources comes a diverse portfolio of stakeholders who are involved in coastal and ocean management. This diversity includes persons of varying disciplinary, cultural, ethnic and national backgrounds.
- ii. It is important to ensure that diverse public perspectives are involved in a meaningful way in marine and coastal planning. This is particularly important for underserved communities, which are disproportionately affected by environmental degradation, including the effects of climate change. By 2050, ethnic minorities are expected to make up more than 50% of the United States population. Thus consideration of environmental impacts upon these populations is a national priority.
- iii. Coastal managers from diverse backgrounds can bring the unique cross-cultural perspectives necessary to reduce these impacts. Particularly, the government should look at the role of diversification in coastal and oceanic leadership as a part of a strategy to minimize the potentially disproportionate climate change impacts on underserved communities.
- iv. Educational experiences are pivotal in sculpting tomorrow's leaders. The government and its partners across the educational spectrum should work together to increase diversity of those entering the field of ocean science, management and policy, using public communications, outreach, mentoring, and other tactics. Both long-term and short-term tactics are needed, including:
 - a. Short term (1-5 years) Create and continue to support mentoring programs and effectively match students to resources that bridge the gap between capability and successful careers in coastal and ocean leadership positions.
 - b. Long term (5-10 years) Create an interagency working group that promotes, coordinates and facilitates communication between diversity programs that are spearheaded by government entities, educational institutions, nonprofit organizations, corporations, faith-based entities and mainstream environmental groups.
 - c. Short term (1-5 years) Those within the coastal and ocean management field engaged with students, should emphasize the importance of parental support, faculty mentorship, students further along the pipeline serving as role models, interaction with youth in the communities surrounding their institutions, understanding public interest and awareness, recording and sharing of career/study experiences and participation in conferences.
 - d. Short term (1-5 years) Agencies should help educational institutions (from K-graduate) to create access to programs that improve the skills of underrepresented/minority students to successfully write grant proposals.

- e. Short term (1-5 years) Agencies should help educational institutions to increase professional development programs specific to careers in coastal and ocean science/management for underrepresented groups while educational institutions, community groups, faith-based entities and private sector groups should increase distribution of information on diversity programs.
- f. Short term (1-5 years) Federal agencies, private sector industry and NGOs should create a public communications campaign (e.g., public service announcements, television advertisements) for the mainstream public that gives insight to the importance of diversity within ocean and coastal science/management.
- g. Long term (5-10 years) Federal agencies, private sector industry and NGOs should work with educational institutions to create a “shadow” program with ocean and coastal leaders in high management, leadership and chief/senior scientist positions, where graduating students could gain on the job experiences and training.
- h. Long term (5-10 years) Federal agencies should invest more resources into creating co-op opportunities for federal employees to teach courses at universities or establish academic positions for scientists that can assist in enabling opportunities for increasing diversity in ocean and coastal science research/workforce.
- i. Short term (1-5 years) Federal administrators should focus on the critical importance of bridge (transition from student to career) and community colleges as they contain large proportions of the community which are underrepresented in coastal sciences and management.
- j. Short-term (1-5 years) Funding entities should focus on increasing interdisciplinary and culturally competent research that uses social science and human dimensions research to improve coastal and ocean science and management, as this could be relevant to underrepresented and diverse communities

April 29, 2011

SUBMITTED ELECTRONICALLY

Ted Wackler
Deputy Chief of Staff
Office of Science and Technology Policy
National Ocean Council
722 Jackson Place, NW
Washington, DC 20503

Re: Comments on Development of Strategic Action Plans for the Nine Priority Objectives for Implementation of the National Policy for the Stewardship of the Ocean, our Coasts, and the Great Lakes

Dear Mr. Wackler:

The American Petroleum Institute (API) submits these comments in response to the National Ocean Council's (NOC) request for comments on the preparation of Strategic Action Plans (SAPs) for the nine priority objectives for implementation of the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes. 76 Fed. Reg. 4,139 (Jan. 24, 2011).

INTRODUCTION

API is the only national trade association serving all aspects of America's oil and gas industry. API represents more than 470 companies involved in exploration, production, refining, pipeline operation, distribution, marketing, equipment manufacture and supply, and other diverse offshore support services. Either directly or indirectly, many API member companies are working to develop our offshore energy resources in an environmentally responsible manner.

API and its members recognize that, in addition to biological and ecological resources, the oceans also contain significant non-living resources that support many industries crucial to maintaining both the United States' and global economies. A growing global population is creating an increased demand for energy and making the efficient development of all energy sources more important than ever. If properly regulated and managed, our coastal waters and oceans should be, and can be, made available to the American people for multiple uses while retaining healthy ecosystems.

In accordance with these principles, API has been an engaged participant in the activities of the President's Ocean Policy Task Force, the predecessor to the NOC. We have submitted comments on the Task Force's Interim Report and Interim Framework for Effective Coastal and Marine Spatial Planning, provided testimony at public meetings held in Anchorage, Alaska, and New Orleans, Louisiana, and participated in Task Force expert briefings.

In keeping with this track record of constructive and detailed involvement in the development of the Administration's national ocean policy, API is pleased to comment on the SAP notice and request for recommendations on how the NOC objectives can be fulfilled consistently with the existing planning, research, statutory and regulatory mechanisms. API's comments are submitted from the unique and important perspective of offshore oil and gas producers that provide vital employment in key coastal communities-of-interest to the NOC and supply domestic markets with significant quantities of energy needed for the nation's fiscal well-being.

COMMENTS

API submits these comments on the SAP to assist the NOC in developing an effective national ocean policy that is consistent with the position that coastal and ocean resources can be responsibly developed while furthering the restoration, maintenance, and enhancement of healthy and sustainable ecosystems. As discussed in these comments, a key challenge to the NOC is to develop an implementation strategy that fully recognizes and works with the many existing laws and regulations. A prime example is the regulation of offshore oil and gas activities under the Outer Continental Shelf Lands Act (OCSLA), which already establishes a framework for "effective coastal and marine spatial planning to address conservation, economic activity, user conflict, and sustainable use," which is also one of the goals of the NOC as set out in the Federal Register notice. 76 Fed. Reg. 4,139. With regard to offshore oil and gas activities, the OCSLA occupies the statutory and regulatory field and preempts the need and legal justification for any new regulatory mechanisms arising under the NOC or to be implemented through SAPs.

As discussed in these comments, the NOC should not seek to create a new management regime or develop a new regulatory program to implement the SAPs for oil and gas activities already covered by the OCSLA. Indeed, neither the NOC nor any agencies included in the NOC have the legal authority to establish a mandatory SAP program for offshore oil and gas activities. The role of the SAPs should be as permissive guidelines developed on a consensus basis by all potentially affected stakeholders. Participation of affected stakeholder groups should be taken into consideration in future decision-making by the agencies responsible for administering the existing laws and programs governing the conservation, management, and use of coastal and marine resources.

There is neither the need nor the authority for a program that seeks to reinvent the wheel for offshore oil and gas activities in the name of coastal and marine spatial planning (CMSP). Aside from the lack of legal authority, such a program has the potential to be an extraordinarily cumbersome, expensive, confusing and counterproductive process that defeats the goals set forth in the SAP Notice. Rather than pursue a new initiative applicable to offshore oil and gas activities, the NOC should utilize the existing legal authorities and mechanisms, such as the OCSLA leasing and regulatory system, as the foundation for all future actions to carry out CMSP.

As a preliminary matter, these comments describe the OCSLA's existing goals and requirements to demonstrate how this law already establishes a functional and effective CMSP program for offshore oil and gas activities. All of the considerations that go into a CMSP system currently exist for oil and gas activities on the OCS, and no new or additional authority is necessary, or permissible. A broad-based CMSP program, and area-specific SAPs, should revolve around OCSLA actions and decisions. These comments also discuss the host of other laws that apply to offshore oil and gas activities that further strengthen the OCSLA's marine ecosystem management program. In short, to the extent the NOC develops a CMSP program, existing laws like the OCSLA should serve as the center point around which a CMSP advisory program would be developed. When developed on an advisory basis, CMSP can be of value for helping other users avoid conflict with OCS oil and gas activities and for informing future OCSLA decisions through the existing planning, leasing and regulatory mechanisms.

The second section discusses the reasons why the NOC lacks legal authority to impose new SAP requirements on OCSLA-governed activities.

The final section of these comments responds to the three questions posed at the outset of the NOC notice on page 4,140, and specifically addresses each of the nine objectives contained in the NOC notice.

In the conclusion section, we summarize how the NOC can effectively incorporate the existing decision-making requirements and procedures to advance the stated objectives, including CMSP, without adversely affecting or interfering with the well-established, current processes that govern offshore oil and gas activities.

I. THE OCSLA FRAMEWORK AS THE BASIS FOR CMSP

The OCSLA provides a comprehensive, integrated and ecosystem-based framework for undertaking oil and gas activities and lays a solid foundation for meeting the NOC's nine objectives. Under the OCSLA, decades of decision-making have created established rights under federal leases and a variety of exploration and development authorizations. Those pre-existing rights and authorizations, and the associated activities, cannot legally be altered or affected by CMSP or the SAPs. In addition, the OCSLA sets forth a fully adequate and established decision-making process for future oil and gas activities, *already based on the principles that would be applied under CMSP and the SAPs*. Nothing can or should be done to alter this program.¹

¹ As discussed later in these comments, changing existing OCSLA authorizations to accommodate CMSP-based decisions that emerge from the evolving NOC program may not be legally permissible under leases or other forms of approval. Even if such changes could be made, doing so would likely expose the federal government to liability to an affected lessee.

Section 18 of the OCSLA provides a comprehensive, integrated, ecosystem-based framework for OCS oil and gas decision-making.

Section 18 of the OCSLA establishes the regime for OCS lease planning. Absent legislation, this will remain the legally valid basis for any decision-making regarding OCS oil and gas leasing. Section 18(a)(1) states:

Management of the Outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the Outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the Outer Continental Shelf and the marine, coastal, and human environments.

43 U.S.C. § 1344(a)(1).

This broad language creates a flexible statutory framework that allows thorough consideration of the ecosystem-management issues presented in the SAP Notice. For example, it requires that the timing and location of exploration, development, and production of oil and gas within regions of the OCS be based on a consideration of:

- (A) existing information concerning the geographical, geological, and ecological characteristics of such regions;
- (B) an equitable sharing of developmental benefits and environmental risks among the various regions;
- (C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;
- (D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the Outer Continental Shelf;
- (E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;
- (F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

(G) the relative environmental sensitivity and marine productivity of different areas of the Outer Continental Shelf; and

(H) relevant environmental and predictive information for different areas of the Outer Continental Shelf.

Id. at § 1344(a)(2).

Once these diverse factors are considered, Section 18(a)(3) requires that the Secretary balance the following considerations:

The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

Id. § 1344(a)(3).

While the OCSLA calls on the Secretary to balance economic, social, and environmental criteria in the development of offshore resources, the law also expressly contemplates consideration of marine and coastal ecosystems in several places. It defines the term "marine environment" as:

the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the [OCS].

Id. at § 1331(g).

The OCSLA definition of "coastal environment" includes the same biological and other factors "which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone." *Id.* § 1331(h).

The legislative history of OCSLA also demonstrates that Congress intended to address environmental and ecosystem health by describing the 1978 OCSLA amendments as containing "many provisions . . . for the protection of the marine, coastal and human environment." H.R. REP. NO. 95-590, at 51, 1978, U.S.C.C.A.N. §§ 1450, 1458.

Through Section 18, Congress therefore has already established the process for CMSP for oil and gas leasing and other authorizations, and it is not necessary or legally appropriate to attempt to create a new regime absent a legislative mandate to do so. Indeed, the requirements of Section

18, described above, and the definition of CMSP used by the NOC are similar in scope.² The continued use of the OCSLA planning process for offshore oil and natural gas leasing encompasses the CMSP concepts, negating any need for an additional bureaucratic layer.

Court decisions have firmly enforced the requirement that the Secretary consider each of the diverse ecosystem and other factors set forth in Section 18(a)(2), while granting the Secretary discretion in balancing the competing policies of the statute. In this way, the OCSLA program remains sensitive to ecosystem needs, new science, changing economics, and new policy initiatives.

In 1980, Secretary Andrus approved the first five-year OCS leasing program. The State of California and other plaintiffs brought suit alleging that the Secretary had failed to comply with Section 18. *California v. Watt*, 668 F.2d 1290 (D.C. Cir. 1981). In reviewing the program, the D.C. Circuit held that the Secretary had not adequately considered several factors set forth in Section 18, but also affirmed the Secretary's broad discretion based on the factors set forth in Section 18(a)(3), calling for a balancing of energy development and environmental impacts:

The [Secretary's] obligation...is to look at all factors and then balance the results. The Act does not mandate any particular balance, but vests the Secretary with discretion to weigh the elements so as to "best meet national energy needs." The weight of these elements may well shift with changes in technology, in environment, and in the Nation's energy needs, meaning that the proper balance for 1980-1985 may differ from the proper balance for some subsequent five-year period.

Id. at 1317.

The courts have continued to confirm that the Secretary has discretion with regard to the balancing test required by the OCSLA. "The Secretary must make a good-faith effort to balance environmental and economic interests. So long as he proceeds reasonably, however, his decisions warrant our respect." *Natural Resources Defense Council v. Hodel*, 865 F.2d 288, 308-09 (D.C. Cir. 1988).

² Coastal and Marine Spatial Planning (CMSP) is defined as "a comprehensive, adaptive, integrated, ecosystem based, and transparent spatial planning process, based on sound science, for analyzing current and anticipated uses of ocean, coastal, and Great Lakes areas. CMSP identifies areas most suitable for various types or classes of activities in order to reduce conflicts among uses, reduce environmental impacts, facilitate compatible uses, and preserve critical ecosystem services to meet economic, environmental, security, and social objectives. In practical terms, CMSP provides a public policy process for society to better determine how the ocean, coasts, and Great Lakes are sustainably used and protected - now and for future generations." Final Recommendations Of The Interagency Ocean Policy Task Force at 41.

In addition to creating a clear duty to balance energy development with environmental and coastal community considerations, Section 18 sets forth requirements for all of the other critical elements of CMSP and the SAP program.

For example, Section 18(c)(1) accommodates the views of other federal agencies and affected state governments:

During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from any interested Federal agency, including the Attorney General, in consultation with the Federal Trade Commission, and from the Governor of any State which may become an affected State under such program. The Secretary may also invite or consider any suggestions from the executive of any affected local government in such an affected State, which have been previously submitted to the Governor of such State, and from any other person.

43 U.S.C. § 1343(c)(1).

Moreover, Section 19 of the OCSLA, 43 U.S.C. § 1344, expressly provides for State Governors and executives of local governments to provide recommendations to the Secretary regarding leasing options which the Secretary must consider in making his balancing decision under Section 18(a)(3).

Section 18 also incorporates other governmental decision-making. Presidential withdrawals and Congressional moratoria removing OCS areas from leasing consideration are excluded in each five-year program. For example, under the current program, many OCS planning areas are subject to a 1998 presidential withdrawal from leasing through June 30, 2012. The Presidential withdrawal bars leasing activities in all National Marine Sanctuaries and the following planning areas: North Aleutian Basin (Bristol Bay, Alaska); Washington-Oregon; Northern, Central, and Southern California; South, Mid-, and North Atlantic; and in certain parts of the Eastern Gulf of Mexico.

In addition to the inter-governmental review and coordination requirements recited above, Section 18 provides an effective public comment process. Every step of the OCSLA five-year planning review calls for public involvement and stakeholder participation, much as envisioned by the SAPs. At various points throughout the development of the leasing program, OCSLA provides for participation by Congress, affected state and local governments, relevant federal agencies, and the public. *See* 43 U.S.C. §§ 1344(c), (d) and (f).

The effectiveness of this public involvement framework is illustrated by the public review of the recent revision of the 2007-2012 program, which resulted in over 118,000 comments. The

success of Section 18 in providing a strong vehicle for public comment would be hard to duplicate by other mechanisms, particularly if the other mechanisms for OCS oil and gas activities under SAPs or to carry out CMSP were started from scratch. Creating new public comment mechanisms would also create duplication of efforts by commenters and government agencies, given that Section 18 is statutorily required and cannot be eliminated by the NOC.

In addition to the mandates for balanced consideration of the environmental concerns and energy factors and intergovernmental and public participation, the Section 18 framework already calls for a multi-disciplinary approach to decision making. Indeed, Section 18 is perhaps the most comprehensive law pertaining to management of marine resources. Section 18(a)(1) requires that:

Management of the Outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the Outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the Outer Continental Shelf and the marine, coastal, and human environments.

43 U.S.C. §§ 1343(a)(1). No other marine statute has this broad of a scope.

In addition to the statutory requirements of Section 18, the Bureau of Offshore Energy Management Resources and Enforcement (BOEMRE) must take into account its own regulations pertaining to development of the entire OCSLA program. *See* 30 C.F.R. §§ 256.16-256.20. The regulations emphasize the broad ecosystem approach towards planning for oil and gas leasing:

The Secretary shall provide for periodic consultation with State and local governments, existing and potential oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in any activity in or on the OCS, including those involved in fish and shellfish recovery, and recreational activities. This consultation shall take place primarily through appropriate public notice . . . and through the OCS Advisory Board and its committees, on a regional and national basis.³

30 C.F.R. § 256.19.

The regulations also allow for continuing input from other federal agencies about ecosystem concerns:

³ The OCS Advisory Board, referenced in this quote, is a non-profit organization established in 1968 that focuses on Outer Continental Shelf issues related to oil and gas exploration, development, and production.

For oil and gas lease sales shown in an approved leasing schedule . . . [t]he Director may request other interested Federal Agencies to prepare reports describing, to the extent known, any other valuable resources contained within the general area and the potential effect of mineral operations upon the resources or upon the total environment or other uses of the area.

Id. at § 256.22.

Finally, information and analysis of marine resources pursuant to the OCSLA provides significant information used by regulators and academia. Information developed through OCSLA Section 20 processes has established baselines for numerous marine resources. 43 U.S.C. § 1345(a). Following the leasing and development of any area, the Secretary conducts additional studies to monitor the marine and coastal environments and to identify significant changes to those environments. 43 U.S.C. § 1346(b). The Secretary also must submit to Congress an assessment of cumulative impacts of activities conducted under the OCSLA on human, marine and coastal environments every three years. *Id.* at § 1346(e). This requirement arguably requires the Secretary to assess ecosystem-level impacts. The leasing provisions described above also provide the Secretary and BOEMRE with the clear authority to consider ecosystem concerns when selecting areas suitable for leasing, permit the Secretary to set aside areas that are particularly sensitive or that perform a critical ecosystem function, and authorize the Secretary to include stipulations on the leases to protect resources. Within this leasing program, there is ample flexibility to carry out spatial planning.

In addition, the OCSLA contains provisions that authorize the Secretary to suspend or cancel any activity that threatens serious harm to the marine or coastal environment. The OCSLA directs that the Secretary promulgate regulations, including "provisions for the suspension or temporary prohibition of any operation or activity, including production," if there is a "threat of serious, irreparable, or immediate harm or damage to life (including fish or other aquatic life), to property, to any mineral deposits (in areas leased or not leased), or to the marine, coastal, or human environment." *Id.* at § 1334(a)(1). After a hearing, the Secretary may cancel any existing lease or permit if the Secretary determines that continued activity under the lease or permit would "probably cause serious harm or damage to life (including fish and other aquatic life)... or to the marine [or] coastal environment." *Id.* at § 1334(a)(2).

The courts have confirmed that the Section 18 framework provides a CMSP approach to decision-making.

Over the history of the OCSLA, the courts have confirmed that the Secretary must apply the Section 18 factors and procedures so as to achieve the same goals the NOC has now articulated for SAPs and the CMSP policy objectives. In these decisions, the courts have sometimes found that the Secretary did not adequately meet his duties under Section 18 and remanded OCSLA

decisions for further review and reconsideration. In each case, however, the courts confirmed that, when the statutory factors have been properly applied, the Secretary has a duty to balance among competing uses and needs, including environmental protection and conservation.

In 1980, in *California v. Watt*, 668 F.2d 1290 (D.C. Cir. 1980), the D.C. Circuit remanded the five-year program approved by Secretary Andrus. It did so for four reasons: first, the Secretary had not defined lease sales in the program "as precisely as possible." *Id.* at 1303-04. Second, the Secretary had not considered the equitable sharing of development benefits and environmental risks as required by Section 18(a)(2)(B). *Id.* at 1308. Third, the Secretary had not considered the relative environmental sensitivity and marine productivity as required by Section 18(a)(2)(G). *Id.* at 1311-13. Finally, since the Secretary had not adequately considered several of the Section 18(a)(2) factors, the court held he could not properly balance the potential for energy discovery, environmental damage, and coastal zone impacts in selecting the timing and location of lease sales as required by Section 18(a)(3). *Id.* at 1317-19. The result of this decision was to ensure that ecosystem considerations are a key element of the Secretary's balancing decision.

Upon review of the five-year program for 1987-1992, in *NRDC v. Hodel*, 865 F. 2d 288 (D.C. Circuit 1988), the court once again remanded the program to the Secretary, this time for failure to properly consider cumulative impacts in the final environmental impact statement (EIS) for the program.

Our examination of the FEIS satisfies us that the Secretary did not consider the effect of simultaneous inter-regional development on migratory species. We therefore remand for consideration of this issue and for any revisions of the program the Secretary determines to be warranted by the new analysis.

CEQ regulations specifically provide that an EIS should consider together actions that "are interdependent parts of a larger action and depend on the larger action for their justification," "[c]umulative actions, which when viewed with other proposed actions have cumulatively significant impacts," and "similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing and geography." 40 C.F.R. § 1508.25(a) (1987); see also Council on Environmental Quality, Forty Most Asked Questions Concerning CEQ's NEPA Regulations, 46 Fed.Reg. 18,033 (1981).

Thus, the Section 18 factors combined with appropriate NEPA analysis, including alternatives analysis and assessment of cumulative impacts, among other things (see page 13) make the studies associated with each five-year program a robust ecosystem review.

Most recently, in reviewing the 2007-2012 program, the D.C. Circuit found in *Center for Biological Diversity v. Interior*, 563 F.3d 466 (D.C. Cir. 2009), that the Section 18(a)(2)(G) Environmental Sensitivity Analysis was incomplete and remanded the program to Interior to complete the analysis. In response, the BOEMRE re-analyzed all 26 OCS planning areas to determine the relative environmental sensitivity of several ecological components to multiple impacts of offshore oil and gas development. The original environmental sensitivity analysis relied on two studies conducted by Continental Shelf Associates in 1990 and 1991, and one dataset, NOAA's Environmental Sensitivity Index. The expanded analysis continued to rely on these sources to analyze sensitivity of shoreline and coastal habitats, but went further at the court's direction to analyze the sensitivity of marine resources offshore to oil and gas activities. The expanded analysis also relies on nearly 50 reports and studies, many of which were not considered when the original environmental sensitivity analysis was prepared.

Building on this precedent, the Secretary has embarked upon a diversified approach for taking ecosystem-based considerations into account when balancing the Section 18 factors. In response to the *Center for Biological Diversity* decision, the Secretary directed the BOEMRE to incorporate an environmental sensitivity analysis into the five-year program and to plan additional public review. The resulting analysis, which considered the components of the marine environment that may be affected by oil and gas activities (marine habitat, marine production, marine fauna) and their relevant sensitivity to oil spills, sound, physical disturbance, climate change, and ocean acidification, was incorporated into the five-year program and subjected to additional public review. Based on these comments, and taking into account information from the 2010 Macondo incident, BOEMRE revised the 2007-2012 program. The revision includes 16 sales in six areas of the OCS. Nine of these sales took place between 2007 and March 2010. Of the remaining seven sales, four were cancelled (Sale 211, Sale 215, Sale 219 and Sale 220), and the Central Gulf of Mexico Sale 216 will be consolidated with Central GOM Sale 222.⁴ The revised plan illustrates how the OCSLA brings together all components of CMSP and how a mechanism for ensuring compliance with the OCSLA currently exists.

Based upon the principles set forth in the court cases, and the outcome of extensive environmental sensitivity analysis completed in 2010, BOEMRE is now preparing the five-year program for 2012-2017. Preparation of a new five-year program usually takes 2½ to 3 years.

⁴ API does not necessarily agree that cancellation of these sales was good policy.

⁵ API does not necessarily agree that exclusion of these planning areas was good policy.

The current process began with the Draft Proposed Program (DPP) issued in January 2009. In response to comments on the DPP and other considerations, the Secretary has reduced the scope of the five-year program EIS to exclude several planning areas originally contained in the 2009 DPP.⁵ The remaining areas are the Western and Central Gulf of Mexico, the area of the Eastern Gulf of Mexico not included in the Congressionally-mandated leasing moratorium, and the Beaufort Sea, Chukchi Sea, and Cook Inlet, off Alaska. The Department conducted scoping meetings in Alaska, Texas, Louisiana, Alabama, and Washington, D.C. The next step in the creation of the 2012-2017 program is the publication of a proposed program and draft EIS, which will likely occur in late 2011.

As a result of past leasing decisions, active leases now exist in Cook Inlet, and the Beaufort and Chukchi Seas off Alaska, in the Santa Maria Basin, Santa Barbara Channel and San Pedro Basin in the Pacific Ocean off California and in the Eastern, Central and Western Gulf of Mexico. These areas are managed under the comprehensive and detailed OCSLA regulations. Further exploration and development will be considered as part of the ongoing preparation of the five-year plan for 2012-2017, of which ecosystem-based analysis is an integral component. Clearly, there is no need to add another level to this detailed review under the OCSLA program.

Other laws that apply to OCSLA decisions further enhance the CMSP components of offshore oil and gas decision-making.

In addition to the OCSLA, a host of other laws and programs apply to OCSLA decision-making. These laws and programs provide additional layers, standards and procedures that build upon the already strong and detailed environmental and CMSP-based requirements of the OCSLA. When considered in addition to the OCSLA, these other laws further demonstrate that existing laws and regulations already encompass all that is envisioned in the SAP and CMSP.

1. *Coastal Zone Management Act*. The Coastal Zone Management Act (CZMA), 16 U.S.C. §§ 1450 *et seq.*, is designed to be a foundation and framework for programmatic planning and decision-making in coastal areas. The CZMA acts on a limited waiver of federal supremacy in the three geographical mile stretch of territorial seas extending from state shores. *Id.* § 1452(2)-(6). States are responsible for developing and enforcing comprehensive coastal management programs (CMPs), and in return, the CZMA requires federal actions affecting states' coastal uses and resources to be consistent with those plans. The CZMA establishes qualitative requirements for the scope, specificity, and predictability that each CMP must include and provide to decision-makers and stakeholders. These requirements include a range of environmental, economic, and social goals, including: intergenerational sustainability; full consideration of economic, ecological, cultural, historic, and aesthetic values; natural resource protection; water quality; public access; coastal-dependent development; coastal protection as provided by natural features; public and stakeholder participation in decision-making; multi-scale planning; governmental

efficiency; cooperation between local, regional, tribal and federal governments; and adaptation over time to changing conditions. *Id.* § 1452.

The CZMA applies to the OCSLA in the context of evaluating actions that may impact coastal waters. Prior to taking any action or issuing any permit under the OCSLA, BOEMRE must, in cooperation with state and regional governments, undertake a “consistency review” to ensure that the proposed agency action or permitted action would not result in a violation of the CMP. In this way, the CZMA is used as a way to integrate federal planning into the process of managing and protecting state waters and their resources. The planning and cooperation processes required by the CZMA, as well as the metrics that each CMP must meet, provide a strong nexus between the OCSLA and state coastal areas.

2. *National Environmental Policy Act.* The National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 *et seq.*, requires the evaluation of all major federal actions that may significantly impact the quality of the human environment. NEPA analysis may include environmental assessments (EAs) for projects not found to have significant impacts, environmental impact statements (EISs) for projects with projected significant impacts, and programmatic EISs to evaluate broad-based activities. Subsequent decisions may be supported by “tiering” to prior EISs. While undertaking these analyses, the “action agency” must consider alternatives to the proposed action, as well the proposed action’s impacts on the environment and socioeconomic and cultural impacts. Additionally, the analyses must consider the indirect and cumulative impacts of these projects, including those impacts that arise from the combination of the impacts of the examined projects with those of other reasonably foreseeable projects that are in the same area or may have related impacts.

Some BOEMRE actions under the OCSLA constitute “major federal actions” under NEPA and thus call for NEPA’s environmental review. Thus, decisions to open large areas for oil and gas lease sales may trigger preparation of a programmatic EIS. In addition, decisions to issue oil and gas leases may trigger the preparation of an EIS or tiering to prior analyses. Decisions to permit exploratory and extraction operations may trigger further NEPA analysis, in the form of an EA or supplemental EIS. The procedural requirements of NEPA ensure that an analysis is completed of the environmental impacts and potential alternatives of actions with significant impacts taken under OCSLA, and guarantee that decision-makers are provided with adequate information to make informed decisions and preserve stakeholder participation.

3. *Endangered Species Act.* The Endangered Species Act (ESA), 16 U.S.C. §§ 1531 *et seq.*, prohibits the unauthorized “take” of an endangered or threatened species, and protects the habitat of listed species from degradation if it will result in actual death or injury to the species. Prior to taking, funding, or permitting any actions that may affect a listed species, federal agencies also must engage in consultations with the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS) (the Services) to ensure that the action will not jeopardize the

listed species or adversely modify its critical habitat. In addition, the ESA helps identify areas of critical importance to species.

In the context of OCSLA, the ESA may be triggered by various agency actions. BOEMRE consults with the Services regarding species impacts. The Services must ensure that the permitted activity will not jeopardize the continued existence of the listed species in the action area, and may impose necessary mitigation measures or terms and conditions on the activity in order to limit species impacts.

4. *Marine Mammal Protection Act.* The Marine Mammal Protection Act (MMPA), 16 U.S.C. §§ 1361 *et seq.*, similarly provides a venue for species protection and cooperative resource management in the context of OCSLA, through its prohibition take, the mechanisms for take authorization, and various planning tools.

5. *Magnuson-Stevens Fishery Conservation and Management Act.* The Magnuson-Stevens Fishery Conservation Act (FCMA), 16 U.S.C. §§ 1801 *et seq.*, governs fishing activities in the U.S. exclusive economic zone (EEZ), or the waters that extend 200 miles from the edge of the continent. The FCMA specifies that conservation and management measures in a fishery management plan (FMP) must continually achieve “optimum yield,” which is determined by considering multiple factors including: food production, economics (local, regional and national), nutritional needs, recreational opportunities, species and ecosystem viability, and human use. Under the FCMA, Regional Fishery Councils have the authority to identify essential fish habitat (EFH), or geographic areas of particular importance to maintaining fishery health. BOEMRE must consult with NMFS regarding the effects of its actions on EFH. These areas may then be closed to development or conflicting use, and such closures must be followed.

6. *Clean Water Act.* The Clean Water Act (CWA), 33 U.S.C. §§ 1251 *et seq.*, sets up a regulatory program designed to control discharge of pollutants to waters of the United States. For almost 40 years, the EPA, U.S. Army Corps of Engineers and states have regulated these discharges. The CWA contains a number of “place-based” programs to protecting water quality, including the Great Lakes, Chesapeake Bay, Lake Champlain, and Long Island Sound. In addition, the CWA’s Total Maximum Daily Load (TMDL) program requires, for impaired waters, the establishment of allowable loads of a single pollutant from all contributing point and nonpoint sources to a particular stream reach or other defined assessment unit. Additionally, EPA has developed guidance for watershed approaches to addressing water quality. This means that the entire impaired assessment unit, up to a complete watershed, including coastal areas, must be considered comprehensively, in order to adequately quantify all sources of pollutants and either permit or deny the construction or allowance of any new point source water discharges of those pollutants. Actions and permits approved under the OCSLA are required to be in compliance with these requirements.

7. *Clean Air Act*. The requirements of the Clean Air Act (CAA) are largely applicable to the OCS. The CAA gives EPA authority to control both the fuel used by, and emissions from, marine vessel engines under “non-road engine” provisions. Under this authority, EPA has set numerous vessel emission standards, just as it has for emissions from cars, trucks, locomotives, and aircraft under other CAA provisions. The CAA requires EPA to issue rules making all stationary sources located on the OCS within 25 miles of a state’s seaward boundary subject to all of the same requirements for attaining and maintaining air quality standards that would apply if they were located on land. In limited areas of the OCS, air pollution remains subject only to the authority of DOI under the OCSLA.

As this brief overview demonstrates, in addition to the far-reaching and comprehensive requirements of the OCSLA, a panoply of additional laws already apply to bring CMSP fully into effect for every federal decision that is made for OCSLA oil and gas activities. Not only is there no need to create a new process, doing so would undermine the existing decision-making processes that has been developed over many decades and refined through court decisions and an extensive regulatory program. More importantly, as discussed below, there is no legislative authority to do so.

II. THE CMSP AND SAP PROGRAMS CANNOT IMPOSE NEW LEGAL REQUIREMENTS ON FEDERAL AGENCIES

The previous section discussed the policy reasons why the SAP program is already encompassed within the existing OCSLA, negating any need to create a new layer of bureaucracy. The previous argument is based on considerations of legal precedent, efficiency, cost-effectiveness, avoidance of duplication, and well-established public and stakeholder participation procedures. This section discusses the reasons why, as a matter of law, CMSP and SAPs cannot be superimposed on OCSLA procedures and existing decisions.

As noted on the NOC website, “[t]he National Policy does not establish any new regulations or restrict any ocean uses or activities. It does not require any new legislation in order to be implemented and does not supersede or alter any agency or department’s existing authority.” (see www.whitehouse.gov/administration/eop/oceans/faq). However, the actual text of Executive Order 13457 (EO) states:

Sec. 6. Agency Responsibilities. (a) All executive departments, agencies, and offices that are members of the Council and any other executive department, agency, or office whose actions affect the ocean, our coasts, and the Great Lakes shall, to the fullest extent consistent with applicable law:

(i) take such action as necessary to implement the policy set forth in section 2 of this

order and the stewardship principles and national priority objectives as set forth in the Final Recommendations and subsequent guidance from the Council...

This statement appears to go beyond the NOC assertion that only permissive, non-regulatory mechanisms will be established to carry out the Executive Order.

A. The NOC may be unconstitutional because the powers of the NOC do not appear to conform to the Appointments Clause of the U.S. Constitution.

As an initial matter, the powers of the NOC may not conform to the Appointments Clause of the U.S. Constitution. Section 6 of the EO, for example, appears to require advice and consent appointees to implement the policies set forth in the EO and follow the NOC's final recommendations and guidance. Although the NOC is supposed to act through "consensus" pursuant to section 5, the EO does not define the term, making it possible that non-advice and consent NOC members may form a consensus requiring regulatory action by an advice and consent appointee. Under such circumstances, NOC members would be dictating outcomes to agency appointees, violating the Appointments Clause.⁵

B. There is no statutory authority to create the NOC.

The President established the NOC by Executive Order. There has been no act of Congress authorizing the President to achieve the actions he has listed in his EO. Moreover, some of these EO goals may conflict with existing law:

- Under Sections 5 and 2(b)(i), the NOC must establish a governance "framework" for oceans policy that "facilitates collective action across the Federal Government." Do any of the statutes involved allow the agency heads to "delegate" their authority to other agencies not identified by statute? What controls would be in place if so?

⁵ The Appointments Clause to the U.S. Constitution, Article 2, Section 2, states:

[The President] shall nominate, and, by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

Inferior officers – those that need not be appointed with advice and consent – are those that are supervised at some level by other officers appointed by the President with the Senate's consent. *Free Enterprise Fund v. Public Co. Accounting Oversight Bd.*, 130 S.Ct. 3138, at 3162 (2010). NOC members do not answer to advice and consent appointees, and may, under some circumstances, impermissibly direct the work of agency appointees.

- Sections 5 and 2(b)(iii) can be read to charge the NOC with mandating that agencies “pursu[e] the United States’ accession to the Law of the Sea Convention.” Can the President appoint inferior officials (not advice and consent) to order advice and consent officials to lobby the U.S. Senate to accept a pending treaty?
- Section 6 requires agency compliance with policy recommendations of the NOC. Aside from administrative procedure discussed below, if Congress has not authorized the creation of a NOC, from whence does the NOC get authority to set policy which must be followed by officers of the United States?

In the absence of a clear source of authority for such an entity it appears that the NOC – as defined by the duties set forth in EO 13457 – constitutes an *ultra vires* Executive Branch body.

C. There is no statutory authority to require agencies to conform their policies and actions to NOC recommendations.

There is no statutory authority for the agencies to be forced by Section 6 of EO 13547 to follow the recommendations of the NOC. In fact, agencies are obligated by statute to consider all comments equally, and it would render a decision arbitrary were an agency to adopt the NOC’s recommendations in all cases. The legal deficiencies with a mandatory component to the powers of the NOC are derived from the following laws:

1. *Administrative Procedure Act*. Agencies are required to promulgate legislative rules through notice and comment rulemaking. Open rulemaking would be subverted if an agency must conclude that, due to Section 6 of EO 13457, it must publish a final rule, regardless of policy questions, if it is within the agency’s statutory authority to do so. Agency actions are arbitrary and capricious under the APA if they ignore relevant comments in favor of pre-determined regulatory “recommendations” made by an extra-legal council. An Executive Order cannot overturn an act of Congress.

2. *Regulatory Flexibility Act*. The RFA specifically requires agencies to consider the economic impact of proposed regulations to small entities and to evaluate less burdensome alternatives. Agencies are required to publish findings and analyses that explain why less burdensome alternatives were not selected. Section 6 of EO 13457 seems to contemplate allowing agencies to reject less burdensome regulatory alternatives without explanation or compliance with the RFA.

3. *EO 12866*. Agencies are required to submit rules to the Office of Information and Regulatory Affairs (OIRA) for review, and to consider the risks they intend to address through regulation and balance a number of factors to “promulgate only such regulations as are required by law, are

necessary to interpret the law, or are made necessary by compelling public need.” Conceivably, an agency could determine a regulation was completely unnecessary, yet it may be required under Section 6 of EO 13457 to promulgate the rule, regardless. The authority vested in the NOC under EO 13457 therefore appears to conflict directly with the requirements of EO 12866.

D. OCSLA leases create contract rights that cannot be altered without compensation.

In addition to the constitutional and procedural issues noted above, the actions of the NOC could interfere with the contractual rights established under the OCSLA leasing process. The Supreme Court has addressed the nature of the rights granted in OCS oil and gas leases in *Mobil Oil Exploration & Producing Southeast, Inc. v. U.S.*, 530 U.S. 604 (2000). In this decision, the Court clearly articulated that OCSLA leases confer contractual rights and held the government liable for breach of such contracts:

When the United States enters into contract relations, its rights and duties therein are governed generally by the law applicable to contracts between private individuals.” *United States v. Winstar Corp.*, 518 U.S. 839, 895 (1996) (plurality opinion) (internal quotation marks omitted). The Restatement of Contracts reflects many of the principles of contract law that are applicable to this case. As set forth in the Restatement of Contracts, the relevant principles specify that, when one party to a contract repudiates that contract, the other party “is entitled to restitution for any benefit that he has conferred on” the repudiating party “by way of part performance or reliance.” Restatement (Second) of Contracts §373 (1979).

530 U.S. at 607.

The Court analyzed the language in the leases pertaining to future restrictions arising from new legislation:

The lease contracts say that they are subject to then-existing regulations and to certain future regulations, those issued pursuant to OCSLA and §§302 and 303 of the Department of Energy Organization Act. This explicit reference to future regulations makes it clear that the catchall provision that references “all other applicable ... regulations,” must include only statutes and regulations already existing at the time of the contract, a conclusion not questioned here by the Government. Hence, these provisions mean that the contracts are not subject to future regulations promulgated under other statutes, such as new statutes like OBPA. Without some such contractual provision limiting the Government’s power to impose new and different requirements, the companies would have spent \$158 million to buy next to nothing. . . .

Id. at 615. *See also, Amber Resources Co., v. U.S.*, 538 F.3d 1351, 1370-71 (Fed. Cir. 2008)(The Government's application of amendments to the CZMA which imposed significantly more burdensome lease suspension procedures than those provided in the OCSLA lease constituted repudiation of the lease agreements subject to restitution).

While OCS leases since late 2009 have included revised language concerning newly imposed statutory requirements, hundreds of leases for currently producing wells contain the same language analyzed by the Supreme Court in *Mobil Oil*.⁶ Moreover, the same breach of contract analysis would apply to decisions of the NOC. As a result, existing OCS leases cannot be subject to future NOC decision making.

III. COMMENTS ON PRIORITY OBJECTIVES FOR CMSP AND SAPs

In the Federal Register notice to which these comments respond, the NOC requested responses to the following questions for each of the nine priority objectives:

- *What near-term, mid-term, and long-term actions would most effectively help the Nation achieve this policy objective?*
- *What are some of the major obstacles to achieving this objective; are there opportunities this objective can further, including transformative changes in how we address the stewardship of the oceans, coasts, and Great Lakes?*
- *What milestones and performance measures would be most useful for measuring progress toward achieving this priority objective?*

National Ocean Council; Development of Strategic Action Plans for the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes, 76 Fed. Reg. 4,139, 4,140 (Jan. 24, 2011). API's responses on these questions are incorporated into the discussion of the nine policy objectives set forth in the NOC.

To the extent that API has relevant comments on the nine policy objectives not already addressed above, we have divided them in a way that is consistent with the requested format.

A. Objective 1 – Ecosystem-Based Management

⁶ By letter dated March 16, 2010, API advised DOI that the purported revision of Section 1 of the OCS lease form exceeded the agency's statutory authority under the OCSLA. API and its member companies do not agree that the revised lease form language altered application of the Mobil Oil decision to those leases.

Objective 1 calls for the adoption of ecosystem-based management (EBM) as a “foundational principle” to any effort to employ a comprehensive management strategy for the ocean, coasts, and the Great Lakes. Ecosystem-based management, based on sound science, can be an effective tool for supporting controlled multiple ocean use, as opposed to limiting ocean use and ocean access. It is therefore a viable way to ensure best use of ocean resources. It is clear that the OCSLA and other laws that apply to activities in the OCS already provide for EBM; there is no need to reinvent the wheel.

1. Opportunities

Employing EBM as a foundational principle presents numerous opportunities. The term EBM is not a new one and has, for decades, been incorporated into the statutory and regulatory framework governing current uses of coastal and marine areas. For example, the following statutes provide for consideration and inclusion of EBM: 1) as discussed above, the OCSLA, 43 U.S.C. §§ 1331 *et seq.*, requires consideration of the marine and coastal environments, and gives the Secretary the express authority to develop, approve, and review leases based partly on consideration of potential impacts to the marine and coastal environment; 2) the MMPA 16 U.S.C. §§ 1361 *et seq.*, identifies the marine ecosystem as a priority for federal action, and Section 112 authorizes the Secretary to “prescribe such regulations as are necessary and appropriate to carry out the purposes” of the MMPA, including EBM; 3) the ESA, 16 U.S.C. §§ 1531 *et seq.*, protects endangered and threatened species in the context of conserving the ecosystems on which they depend; 4) the FCMA, 16 U.S.C. §§ 1801 *et seq.*, manages fisheries on a regional scale, balancing the needs of the fish and essential fish habitat, and the economic and other needs of the commercial fishing community and other stakeholders; and 5) the CZMA, 16 U.S.C. §§ 1450 *et seq.*, was designed to balance the conservation and maintenance of healthy ecosystems and provide for the sustainable use and development of coastal resources.

In addition, EBM as a priority objective provides an opportunity to recognize that human presence in the coastal and marine ecosystem can have positive impacts on the ecosystem, including improved feeding areas and the creation of environments hospitable to marine life.

The implementation of EBM through existing authorities would provide current users with a level of regulatory consistency through continued application of those laws. Because of the present consideration of EBM and the regulatory community’s familiarity with these laws and their applications, this objective would be beneficial in sustaining continued uses.

However, the key point is that each one of these laws creates an existing process for taking EBM into account in the relevant decisions. In the short-term, it would be useful to define ecosystem-based management and the expectations of ocean stakeholders in regard to supporting and applying ecosystem-based management. All of these laws apply to activities on the OCS, and they are incorporated into OCSLA decision-making. Thus for OCSLA activities, EBM is

already fully applied. Should the existing implementing regulations need to be refined, the APA process should be followed.

2. Obstacles

EBM is not without significant obstacles. The focus on biological qualities of the ecosystem often overshadows the fact that humans and human uses are a legitimate part of the larger ecosystem and must be considered. In addition, the application of EBM must focus on the overall health of the ecosystem, accepting that because of evolution and large-scale environmental changes, the precise make-up of any given ecosystem is dynamic. Major obstacles, at this point, are lack of organization to define the technical and scientific guidelines need to support ecosystem-based management and the suggestions offered below would help to address this issue.

Ecosystem-based management relies on the monitoring of selected, measurable indicators to continuously monitor the health of ecosystem services and key ecosystem functions. This means that from a vast multitude of variables, a limited number of distinct, measurable parameters need to be identified that can serve as meaningful indicators. Key services, functions and indicators vary by region. It would be useful to establish regional work groups that take up the task of compiling a list of measurable indicators for their respective regions. To maximize collaboration efforts and ensure feasibility in the application stage, it is imperative that these work groups consist of local scientists and scientific experts from ocean user groups, including industry stakeholders of which EBM will be required.

Ecosystem-based management is a learning-by-doing process. Therefore, EBM will continuously need to be adapted to reflect current results and learnings. Long-term efforts need to focus on establishing collaborative (between ocean users) monitoring efforts that support EBM, keeping track of the results and adapting management efforts to changing environmental conditions.

3. Metrics

In applying EBM as a priority objective, metrics to be used should include: an identification of the scale and characteristics necessary for any particular area to be considered an “ecosystem” for purposes of CMSP; the number of “ecosystems” that are identified and characterized; and an identification and quantification of the uses, including human, currently supported by each ecosystem.

Potential milestones are: Completion of regional guidelines by regional work groups (consisting of local scientists and scientific experts from industry stakeholders) in which measurable

indicators for EBM are identified (see III.A.2 above) and establishment of collaborative (between ocean users) monitoring efforts to implement regional guidelines.

B. Objective 2 – *Coastal and Marine Spatial Planning*

Objective 2 calls upon the NOC to “implement comprehensive, integrated, ecosystem-based coastal and marine spatial planning and management in the United States.” As discussed under Objective 1, EBM and CMSP are already integral to the OCSLA. Nothing needs to, or should, be done to alter the existing regulatory regime for OCSLA activities.

The NOC position should respect existing authorities. It cannot do so if it seeks to undermine or change existing authorities. The NOC position on existing authorities is, however, unclear and confusing on this point. The framework, on one hand, says that the plan is based upon merely operating within ‘existing authorities’ – the suggestion is that no action unless statutorily mandated would be undertaken. Requests to confirm this position are met with statements that, in essence, say that the NOC would operate under a broader and more permissive set of principles that would include all activities unless specifically prohibited by statute. However, the Policy then says that an effort would be made to change existing law to carry out NOC objectives (at page 47) “*Where pre-existing legal constraints, either procedural or substantive, are identified for any Federal agency, the NOC would work with the agency to evaluate necessary and appropriate legislative solutions or changes to regulations to address the constraints.*” To achieve support across the broad spectrum of stakeholders and regulated entities that would be subject to CMSP, the NOC must be entirely clear on this point and should adhere to the controlling principle that no changes will be made to existing law.

1. Opportunities

One of the greatest strengths of CMSP is its capacity to recognize the potential for co-use or multiple-use of various areas, a *de facto* reality of current coastal and marine planning under OCSLA and the CZMA. By creating this framework and permitting uses under its auspices, resource users will have greater regulatory predictability. Additionally, agency decisions will not face the level of administrative and judicial challenges that they currently do, as early stakeholder involvement and inter-agency coordination, coupled with the comprehensive nature of CMSP, will result in better decisions that are more immune to claims of being “arbitrary and capricious” under the Administrative Procedure Act. This benefit presumes, however, that existing regulatory tools such as those set forth in the OCSLA are not interfered with. CMSP is legally permissible and practically useful only if it defers to current legal regimes.

The SAP for CMSP offers many near term opportunities for the NOC to issue meaningful guidance and specifics as to what lies ahead for CMSP development. To date the NOC has asked for public comment on very generalized proposals and concepts. This has had the

practical effect of precluding meaningfully detailed input. As a result, there has been little public engagement on the ‘details of the plan’. It is recommended that (a) ocean use representatives participate in the planned National Workshop on CMSP and (b) that the NOC submit for public comment its draft CMSP guidance document containing both objectives and performance measures before finalizing and distributing them.

The current NOC guidance is unacceptably vague as to how CMSP will work. For example, at page 48 it states: “*CMS Plans and the standards and methods used to evaluate alternatives, tradeoffs, cumulative effects, and sustainable uses in the planning process would be based on clearly stated objectives*”. It is not clear from this statement what the ‘clearly stated objectives’ are. Further, there is little to no guidance to date on the: ‘standards and methods’; the criteria for decisions on alternatives, tradeoffs, cumulative effects; or what does and does not constitute a sustainable use. A much more explicit technical basis is required for establishment of such standards and it is not clear when, where and how these important guiding principles and requirements will be developed. The SAP for CMSP must address these issues.

In addition, the CMSP provisions are confusing because, on the one-hand, there is extensive discussion of user conflicts as a rationale for the initiative and, on the other hand, the Policy sets forth multiple use as the second guiding principle (at page 48). The SAP should explicitly state that multiple use is the expected outcome unless information to the contrary is compelling.

Finally, the NOC should reconsider its existing policy and require that Regional Planning Bodies establish a specific Ocean User Advisory Committee to provide input. It will not be sufficient to establish generalized Scientific Advisory Boards or Regional Citizens Advisory Committees because the history of such mechanisms has not ensured the input of ocean users, themselves.

2. Obstacles

As discussed above, one of the advantages of a properly-developed CMSP program is the capacity to recognize the potential for co-use or multiple-use of various areas. While such use has been ongoing in numerous areas, API is concerned that the NOC’s approach to CMSP seems to be focused on promoting single or exclusionary uses of coastal and marine areas. Of concern is also the potential for existing uses to be “rezoned” out of use or to impose new limitations on already-authorized activities. Any application of CMSP should take into account existing uses and infrastructure, such as docks, industry, coastal homes, and municipal and industrial coastline activities. It is impossible to start the CMSP process with a blank slate, and any attempts to do so at the expense of existing industrial and commercial users risks challenges based on a takings claim or a breach of contract.

A major obstacle to developing and implementing a CMSP SAP will be budget constraints. The current Policy guidance indicates that by signing onto a CMS Plan, federal, state and tribal

entities are agreeing to funding requirements, including *discretionary funding* commitments. Calling for such a commitment is not realistic, in the current budget climate, and may not be legally authorized because future funding commitments cannot be made by federal agencies but only by congressional budgeting/appropriations.

3. Metrics

In applying CMSP as a priority objective, metrics to be used should include: identification of areas approved for different uses; identification of areas approved for multiple uses; and areas to be set aside as “protected” areas. In addition, stakeholders should be involved in the creation of the factors to be considered in identifying these areas, and existing uses must be given priority within their current areas.

C. Objective 3 – *Knowledge and Education*

Objective 3 calls upon the NOC to “[i]ncrease knowledge to continually inform and improve management and policy decisions and the capacity to respond to change and challenges,” as well as to “[b]etter educate the public through formal and informal programs.” API strongly supports this objective and believes it should receive priority consideration by the NOC. As a trade organization representing the diverse interests of over 470 member companies, API is well aware that the best decisions ultimately come out of informed dialogue and increased understanding. To that end, API organizes seminars, workshops, conferences, and symposia on public policy issues, provides training materials to help people in the oil and natural gas business meet regulatory requirements and industry standards, and helps promote scientific literacy and critical thinking in primary school education.

1. Opportunities

Incorporating the goals of increasing knowledge and public education as a priority objective provides many benefits, two of which we mention here. First, this priority objective would facilitate the presentation of a balanced perspective to both the public and decision-makers of all of the benefits that are provided by the efficient use and simultaneous protection of our oceans and Great Lakes. Second, this priority objective recognizes and facilitates the importance of acquiring and using good science and data in decision-making. One of the greatest challenges to current ocean management and conservation efforts is a lack of comprehensive data and information both because necessary information is simply not available and to the extent it does exist, has not been made readily available and usable for decision-making purposes. While numerous statutes, including the OCSLA and the FCMA, contain requirements for the collection of data, no effective comprehensive collection-point currently exists. Several attempts have been started at the creation of such a data warehouse, including NOAA’s Multipurpose Marine Cadastre, and API strongly supports the unified adoption and promotion of such a tool.

Implementation of management actions derived from CMSP should not proceed in the absence of, and easy access to, the necessary database.

The NOC should engage the oil and natural gas industry marine scientific, operational, and data information experts, recognizing that the oil and natural gas industry is a key user and steward of the oceans and can contribute significantly to the development and implementation of sustainable ocean use plans. As a key stakeholder and marine science and technology information resource, the oil and natural gas industry should be involved in all stages of National Ocean Policy planning efforts. This includes, but is not limited to, the following:

a. Near-term

- Hold key stakeholder workshops, focus groups, public comment periods, etc. to develop SAPs for nine priority objectives;
- Hold local, regional, and national stakeholder meetings to develop framework for coastal and marine spatial planning.

b. Mid-term

- Organize consultative, knowledge-sharing meetings between the oil and natural gas industry, government, and other appropriate stakeholders to discuss joint science and technology needs, capabilities, and opportunities.

c. Long-term

- Establish new, independent mechanisms for regular knowledge-sharing on topics of mutual interest to the oil and natural gas industry, government, and the public in the marine environment, such as the following:
 - Oil spill response technologies and processes,
 - Marine sound (R&D, mitigation technologies and processes),
 - Ecosystem services (evaluation and balancing of marine user needs), and
 - Development of a CMSP framework to balance economic activity, user conflict, and conservation needs.

2. Obstacles

The greatest limitation to implementing this priority objective is adequate funding. Without the necessary resources, the growing trend has been to rely on models or theories in lieu of field data to reach “informed” decisions.

3. Metrics

In applying knowledge and education as a priority objective, metrics to be used should include: research into existing relevant databases and knowledge warehouses so that existing information can be compiled in a single place and in an orderly manner; and the percentage of areas for

which sufficient field studies have been done. Priority areas where additional field studies are required should be established.

D. Objective 4 – *Government and Stakeholder Coordination*

Objective 4 calls for increased coordination and support among and between Federal, State, Tribal, local, and regional governments and stakeholders. API strongly supports this objective and encourages the NOC to examine the mechanisms requiring and encouraging such coordination embedded in the OCSLA, which already exists for offshore oil and gas activities as discussed in Section I of these comments.

The oil and gas industry, as the most heavily regulated users of the coastal waters and ocean, is very familiar with these measures. Indeed, extensive coordination already occurs under OCSLA programs and the mechanisms for doing so could be used as a model for new NOC initiatives in this regard. API encourages the NOC to seek the input of the oil and gas industry and other heavily regulated users, such as the fishing industry, in order to both obtain a working model of how such coordination can occur, as well as to seek the advice and perspectives of those with personal knowledge of how those mechanisms work as applied.

1. Opportunities

An important benefit of government and stakeholder coordination is that it brings all parties to the table and begins a conversation such that science and data, rather than agency priorities or political will, would control. This especially benefits existing users of ocean and coastal resources who face heightened scrutiny from some agencies that could be alleviated by bringing other agencies more familiar with the true impacts of their activities to the table.

The NOC should collaboratively collect baseline data and undertake a joint effort to understand the information of the coastal, ocean and Great Lakes, including incorporation of traditional use data of the tribal and local stakeholders (cultural significance, ecosystem services). Following a collaborative approach to data collection will serve to create ownership and legitimacy of the data among all interested parties and reduce the resource-use conflicts between interested parties.

2. Obstacles

Historically, “better coordination” translates into more bureaucracy. Better coordination should not translate into more delay or opportunity to block or impede agency action. If this problem is not avoided, there will be negative impacts on job creation and investment in OCS areas, resulting in reduced royalties, fees, and tax-based revenues will have negative effects on federal and state budgets. Additionally, increased bureaucracy will result in increased costs brought

about by staffing increases to ensure the increased requirements for coordinated management. It therefore should be the goal to improve communication and coordination without instituting new obstacles to agency action.

3. Metrics

In applying government and stakeholder coordination as a priority objective, metrics to be used should include: an assessment of current agency staffing levels, the need to increase those levels, and the associated costs, and an assessment of changes in permit turn-around times that result from coordinating agency reviews.

E. Objective 5 – *Climate Change and Ocean Acidification*

Objective 5 calls for the strengthened resiliency and adaptability of coastal communities and marine and Great Lakes environments in the face of climate change and ocean acidification. The underlying nature of the challenge for Objective 5 regarding any ocean acidification is reflected in API's May 14, 2010 comments to EPA on "Clean Water Act Section 303(d): Notice for Call for Public Comment on 303(d) Program and Ocean Acidification," which included the following:

[t]he unrestricted hydrodynamic connection between the open ocean waters and ocean waters within a state's jurisdictional authority means that only changes in acidity that affect large areas of the open ocean will have any effect on pH in the state's jurisdictional waters.

Additionally the acid-base chemistry of coastal waters is much more complex than that of open ocean surface and deep waters. The natural variability of pH, especially within the euphotic zone, makes it hard to establish natural background and measure impacts, if any, from ocean acidification due to elevated atmospheric levels of carbon dioxide.

According to EPA, "[s]ome degree of future climate change will occur regardless of future greenhouse gas emissions. Adapting to or coping with climate change will therefore become necessary in certain regions and for certain socioeconomic and environmental systems." (www.epa.gov/climatechange/effects/adaptation.html). A key challenge to the NOC, however, will be to identify the most cost-effective and practicable mechanisms under existing laws and regulations to strengthen the resiliency and adaptability of coastal communities and related marine environments.

To date, EPA has resisted a targeted regulatory approach to address ocean acidification. In April 2009, EPA issued a Notice of Data Availability requesting public comment on whether marine water quality criteria need to be revised to address ocean acidification. (74 Fed. Reg. 17484,

April 15, 2009). Based on public comment received in response to this notice, EPA has determined that currently available data on the effects of pH on marine life do not indicate the need to revise criteria at this time. In November 2010, in response to a litigation settlement, EPA issued a guidance memorandum (“Integrated Reporting and Listing Decisions Related to Ocean Acidification,” Denise Keehner to Water Division Directors, November 15, 2010) that states that data – both local and global – concerning ocean acidification are currently limited, and hence the assessment and listing of ocean waters as impaired for pH is not an elevated regulatory priority at the current time. API concurs with the agency that data on ocean acidification and its effects on marine life are currently limited, and that enhanced monitoring efforts are warranted rather than regulatory measures based on insufficient site-specific data.

1. Opportunities

The greatest benefit of identifying climate change and ocean acidification as a priority objective would be to place a necessary emphasis on good science. API concurs with the National Research Council (*Ocean Acidification: A National Strategy to Meet the Challenges of a Changing Ocean* (hereafter “NRC Report”), National Research Council Committee on the Development of an Integrated Science Strategy for Ocean Acidification Monitoring, Research, and Impacts Assessment, National Academies Press, 2010) in its call for a long-term comprehensive ocean acidification monitoring network. According to the NRC Report:

[t]he National Program should support a chemical monitoring program that includes measurements of temperature, salinity, oxygen, nutrients critical to primary production, and at least two of the following four carbon parameters: dissolved inorganic carbon, pCO₂, total alkalinity, and pH. To account for variability in these values with depth, measurements should be made not just in the surface layer, but with consideration for different depth zones of interest, such as the deep sea, the oxygen minimum zone, or in coastal areas that experience periodic or seasonal hypoxia . . . To incorporate findings from future research, the National Program should support an adaptive monitoring program to identify biological response variables specific to ocean acidification. In the meantime, measurements should be supported as part of a program for assessing the effects of acidification. These measurements will also have value in assessing the effects of others long-term environmental stressors.

This presents an opportunity to move away from wildly divergent and speculative models toward the apolitical collection and interpretation of actual field data as it relates to climate change and ocean acidification.

2. Obstacles

The opportunity for the collection and use of good science, however, is also a challenge. While a true understanding of the causes and actual impacts of climate change and ocean acidification clearly require the use of good science, there is a lack of long-term, quality data. Specifically, there is no long-term, quality data tracking trends in pH and other chemical indicators, as required to draw informed conclusions about ocean acidification. Decision-making must proceed on the basis of the best available science, and addressing climate change and ocean acidification issues needs to be taken into account with recognition that sufficient data do not exist and that agency action should not be withheld or conditioned based on speculation and unsupported predictions.

As stated in the above referenced NRC report, the existing observing networks are inadequate for the task of monitoring ocean acidification and its effects. However, these networks can be used as the backbone of a broader monitoring network.” (NRC 2010 report, page 6).

Additionally, the subject of climate change is emotionally and politically charged. There is a constant concern that rhetoric and preconceived notions perpetuated by unsupported talking points will overpower the results of true scientific study. The NOC must implement safeguards to the scientific process to ensure that this does not happen.

3. Metrics

In applying climate change and ocean acidification as a priority objective, metrics to be used should include the identification of existing quality-assured data and databases, and the ages of those databases to ensure that conclusions are based on demonstrated trends. EPA should not base regulatory decisions on incomplete, insufficient, or non-site-specific data and modeling results. As API stated in its comments on EPA’s listing guidance memorandum (“Re: Integrated Reporting and Listing Decisions Related to Ocean Acidification – November 15, 2010 Memorandum,” Roger Claff to Denise Keehner, February 16, 2011):

API concurs with EPA’s Memorandum conclusion that data and information concerning ocean acidification parameters and impacts are lacking at the present time . . . Data quality assurance and representativeness criteria must be followed in all state and EPA listing decisions, and only representative and properly quality-assured data and analyses should be used in listing decisions...The Attachment to EPA’s Memorandum could be construed as recommending marine waters be listed as impaired for pH based on limited data, non-site-specific data, and/or overly broad analyses and models. The Attachment does not sufficiently emphasize the importance of long-term, representative sampling of pH, chemical constituents, and biological communities that the NRC report has identified as a minimum requirement for managing ocean acidification impacts . . . In the Attachment EPA supports the use of predictive modeling and other non-site

specific data such as remote sensing data, land use analysis, and knowledge about pollutant sources and loadings to make assessment decisions. This recommendation could encourage states to make inappropriate listing decisions on the most tenuous and speculative of bases.

Ocean pH changes over time only provide a gross indication of the progression and impacts of ocean acidification. For example, it is not pH, *per se*, that is a problem for calcifying organisms, but rather the saturation state of seawater with respect to carbonate minerals that control calcification rates. Biological responses to affected organisms are better metrics. Standardized and appropriate parameters for evaluating the biological effects of ocean acidification are not currently available. The NOC should encourage their development.

F. Objective 6 – *Ecosystem and Restoration Strategy*

Objective 6 calls for the establishment and implementation of an integrated ecosystem and restoration strategy that “is science-based and aligns conservation and restoration goals” at all levels of government.

1. Opportunities

The use of an integrated ecosystem and restoration strategy presents an opportunity to both conserve and restore the coastal and marine ecosystem and maintain multiple uses. To help achieve this objective, the NOC should characterize users and uses of current functioning ecosystems in an effort to identify where use demand exceeds supply and where any lost or degraded ecosystems that could potentially be restored to alleviate pressures from competing ocean uses may exist.

Following that effort, NOC should develop a large-scale view of conservation and restoration priorities based on the resulting determinations and the need for preservation of critical habitats and species. This large-scale view would serve as a framework for developing aligned priorities at regional and local levels.

Over the long term, the NOC could focus efforts to create conservation and restoration programs framed around priorities identified previously, with participation of users of these same ecosystems and/or entities dependent on the functions of those ecosystems.

2. Obstacles

Establishing a science-based integrated ecosystem and restoration strategy requires the availability of quality field data from which to draw scientific conclusions. Due to funding

limitations, there has been a growing tendency to use models or theories in lieu of actual field data that can be applied to specific questions. The tendency to do so dilutes both the quality and the effectiveness of this strategy, while at the same time jeopardizing potential opportunities for industry users to become involved in ecosystem restoration in a manner related to their resource use.

In addition, if “inland” activities are going to be considered when setting the priorities for the restoration of the oceans and Great Lakes, the NOC must ensure that there is a strong connection between land-based activities and offshore impacts, and that measures intended to address the inland contributors are authorized by current laws or regulations and are beneficial and cost effective.

3. Metrics

In applying the establishment and implementation of an integrated ecosystem and restoration strategy as a priority objective, metrics to be used should include: identification of existing data and databases; an assessment of the percentage of areas addressed by field data; and the creation of a priority list for areas not currently addressed by field data.

G. Objective 7 – *Land Based Practices*

Objective 7 calls for the promotion and implementation of sustainable land-based practices as a necessary measure for the enhancement of water quality in the ocean, along the coasts, and in the Great Lakes. We acknowledge that land use practices need to be considered in any ocean planning framework. Nonpoint source pollution is a threat to any watershed. The Gulf of Mexico hypoxia zone and the Chesapeake Bay are examples of coastal water bodies that are impacted by upstream pollution inputs. The NOC must recognize the efforts of existing federal and state water quality programs to address land use impacts on water quality. Every state may be influenced by the national ocean policy through this priority objective. As such, we urge the NOC to solicit stakeholder input from the inland states, most notably state with high agricultural production, an increasingly important resource in the production of biofuels.

1. Opportunities

The explicit consideration of land-based practices as a priority objective ensures good science is used to demonstrate strong linkages to inland activities and ocean ecosystem health.

There are many water bodies that are subject to regulatory requirements under both the CWA and other and programs run by federal and state agencies. For example, some waters have sediment toxicity issues, so are listed for cleanup under Superfund or RCRA. At the same time, the sediment issues require development of TMDLs under the CWA, which may conflict with

the Superfund or RCRA remediation requirements. The federal agencies have not reconciled those conflicts. The NOC should develop a policy that encourages addressing how the differing federal programs will work together to ensure that acceptable environmental results are attained in the most efficient and effective way possible and resolve conflicts.

2. Obstacles

This priority objective should not be used as a carte blanche to regulate inland activities based on perceived impacts to ocean and coastal ecosystems. If “inland” activities are going to be considered when setting the priorities for the restoration of the oceans and Great Lakes, the NOC must ensure that there is a strong connection between land-based activities and offshore impacts. In addition, a clear definition should be provided for what inland activities are included.

EPA estimates that there over 40,000 total maximum daily loads yet to be implemented for impaired waters in the US. The overwhelming majority of these must be conducted by the states. Mandates from the NOC will put additional burden on the states, most of which are under severe budget pressures.

The national ocean policy should not be used as a vehicle to reduce state authority under the CWA. Recently, EPA issued federal water quality standards for nutrients in the State of Florida. This EPA action represents federal action in an area where States have primary responsibility. The new standards will impose enormous compliance costs without adequate opportunities for regulated sources to obtain appropriate authorization, and the National Ocean Policy should not serve as the basis for federal pre-emption or interference with state authority.

3. Metrics

In applying land-based practices as a priority objective, metrics to be used should include an assessment in changes in the time required to issue water quality permits. Extensions of time should be viewed as a negative impact of this priority objective.

EPA currently follows a policy of “independent applicability” in assessing the health of waterbodies for the permitting and TMDL programs. Under this policy, a water is considered “impaired” if the pollutant levels exceed any individual numeric water quality standard, even if ample biological information indicates that the fish and other aquatic life are healthy. The NOC should use, and encourage EPA to apply a “weight of evidence” approach under which all relevant information can be considered in determining the health of a waterbody and the downstream coastal ecosystem.

H. Objective 8 – *Changes in Arctic Conditions*

Objective 8 calls for increased environmental stewardship in the Arctic Ocean and adjacent coastal areas in light of environmental, including climate-induced, changes.

As specifically related to climate change, we reference API's comments in section E, above, for priority objective 5.

We commend the NOC for taking on the charged subject of environmental stewardship in the Arctic Ocean, and encourage a thoughtful, science-based approach that also considers the needs, both cultural and economic, of Arctic communities.

Arctic policy recommendations should recognize existing statutory mandates for government departments and agencies with an Arctic or cold-weather regulatory, management, operational, or research portfolio, and should work within that existing statutory and regulatory framework. Similarly, a priority for the development of any new Arctic policy should be the assurance of adequate funding for agencies charged with the responsibility of managing the Arctic environment, its resources, and activities.

Instead of *a priori* assumptions that "increased human activity in the area is bringing additional stressors to the Arctic environment," any analysis of the Arctic environment should proceed from an objectively scientific and risk-based inquiry based on currently available data that: considers that this environment, like all environments, is dynamic; avoids a precautionary approach and examines and attempts to identify specific causal factors influencing or having the potential to influence change; informs this analysis with insights derived from traditional knowledge; and evaluates the ability of the environment to adapt to that change, taking into account a pre-history of adaptation.

Arctic policy should avoid subjecting management of the region to new layers of federal bureaucracy, or additional laws and regulations. Similarly, the creation of new advisory groups with unclear mandates will likely have the affect of inter-agency disputes over interpretation and jurisdiction. Before embarking on a remake of governance in the region, a thorough assessment should be conducted with the various domestic, intra-region, and international entities with oversight over Arctic marine and coastal resources. This coordination will facilitate an understanding of what works well, and what may require improvement in the current system. For U.S. purposes, any such assessment should include discussions with the State of Alaska and the North Slope Borough and its communities as potential partners in the development of policy and decision-making in the region.

Arctic policy should mandate that agencies with Arctic responsibilities work cooperatively with each other to achieve a balanced approach to stewardship of Arctic resources. This stewardship must include provisions for the environmentally-responsible development of energy or mineral

resources in the region that allows reasonable and cost-effective access to these resources on a multiple-use basis.

Arctic policy should recognize that in addition to the obvious and important living resources, the region also contains significant mineral resources that support many industries that are crucial to maintaining a healthy economy for the region, the nation, and the world. Among the most important of these is the oil and natural gas abundance in the region that has supplied this nation with as much as 25 percent of its domestic oil production, and that holds the potential to equal or to exceed that percentage again in the future.

Properly regulated and managed, development of this strategically important energy resource can take place, and the vast majority of the U.S. Arctic region can remain available to the American people for multiple uses – subsistence, recreational and commercial. Given the worldwide attention being directed to the potential development of these resources, objective inquiry should consider the likelihood of such development occurring somewhere in the Arctic region, and the necessity and importance of developing effective approaches to stewardship of the U.S. portion of the Arctic region that proceed from acknowledgement of this likelihood.

In development of specific recommendations going forward, policy makers should recognize the importance of the energy resources in the region to our nation's energy security and economy, and the valuable role of our industry as a stakeholder supporting and undertaking scientific and applied engineering research to inform balanced decisions to benefit conservation, management and human uses in the Arctic.

1. Opportunities

The consideration of changing Arctic conditions as a priority objective provides an opportunity to use good science and data to increase the knowledge base. Good decision-making relies on a strong and comprehensive knowledge base, and should be the product of scientific study, rather than rhetoric and emotion. Decision-making should proceed on the basis of the best available science, and the NOC should establish programs that provide the basis for collaborative research and data-gathering.

2. Obstacles

The Arctic is a subject that is emotional on many levels for various stakeholders. It is imperative that conclusions and decisions be based on sound science, rather than on that emotion. In addition, Arctic impacts can be attributed to global activities. The NOC must ensure that unilateral action does not disadvantage the United States.

3. Metrics

Because improved understanding of changing conditions in the Arctic will benefit from achieving an optimum balance between information derived from scientific observation and information derived from traditional knowledge, it follows that government and stakeholder coordination and coordination between different lines of inquiry and fact finding are priorities. Stakeholders should be involved in the determination of the factors to be considered in identifying areas to be considered for multiple uses; as well as areas to be set aside as “protected” areas, and existing uses must be given priority within their current areas. In this regard, metrics should include an assessment of current agency staging levels and the need to increase those levels and associated costs, as well as the methodology for collecting and archiving the knowledge and experience of traditional Arctic communities.

Similarly, because information on Arctic ecosystems will be obtained from diverse sources and conceivably from different sets of records, metrics should include methods to establish the relationship between these data sets, in order that information can be compiled in a coherent and understandable manner. Strong consideration should be given to the experience of other Arctic nations both in terms of collection and archiving of scientific data, and in examining and reconciling the observations of their indigenous peoples and communities with the conventionally scientific data set.

In resolving questions about the quality and applicability of information so compiled, metrics to be used should include the identification of existing quality-assured data and databases, and the ages of those databases to ensure that conclusions are based on demonstrated trends. Use of incomplete, insufficient, or non-site-specific data and modeling results as a basis of regulatory decisions in the Arctic should be avoided. The NOC and other government agencies that share an Arctic portfolio should apply a “weight of evidence” approach under which all relevant information is considered in determining the health and the observable trends of the Arctic ecosystems.

I. Objective 9 – *Observations, Mapping and Infrastructure*

Objective 9 calls for increased mapping, observations, and infrastructure development. Due to the provisions of the OCSLA that require the supply of data and information as part of permit compliance, API's member companies are on the cutting edge of this requirement. Our offshore operations should be used as a platform of opportunity, and we support efforts to develop systems to better utilize the information currently being supplied by the oil and gas industry as well as other user groups.

As the NOC develops this objective, however, API requests that care and attention be paid to agency obligations to protect proprietary information.

1. Opportunities

The use of mapping, observations, and infrastructure development provide an excellent opportunity to use good science and data in increasing our knowledge base as related to coastal and marine ecosystems and resources.

In the near term, the NOC should prepare an inventory of the present day observing systems, sensors, and data collection platforms from the public sector (e.g., NOAA, academia), the private sector (e.g., the oil & gas industry, the commercial fishing industry, the shipping industry/ports, etc.) and potentially the military. At a minimum, this effort should catalog the following:

- Monitoring objectives/use of data,
- Locations, depths, monitored parameters (e.g., temperature, water chemistry, acoustic regime, currents, biology [plankton through fish stocks through marine mammals], etc.), and
- Human use of the offshore/coastal/Great Lakes environment (e.g., commercial shipping, commercial fishing, oil & gas exploration and production, support of subsistence lifestyles, recreation, etc.).

In addition, the NOC should determine the level of availability of existing databases in the public domain and identify barriers to widespread availability including data management and mapping deficiencies. All data, scenario and models must comply with existing and statutorily required information quality requirements.

Going forward, NOC should identify a lead federal agency to coordinate ongoing observation efforts. The coordination initiative should also involve key stakeholders. The effort would define data needs and uses of the key players/stakeholders with a goal of developing an ocean, coastal, and Great Lakes observations, mapping, and infrastructure strategy that includes the following:

- Clear mission statement/objectives/drivers, including data dissemination and use expectations,
- Defined nature of the monitoring network (i.e., locations, depths, parameters),
- Defined roles and responsibilities for participants (public, private, military sectors),
- Defined data accessibility and mapping requirements, and
- Identification of budget requirements and means to secure required funds.

Long-term goals would be to implement the strategy and monitor its effectiveness with a means to make needed modifications to enhance the effort.

2. Obstacles

Due to funding limitations, there has been a growing tendency to use models or theories in lieu of field data. This trend dilutes both the quality and the effectiveness of this strategy, while at the same time jeopardizing potential opportunities for informed decision-making.

3. Metrics

In applying increased mapping, observations, and infrastructure development as a priority objective, metrics to be used should include: completion of inventory of existing relevant databases and knowledge warehouses so that existing information can be compiled in a single place and in an orderly manner; and the percentage of areas for which sufficient field studies have been done. Priority areas where additional field studies are required should be established.

CONCLUSION

The NOC objectives for implementing CMSP and establishing a SAP program can benefit those areas of marine resource use and conservation that are not fully developed and that lack a comprehensive regulatory framework for decision-making. Federal actions for oil and gas activities on the OCS do not fall into this category. To the contrary, the existing statutory, regulatory and case law interpretations of the OCSLA establish a comprehensive and entirely adequate mechanism for applying all of the stated objectives in the SAP Notice. Adding more requirements on review steps, or creating an ancillary decision-making procedure that would interfere with the OCSLA program would be counterproductive, and if imposed on a mandatory basis, beyond the authority of the NOC.

CMSP and the SAPs can be of value to OCSLA decision-making and implementation as a source of information and a tool to direct stakeholder considerations into the existing administrative framework under the OCSLA. Such a program is not necessary for activities already subject to the OCSLA and, if established, it should be advisory in nature for the offshore oil and gas industry in a manner that does not interfere with existing schedules and obligations. API would be pleased to make additional recommendations to the NOC on how to achieve these goals.

Very truly yours,



Andy Radford

North Pacific Fishery Management Council

Eric A. Olson, Chairman
Chris Oliver, Executive Director



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April 29, 2011

National Ocean Council
722 Jackson Place, N.W.
Washington D.C. 20503

RE: Comments on Notice of Intent to prepare strategic action plans for the nine priority objectives of the Interagency Ocean Policy Task Force (Federal Register notice Vol. 76 No. 15 dated Monday, January 24, 2011)

To whom it may concern:

On behalf of the North Pacific Fishery Management Council, I am submitting the following comments relative to development of strategic action plans for the nine priority objectives. The Federal Register notice soliciting these comments generally describes the nine objectives, and offers the opportunity to provide input in a very general context, given the early stage of development (recognizing that the Coastal and Marine Spatial Planning (CMSP) objective is at a more advanced stage relative to the other eight objectives). I first offer some general, overarching comments relative to the nine objectives and relative to the overall initiative stemming from Executive Order 13547, and follow with additional comments on a subset of the nine objectives.

Development of strategic action plans for most of the nine objectives will necessarily rely on a fundamental knowledge of 'what is happening now'; to that end, and given the obvious budget limitations within which we currently operate, compilation of this foundational information, including maintenance of existing data collection processes, cannot take a back seat to funding and staffing new bureaucratic or regulatory processes. The former must be maintained, or enhanced, in order to inform the latter. An example of this fundamental tradeoff rests in the annual fishery stock assessments which are critical to informing existing management agencies. The ability to effectively implement ecosystem-based management, CMSP, or many of the other seven objectives would be severely compromised if fiscal and human resources are diverted from existing scientific data collection processes.

In developing these strategic action plans, we also recommend that each of these plans take into account the considerable overlap in the nine objectives, and avoid unnecessary duplications or redundancies which could occur. For example, objective #1 (adoption of ecosystem-based management) appears to overlap considerably with objective #6 (regional ecosystem protection and restoration), both of which in turn will by definition overlap to a significant degree with objective #2 (CMSP). All of these of course overlap with objective #5 (resiliency and adaptation to climate change and ocean acidification). We suggest that there may be considerable potential to simplify the nine objectives, by combining key elements of each within fewer strategic action plans.

Another consideration we believe to be critical is that the strategic action plans should be conceptual in nature, focusing primarily on identification of gaps and needs in science, and on smaller-scale, incremental efforts which build on existing activities and management processes, rather than attempt to

fully develop long-term efforts or new regulatory processes. Inclusion of specific requirements and/or regulations within these strategic action plans would be inappropriate. We believe that further input from stakeholders and existing management authorities will be necessary to develop the longer-term implementation details, including necessary requirements or regulations, based on examination of the initial strategic action plans.

Objective #1 – Ecosystem-based management: Defining ecosystem-based management can be a difficult challenge. However, the North Pacific Fishery Management Council has adopted what it believes to be a comprehensive, ecosystem-based management approach, taking into account not only fisheries resources which are directly regulated, but also taking into account habitat considerations; marine mammal, seabird, and other protected species foraging needs; bycatch considerations; and, involvement and sustainability of fishery dependent communities. In addition to its Fishery Management Plan for the Bering Sea and Aleutian Islands, the Council has also developed a Fishery Ecosystem Plan for the Aleutian Islands, which serves as an overarching policy and planning document for this historically and ecologically unique ecosystem. We strongly support the objective of ecosystem-based management and believe that the experience we have developed in North Pacific fisheries could be a very useful reference for development of this strategic action plan.

Objective #2 – Coastal and Marine Spatial Planning: The Regional Fishery Management Councils have decades of experience in the arena of CMSP, we have commented extensively on this topic (please refer to January 2010 comments on the draft Interim Framework), and I will reiterate some of the central concerns shared by all eight Councils across the U.S. We believe that while this objective overlaps significantly with ecosystem-based management, and implies some potentially positive developments, it raises a number of serious issues and concerns related primarily to management authorities and availability of fiscal and human resources. Most importantly I believe, is that any strategic action plan explicitly clarify the relationship of CMSP plans to existing regulatory processes and authorities, so that it does not undermine or impair successful processes already in place. We believe that the existing Framework for CMSP contains conflicting language in this regard, and does not clearly stipulate that this process would not create new regulatory authorities.

Secondly, we remain very concerned that the existing Framework is overly ambitious in its conceptual design and specific elements, envisioning regional planning bodies which would compile, investigate, assess, forecast, and analyze an enormous body of scientific information comprising virtually every known body of scientific information available (and some that is unavailable). Given the obvious budgetary limitations, we are very concerned that this objective will, by necessity, divert fiscal, scientific, and analytical resources from existing processes which are dependent on those resources. Given that NOAA Fisheries will be an obvious source of much of this information, we are wary that this initiative will divert resources which are critical to the fishery management process, as well as other processes. In the North Pacific area, we are already experiencing significant reductions in critical resource surveys under the current federal budget, and can only anticipate further reductions due to the ambitious, unfunded mandates included in the CMSP Framework. Related to this objective, we would like to have some clarification of how the strategic action plan for this objective relates to the existing Framework.

We believe that the Regional Fishery Management Councils have a wealth of experience to bring to the table relative to CMSP, and recommend that the strategic action plans explicitly include the Councils as part of any regional planning body or process. To underscore this experience, let me use the North Pacific example. The North Pacific Council uses marine spatial planning as an essential tool to manage its large-scale commercial groundfish fisheries in Alaska's 1 million square mile EEZ. Areas are used to apportion effort and catch among discrete areas, to spatially separate different fisheries, and to protect sensitive habitat and vulnerable species from potential effects of fishing. The Council has established 251

individual marine conservation areas off the coast of Alaska. In some areas, bottom trawling has been prohibited. In other areas, such as the seamounts, coral garden areas, and Steller sea lion rookery areas, all gear types have been prohibited, and the areas function as no-take marine reserves. The Council also developed a fishery ecosystem plan for the Aleutian Islands area that serves as a policy and planning document for this ecologically and historically unique ecosystem area (noted above relative to objective #1). In 2009, the Council established a fishery management plan for the Arctic region, which prohibits all commercial fishing until sufficient scientific information is available for this area. The Council also has over 3 decades of experience working with International planning groups (RFMOs, etc.) on broader marine spatial planning issues.

The Council has also established the Alaska Marine Ecosystem Forum to advance regional collaboration and enhance information exchange among 11 federal and 4 state agencies with jurisdiction over activities impacting marine waters. This group could be a starting point for development of a regional ocean planning body in Alaska. We believe that any regional planning body in the Alaska/Arctic Region must be developed with the necessary input and presence of the State of Alaska, and must also include explicit representation from the North Pacific Council. The CMSP process as envisioned is a very ambitious and potentially huge undertaking, and in particular among the nine objectives must proceed cautiously and incrementally.

Objective #8 – Changing Conditions in the Arctic: The importance of the waters of the Arctic Oceans, the potential implications of climate change and ice-melt, and the current focus on the Arctic cannot be overstated. A greater understanding of the Arctic system, including the diversity and abundance of fish and other ocean resources, is one of the most critical aspects of this objective. In the meantime however, a foremost component of any strategic action plan would be to simply provide a greater understanding of (1) the various research initiatives underway or planned; (2) the various authorities involved in Arctic research, management, and policy development; and, (3) the nature, timing, and goals of the innumerable workshops, symposiums, conferences, and other meetings related to ‘changing conditions in the Arctic’. Providing such a description as part of the strategic action plan, or at a minimum identifying a specific entity to serve as the nexus for this information, would be an invaluable resource for all constituents and management agencies with interests in the Arctic.

While commercial fisheries are currently not a significant component of Arctic activities (i.e., in the ‘cold’ Arctic region adjacent to Alaska), the potential for fisheries development, and the uncertainty regarding fishery and other living marine resources in this region, necessitate that any strategic action plan place an emphasis on collection of this type of information. As mentioned above, the North Pacific Council, and NOAA Fisheries, have developed and approved a precautionary Fishery Management Plan for the Arctic waters of the U.S. EEZ – this plan prohibits any commercial fishing in all U.S. Arctic waters, pending the availability of scientific information that would indicate the viability of a safe, sustainable fishery in these waters. Any planning for Arctic activities, or the closely related CMSP initiative, is clearly and critically dependent on this type of information.

In summary, we appreciate the opportunity to comment on development of the strategic action plans, and wish to re-emphasize a few key points. The Interagency Ocean Policy Task Force Report, page 30, states *“Recognizing the reality of the limited availability of new resources, each of the Federal agencies engaged in implementation of strategic action plans would re-evaluate how resources should best be allocated in light of their statutory and regulatory mandates”*. This statement underscores one of our primary concerns, and implies that significant re-allocation of resources could be necessary to implement the strategic action plans. We strongly suggest that implementation of any of these strategic action plans only be undertaken if it is possible to do so without detracting from existing mission critical resources.

We believe that some of the objectives are too ambitious (CMSP in particular, based on the current Framework) and that their broad, general objectives are simply unrealistic in the current budget climate, and further are unnecessarily sweeping in their scope given existing, successful processes already in place. We suggest that any strategic plans developed must allow for regional decision-making as a central tenant. A thorough review of existing, regional coordinating entities and processes should be part of any strategic plans, in order to assess their effectiveness and maximize the ability to leverage those processes, rather than create new, untested processes. The focus should be on coordinating and informing existing processes, rather than developing new regulatory and decision-making processes.

Sincerely,



Chris Oliver
Executive Director

CC: Dr. Jane Lubchenco
Mr. Eric Schwaab
Governor Shawn Parnell
Senator Lisa Murkowski
Senator Mark Begich
Congressman Don Young

Southeast Alaska Fishermen's Alliance

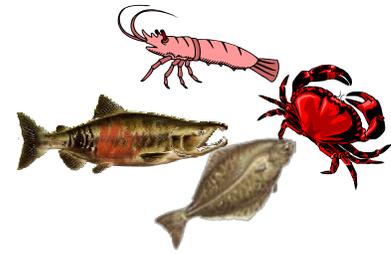
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April 29, 2011

National Ocean Council
722 Jackson Place, NW
Washington, DC 20503

RE: Comments on development of Strategic action plans

Southeast Alaska Fishermen's Alliance (SEAFa) is a non-profit membership based commercial fishing association representing our members involved in salmon, crab, shrimp and longline fisheries in Southeast Alaska, Yakutat and Prince William Sound. Our members are small family oriented businesses with owner operated fishing vessels approximately 30 to 52 feet long. The State of Alaska harvests approximately 60% of the domestic harvest of wild capture fisheries.

We have been following and participating in the public comment periods for the National Ocean Policy and Marine Spatial Planning. We still believe that this planning process has been fatally flawed from the beginning. First the scope of this overall initiative was not appropriate as a Presidential Executive Order, this a top down planning of government officials, duplicating efforts in many instances and adding an additional layer of governmental bureaucracy that the Country cannot afford at this time.

Throughout this process you have tried to contrive the response you want by the inflexible pre-programmed set up for submitting comments. Good ocean planning cannot be separated into neat little boxes, they are interrelated and by trying to make comments in the format you have presented each time you are likely missing the most pertinent and helpful comments. The progression of this also does not make sense - why are you developing the strategic action plans on a national level and not at the regional level

providing the objectives for them to work with as appropriate for the region. The regional planning bodies have not even been developed or members appointed.

The State of Alaska is again in a unique position. We are the only one state region within the framework developed. While this is appropriate based on the amount of coastline, fisheries and relatively healthy habitat still intact, it makes us difficult to fit the one size fits all action plans that are usually developed on a top down planning process. The issue has been raised but we don't believe sufficiently answered that as envisioned if the National Ocean policy and planning is "defined to include landward to the mean high-water line, includes bays and estuaries, and may include additional inland areas as deemed appropriate" would completely subsume the State of Alaska jurisdictional rights.

One aspect that none of the nine objectives or the national ocean policy planning process has specifically addressed to date is protecting the commercial fisheries and their importance to homeland security in providing a safe food source to the country.

Overall the money being spent on this initiative would be better spent on enforcing current laws and regulations, providing the funding to NOAA/NMFS for baseline scientific data of the oceans and fish stock assessments.

Specifically to the nine objectives and the questions raised

Objective 1: Ecosystem-Based Management

First ecosystem-based management is a nice sounding catch phrase but exactly what is meant by this. There is not the scientific data necessary or the knowledge of the interactions between species, water quality and habitat to truly manage on an ecosystem based level, let alone adding in the human elements and broad-based activities this initiative is meant to encompass. An example of ecosystem based management screw up is the Federal Government participated in moving sea otters to Southeast Alaska because of the US testing site at Amchitka for nuclear bombs is now impacting food sources in local rural communities by the rapidly increasing sea otter population, closing or severely restricting commercial fisheries.

- *What near-term, mid-term and long-term actions would most effectively help the Nation achieve this policy objective?*
Near-term objective is to "define ecosystem-based management" specifically what is meant to be addressed and accomplished with this objective. For mid-term & long-term - Baseline studies, fish stock assessments, basic life biology studies of ocean animals where less information is known. Enforcement of current environmental laws both for the ocean and land-based that affects the oceans.
- *What are some of the major obstacles to achieving this objective; are there opportunities this objective can further, including transformative changes in how we address the stewardship of the oceans, coast and Great Lakes?*
Most likely nothing will ever happen or change.
- *What milestones and performance measures would be most useful for measuring this priority objective?*
This is an unenforceable, un-measurable objective as written.

Objective 2: Coastal and Marine Spatial Planning

Marine spatial planning is really ocean planning. Unfortunately ocean planning in Alaska would likely harm commercial fishing in the long run with a top down planning rather than local planning at the regional level based on public process and stakeholder participation. Commercial fishing and subsistence fishing is a privilege to harvest, and other resource users are given a definitive right that erodes commercial fishing privileges such as oil and gas interests, transportation corridors etc.

- *What near-term, mid-term and long-term actions would most effectively help the Nation achieve this policy objective?*
In Alaska, before any planning is started there should be a near-term objective to document the commercial & subsistence fishing industry footprint, necessary anchorages etc to protect long term historical uses and areas of importance. Near-term, mid-term & long-term planning is basic scientific data
- *What are some of the major obstacles to achieving this objective; are there opportunities this objective can further, including transformative changes in how we address the stewardship of the oceans, coast and Great Lakes?*
Lack of knowledge of the individual regions, what you are planning for,

the conflicts etc. and the differences between regions that a one size fits all action plan can't address sufficiently.

- *What milestones and performance measures would be most useful for measuring this priority objective?*

Allow the planning to occur on a regional level without this additional layer of bureaucracy, with the planning bodies already in place such as the regional fishery management councils, coastal zone management plans, regulatory permitting and planning processes both state and federal.

Objective 3: Inform Decisions and Improve Understanding

This is a good objective but should be able to be accomplished within the traditional existing systems of Universities, schools, Seagrant, regional fishery councils, coastal management planning etc.

Objective 4: Coordinate and Support

Why do you think that this more expansive ocean planning process on a top government basis rather than local regional involvement is going to work this time when the Committee on Ocean Policy in 2004 was only moderately successful?

- *What near-term, mid-term and long-term actions would most effectively help the Nation achieve this policy objective?*
STOP adding layers of bureaucracy.

- *What are some of the major obstacles to achieving this objective; are there opportunities this objective can further, including transformative changes in how we address the stewardship of the oceans, coast and Great Lakes?*

Adding additional layers of bureaucracy only makes coordination more difficult and more expensive for a country at a time when we need to be lowering the deficit.

- *What milestones and performance measures would be most useful for measuring this priority objective?*

Stopping the process and focus on spending what funds that are available for scientific assessment of the oceans, Great Lakes and coastal areas.

Objective 5: Resiliency and Adaptation to Climate Change and Ocean Acidification

The oceans have always had their own set of cycles that we don't fully understand or know.

Objective 6: Regional Ecosystem Protection and Restoration

See answers to objective #1. The differences between this objective and objective number 1 are not clearly identifiable other than the word restoration and regional. Hopefully all these objectives are being tailored to a regional perspective which makes these action plans on a national level problematic.

Objective 7: Water Quality and Sustainable Practices on Land

- What near-term, mid-term and long-term actions would most effectively help the Nation achieve this policy objective?
Enforce the current regulations and laws for land and ocean management.

Objective 8: Changing Conditions in the Arctic:

The North Pacific Fishery Management council has already developed a reasonable path to address the Arctic and sustainable uses of the resources in the face of changing conditions.

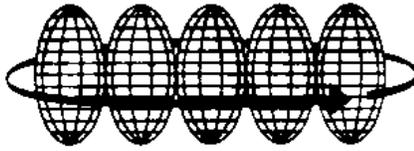
Objective 9: Ocean, Coastal and Great Lakes Observations, Mapping and Infrastructure

In conclusion we reiterate once again that Presidential Executive Order 13547 as a general policy statement for the country is appropriate but to try and make law and regulations from a top down government agency officials planning process is fatally flawed to begin with. This initiative only adds a layer of bureaucracy that we don't need at an expense to the country that is inappropriate in this time of a ballooning deficit.

Sincerely,

Kathy Hansen

Executive Director



TRANSPORTATION INSTITUTE

Pacific Coast Office
2200 Alaskan Way Suite 110
Seattle, WA 98121
phone (206) 443-1738

May 4, 2011

National Ocean Council
722 Jackson Place, N.W.
Washington, DC 20503

Submitted via www.whitehouse.gov/administration/eop/oceans/comment

Re: Development of Strategic Action Plans

To Whom It May Concern:

On behalf of the Transportation Institute (T.I.), I wish to provide comments on the National Ocean Council's priority objectives. The Transportation Institute was established in 1967 as a Washington-based, non-profit organization dedicated to maritime research education and promotion. The Institute companies participate in all phases of the nation's deep sea foreign and domestic shipping trades, and barge and tugboat operations on the Great Lakes and on the 25,000 mile network of America's inland waterways. These operations embrace deep-sea and river passenger vessels, and liquid, dry-bulk, container and special purpose ships. Many are contracted to the U.S. military services. All are of U.S. registry -- crewed by American citizens operating under the world's highest safety standards, and proudly flying the American flag.

The Institute remains concerned that shifting from a resource management model to an ecosystem-based management paradigm will have financial, policy, societal, and legal consequences that have not been adequately addressed by the Ocean Policy Task Force and others advocating for this fundamental change in managing our waterways and oceans. Our economy remains in turmoil and the need for a cautious approach to existing government expenditures, let alone new claims on funding resources, is required to lessen the burden of an ever-growing deficit. This factor seems to be given little forethought in the planning documents and intentions of the Ocean Policy Task Force.

Furthermore, Coastal and Marine Spatial Planning is considered by our marine carriers to be a form of zoning that will threaten a long-established process of careful analysis, including significant input from industry stakeholders, with well-informed regulators to determine Areas-To-Be-Avoided, Mandatory Vessel Traffic Routes, Vessel Traffic Separation Schemes, Lightering Areas, Particularly Sensitive Sea Areas, Pilot Boarding Areas, Safety Zones Around Vessels and Terminals, Anchoring and No Anchoring Grounds or Areas, and Security Zones in Ports and Waterways. This method of collaborative rule-making and risk-avoidance has helped to create an unprecedented record of oil spill reductions in the coastal waters of the United States in the past two decades. While U.S. oil imports and consumption have steadily risen, oil spill incidents and the volume of oil spilled have not followed

Working for a strong maritime capability

suit. In general, the annual number and volume of oil spills have shown declines — in many cases, dramatic declines. Similar achievements can be found in international data (see <http://www.itopf.org/information-services/data-and-statistics/statistics/#no>). According to international oil spill data research, the average number of major spills per year for the previous decade (2000-2009) is just over three, approximately eight times less than for the 1970s. The best practices established through local port-based Harbor Safety Committees, maritime trade organizations, and individual company initiatives are clearly working and could be placed in jeopardy by newly-minted authorities whose vision is far narrower than those who have helped to create this enviable achievement.

By understanding and appreciating the efforts that have led to this solid record of continuous improvement and then assuring such practices and existing regulation are committed to and adhered to would be worthy of a National Ocean Council policy initiative and be a critical element of the NOC's interest in informed decision-making and improving understanding. Unfortunately, appreciation for past initiatives and observant enforcement of such practices and rules are rarely the goal of new policy and regulatory czars and organizations. Our experience is for such platforms to follow a course of new-fangled edicts that gain media and stakeholder attention. Unfortunately, this path tends to achieve marginal and diminishing benefits relative to the less-attention getting aforementioned method.

Coordination and integration among regulatory authorities is a goal the NOC is encouraged and welcomed to pursue. The myriad authorities, agencies, and bodies on the local, regional, state, national, and international level marine carriers must navigate through in the course of their business is quite astounding. Sorting through this maze with goal of rationalizing aspects of it would be of added value. One may wish to include in this goal of coordination and integration attention assuring policymakers ratify the UN Convention on the Law of the Sea.

Identifying sustainable practices on land and recognizing the impact non-point sources of pollution and run-off have on our marine ecosystem should be a priority of the Council. Numerous studies have demonstrated the impact the latter has on the marine environment and the fact that these non-point sources, whether they are raw sewage, farmland drainage, or road and highway run-off, in their totality, are degrading our waters and remain a greater threat than transiting vessels. Nonetheless, the nature of the problem being less attributable to a specific industry or party and the costs to remediate being the responsibility of local property owners and municipalities tends to leave these sources of pollution in the shadows of attention and regulation. If the Council were serious about focusing attention on these matters they would gain much needed credibility from those in maritime who have borne the brunt of environmental policy initiatives and cost of regulation for far too long.

As many of our member carriers serve Alaska and that resource development, particularly with tighter federal budgets, is responsible for a disproportional share of the tax and income base of Alaska, the notion of the NOC focusing its attention on the Arctic is of great concern. This anxiety is further manifested in advocacy organizations that see the NOC as yet another institution to shut down all resource development in Alaska. The economic and energy needs of our Nation must be balanced with the desire to respond to legitimate climate change concerns. The State of Alaska should not be forsaken in this process.

Last, the U.S. –Flag Maritime Industry has sought to revitalize its domestic coastwise operations through the promotion and development of the Marine Highway Initiative (Short Sea Shipping). This program follows the European Union’s Marco Polo green transportation initiative to shift cargo off the highways and onto the more environmentally benign waterborne transportation system. The NOC should pay close attention to consider ways to promote a shift of cargo to vessels as it is in the long-term benefit of the environment to see this modal shift. The emissions and environmental degradation per ton/mile of cargo moved via waterborne transit is significantly less than that of road or rail transport. Well intentioned methods to improve the environment by further regulation and increasing costs on vessel operators will have the perverse impact of eliminating this enviro-friendly initiative in its infancy.

The Institute trusts the National Ocean Council will take heed to our concerns and seek to remedy these issues as it moves forward. We appreciate this opportunity to share our point of view and look forward to constructive engagement with the Council in its deliberations.

Sincerely yours,

Richard Berkowitz
Director, Pacific Coast Operations



April 29, 2011

National Ocean Council
72 Jackson Place, NW
Washington, DC 20503

Subject: Comment Letter for the Development of Strategic Action Plans for the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes

Dear National Ocean Council:

The Port of Long Beach (POLB) appreciates the opportunity to review and comment on the National Ocean Council's (NOC's) Development of Strategic Action Plans for the Nine Priority Objectives (Priority Objectives) for the Stewardship of the Ocean, Our Coasts, and the Great Lakes (National Policy). The Port supports the NOC's intent to develop Strategic Action Plans (SAPs) for the Priority Objectives identified in the National Policy. These Priority Objectives, and the National Goals for Coastal and Marine Spatial Planning (CMSP), are consistent with the mission and vision of the POLB. The POLB will remain engaged throughout the development and implementation of the SAPs.

The POLB works very aggressively to implement strategies that reduce the environmental impacts of port operations. With the adoption of our Green Port Policy in 2005, our Clean Air Action Plan in 2006, and our Water Resources Action Plan in 2009, the POLB has distinguished itself as a leading environmental steward among ports. The POLB expects that the NOC will take the ongoing efforts of the POLB and other ports into consideration when developing the SAPs. The POLB has devoted years on the ground working with local, regulatory, and industry stakeholders to develop our environmental programs. While we strongly support the development of federal and international regulations that are as stringent, or more stringent, than our state and local regulations, the POLB will work to ensure that federal actions do not contradict our existing environmental programs.

The POLB's Water Resources Action Plan has established the Port's role as a leader in water quality management in San Pedro Bay. As the SAPs are developed, the POLB would like to ensure its existing programs are taken into account and, if possible, highlighted and built upon.

Recommended Actions, Obstacles, Opportunities, and Metrics

In the Notice of Intent, the NOC asked for comments addressing the opportunities, obstacles, and metrics of progress relevant to each of the Priority Objectives. For the Priority Objective of Water Quality and Sustainable Practices on Land, the POLB supports a watershed approach to water quality management. The Final Recommendations of the Interagency Ocean Policy Task Force indicate that the SAP for this Priority Objective should address best management practices (BMPs). An obstacle and opportunity to consider for BMPs is that not all landside BMPs for water quality are appropriate in all regions and climates. For example, low impact development BMPs that are suitable in the Pacific Northwest are not suitable for the climate of Southern California.

For the priority objective of Resiliency and Adaptation to Climate Change, the POLB encourages the NOC to address the critical need of adapting the nation's gateway ports, including the POLB, to climate change. Port resiliency to climate change is a critical issue for the goods movement industry, global supply chains, and the national economy. Obstacles to ports preparing for climate change include a lack of scaled-down; spatially relevant information on specific projected climate change impacts, such as sea level rise; a lack of education on climate change adaptation; a lack of technical capacity and tools to begin preparing for climate change; and a lack of funding to develop and implement climate change adaptation plans.

Specific actions that can be taken include making federal funding, technical assistance, tools, and education on climate change adaptation available to ports. Useful performance measures in this area would be the number of ports preparing for climate change. Metrics could include the number of ports with climate change adaptation plans, inundation maps, or other measures of building adaptive capacity. The SAP should encourage ports to incorporate climate change considerations into their policy-making, planning, and activities. Ports would also benefit from regionally specific climate change impact studies with locally relevant spatial and temporal information. The development of Coastal and Marine Spatial Plans (CMS Plans) provide a key opportunity to prepare for climate change in a comprehensive, regional manner. In the instance of sea level rise, for example, the CMSP process could be the forum wherein agencies and stakeholders consider which shorelines must be protected (e.g., ports), and where opportunities exist to implement managed retreat and preserve vital ecosystem services.

For the priority objective of coastal and marine spatial planning (CMSP), the POLB supports CMSP's emphasis on a regional approach to planning. The POLB is a part of the West Coast's regional planning body, the West Coast Governors' Agreement on Ocean Health, through the Sustainable Coastal Communities Action Coordination Team. The POLB expects that ports will be regularly engaged as the regional governing bodies work to develop CMS plans for the regions. One of the National Goals of CMSP is to promote compatibility among uses and to reduce user conflict, and one of the Guiding

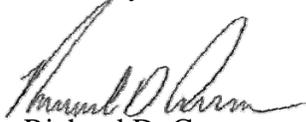
Principles is to implement CMSP in accordance with customary international law, including navigational rights and freedoms. To that end, the POLB will remain engaged throughout the development of CMSP to ensure our shipping lanes remain unaffected and that user conflicts are resolved in a manner consistent with the POLB's interests. A useful performance measure for CMSP process would be the number and diversity of stakeholders engaged throughout the process, to ensure that all user groups identified in the framework have been part of the plan's development.

As previously stated in our comment letter to the Interagency Ocean Policy Task Force on the Interim Framework for Effective Coastal and Marine Spatial Planning, the Port will work continuously to ensure all SAPs are consistent with the Port's existing regulatory and statutory obligations. As a California port, the Port of Long Beach is subject to the California Coastal Act and the California Marine Life Protection Act. Under Section 8 of the California Coastal Act, explicit port and coastal land uses are clearly defined. Specifically, the Coastal Act stipulates that "all port-related developments shall be located, designed and constructed so as to give highest priority to the use of existing land space within harbors for port purposes, including but not limited to, navigational facilities, shipping industries and necessary support and access facilities." The Port encourages the NOC to collaborate with California's ports as it conducts its legal analysis as part of the development of the SAPs, and further encourages the incorporation of existing regulations into the SAPs whenever possible.

The POLB encourages the NOC to proceed with the development of the SAPs using a coordinated and transparent process, soliciting regular stakeholder input. In particular, the POLB asks the NOC continually engage Ports and other maritime stakeholders to ensure the vital economic and security interests of the shipping sector are taken into consideration in the development of the SAPs.

The National Policy and Priority Objectives are consistent with the POLB's environmental goals, as identified in our Green Port Policy and other environmental planning and policy documents. We thank the NOC for its efforts to date and look forward to our continued collaborative efforts to protect our oceans and coasts.

Sincerely,



Richard D. Cameron
Director of Environmental Planning

AF:s



RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

April 29, 2011

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National Ocean Council
722 Jackson Place, N.W.
Washington, DC 20503

Submitted via www.whitehouse.gov/administration/eop/oceans/comment

Re: Development of Strategic Action Plans

To Whom It May Concern:

The Resource Development Council for Alaska (RDC) is writing to express apprehension regarding the development of strategic action plans for the national policy for the stewardship of the ocean, our coast, and the great lakes, and the potential impacts on Alaska.

RDC is an Alaskan non-profit, membership-funded organization founded in 1975. Our membership is comprised of individuals and companies from Alaska's oil and gas, mining, timber, tourism, and fisheries industries, as well as Alaska Native corporations, local communities, organized labor, and industry support firms. RDC's purpose is to link these diverse interests together to encourage a strong, diversified private sector in Alaska and expand the state's economic base through the responsible development of our natural resources.

With more coastline than all other states in our nation combined, Alaska's stake in the emerging ocean policy is unmatched. Subsequently, the impact of any oceans policy will affect Alaska significantly. It is essential that Alaskan stakeholders be involved in the development of the strategic action plans. A large number of industries, not only in Alaska, but across the nation, including transportation, fishing, oil and gas, tourism, and mining, may be impacted in a largely economic way from any new regulations, with no added benefit to the environment.

Moreover, the proposed plans should focus on helping – not harming – American communities. Unfortunately, it appears more harm than good will come of this process. Without enhanced stakeholder involvement, the proposed plans will likely increase litigation on important resource and community projects, causing further burden to projects in rural and remote locations, especially in Alaska.

Please consider the following comments when addressing the nine objectives described by the National Ocean Council.

Objective 1: Ecosystem-Based Management

The science used to develop the foundation for this principal must be the best available science and must include industry-developed science. Much of what is known about the Alaskan Arctic can be attributed to science done in conjunction with natural resource project development and operation, such as through the Minerals Management Service (now BOEMRE), oil industry, and other natural resource developers. Supplemental research will enhance existing knowledge of the Arctic and should be pursued. Alaskan science must be used to develop an ecosystem-based management plan, rather than a one size fits all approach for the nations waters.

Objective 2: Coastal and Marine Spatial Planning (CMSP)

CMSP, or ocean zoning, will have a more substantial impact on Alaska than any other region. CMSP must clarify the role of existing management procedures, such as the North Pacific Fishery Management Council (NPFMC), state specific programs, and others, while addressing valuable science-based practices Alaska already adheres to.

Objective 3: Inform Decisions and Improve Understanding

RDC supports continued research and mapping of oceans and other water bodies, particularly in the Arctic. Consideration should be made to existing studies and procedures to avoid duplication and additional cost to stakeholders. Adding more layers and overriding regulation of successful practices will provide no added benefit to creating a national policy.

Objective 4: Coordinate and Support

Stakeholder involvement has been minimal, at best. RDC urges additional representation in this process from economic stakeholders to include, but not be limited to outer continental shelf and land based oil and gas leaseholders, coastal communities and boroughs, village and Alaska Native leaders, fishing and fish processing, and transportation users. Economic advisory groups should be utilized to identify economic impacts of uses of the oceans, coasts, and river deltas.

Objective 5: Resiliency and Adaption to Climate Change and Ocean Acidification

Alaska – with two-thirds of our nations coastline, over 40% of the surface waters, and over half the nations wetlands – is at the forefront of impacts from changing climate and ocean acidification.

Greenhouse gas emissions/climate change and its potential impacts should not be regulated by ocean zoning. The potential impact to communities and projects if this were to be done could be devastating to Alaska's economy, with minimal or no added benefit to the environment.

Objective 6: Regional Ecosystem Protection and Restoration

Alaska has developed some of the best resource management practices in the world, with some of the highest standards and requirements for projects.

Alaska has the best-managed fishery in the world under the purview of the NPFMC and State management. These fisheries are managed by the best available science, and are closed when catch limits are met, even when the limits are set at numbers well below the scientific recommendations, thus, creating sustainable fisheries.

Further, some of the best response mechanisms are also in place for development projects in and around water bodies. The oil industry has well developed spill contingency plans specific to Alaska's unique Arctic conditions. Additional response plans implemented through the strategic action plans will only add another layer that will

hinder the opportunity for responsible development in Alaska, driving similar projects to be developed in countries with less stringent standards and regulations.

Objective 7: Water Quality and Sustainable Practices on Land

Existing protection measures are in place and working, such as the National Environmental Policy Act (1969), Coastal Zone Management Act (1972), Magnuson-Stevens Fishery Conservation Act (1977), the Clean Water Act (1977), and as part of the Magnuson-Stevens Act, Essential Fish Habitat (1996). We ask you to consider how another bureaucratic layer would benefit the environment.

Objective 8: Changing Conditions in the Arctic

Alaska is at the forefront of changing conditions in the Arctic, and should be afforded the opportunity to address this issue. Stakeholder involvement is principal from this aspect.

Because of the vast natural resource development potential in Arctic waters off the coast of Alaska, RDC is very supportive of increased Coast Guard presence. With this presence must come additional infrastructure. New Coast Guard bases in Alaska will improve safety to remote villages, while also increasing national security.

Proactively, the Arctic fish management plan was developed closing the Arctic to fishing until further research is completed and data is collected. This action should not imply endorsement of a permanent closure of the area, but rather the need for a better understanding of the ecosystem prior to management decisions being made. Moreover, the need for additional research and stakeholder involvement to develop a plan should be recognized by the National Ocean Council.

Objective 9: Ocean, Coastal, and Great Lakes Observations, Mapping, and Infrastructure

Alaska, being a relatively young state, lacks infrastructure, especially in rural and much of the coastal communities.

Other Impacts for Consideration: Alaska's Abundant Natural Resources and People

In addition to the previously listed concerns, please consider the following cultural, economical and societal characteristics of Alaska in developing a final plan that will preserve opportunities and ways of life for Alaskans.

Alaska's People

In 2010, Alaska's population was roughly 710,000 people in a state with more than 365 million acres. With over 3 million lakes, 3,000 rivers and 34,000 miles of coastline, Alaska is a unique part of the United States. Alaska's economy, based on responsible resource development – development done in accordance with local, state and federal environmental protections and laws already in place – must be fully considered before plans are implemented, and projects, cultures and communities are jeopardized.

Fishing

Alaska is one of the most bountiful fishing regions in the world, producing a wide variety of seafood and over half the U.S.'s annual harvest. All five species of Pacific salmon, four species of crab, many kinds of groundfish, shrimp, herring, and sablefish are all harvested from Alaska. The fisheries of Alaska continue to be recognized as some of the best-managed fisheries in the world, providing thousands of jobs and a vital, sustainable economic engine for Alaska communities and the state.

Seafood harvesting and processing jobs provide more than 50 percent of the private sector employment in coastal Alaska. In recent years, the fishing industry generated nearly 54,000 jobs.

Alaskans must continue to have access to this valuable and traditional resource without further bureaucratic levels and regulations, which would provide no added benefit to the resource.

Mining

Much of the existing infrastructure in Alaska, such as roads, docks, and airports was originally constructed to serve the mining industry. Alaska's active mineral extractions include silver, zinc, gold, and lead, as well as coal production. Additionally, Alaska could potentially produce copper and molybdenum, increasing overall statewide mineral extraction. In 2007, Americans needed 19 minerals that were 100% imported, while an additional 50% of 25 other minerals were also imported. Of the 30 minerals the U.S. imports from abroad, 22 of them are found in Alaska.

Mining activity provides for 3,500 direct, well-paying jobs, and over \$350 million in direct and indirect payroll. Mining contributed \$71.9 million to local and state government in 2010. In addition, mining paid \$145 million to Alaska Native Corporations.

Mining in Alaska, overseen by rigorous and thorough local, state, and federal regulations should not be unnecessarily subjected to additional layers of government, which these plans may bring forth, leading to further delay and unwarranted litigation.

Oil and Gas

As America's energy consumption continues to rise, affordable energy is much needed. In 2009, over half the petroleum consumed in the U.S. was imported. Alaska has significant energy resources, both on and offshore, that can be produced as America continues to work its way to renewables. The ocean, specifically the nation's outer continental shelf, can also go a long way to helping the U.S. reduce its dependence on foreign sources of energy. Emphasis in any ocean policy must be placed on allowing access to these resources while protecting traditional uses such as subsistence hunting and other cultural uses. We urge the administration to include Alaska on the forefront for development of offshore resources, including renewable and non-renewable resources.

In recent years, the oil industry has supported as much as one-third of Alaska's workforce, employing people in well paying jobs. Since 1957, the State of Alaska has received \$95 billion from the oil and gas industry.

Similar to mining, oil and gas development has existing local, state, and federal regulations and should not be subjected to unnecessary extraneous layers of government. Oil and gas development in Alaska should be applauded as an effort to reduce the U.S. dependence on foreign oil.

Tourism

Alaska is like no other place. It has more mountains, glaciers and wildlife than just about anywhere else in the world. Alaska has become a top visitor destination and the industry has experienced steady growth as more people than ever discover Alaska.

Alaska's tourism industry depends on access to waterways for travel by cruise ship and access to land transportation by dock. Many communities, such as those in Southeast Alaska, depend on seasonal visitors, offering boat tours, fishing excursions, and recreational activities like kayaking and rafting. In recent years, tourism accounted for 27,000 direct jobs with a payroll of \$800 million.

Tourism is a renewable resource. New restrictions could have a negative impact on people and businesses in coastal and inland communities where no other resources are available.

Transportation

Transportation providers also rely on future access to the ocean for their responsible and ongoing operations. Shipyards, ports and transportation companies all benefit from activities and energy production in Alaska's waters. The Arctic Ocean, a potential new route for shipping and transportation will present new opportunities for Alaska, and the U.S.

Duplicitous regulations may cause confusion and delays in transportation, increasing cost and waste, especially for remote locations.

Rural, Coastal, and Village Communities

Alaska's resource development projects create and provide jobs in communities throughout Alaska, many of which have few other jobs available. Many of those communities will disappear if overly burdensome regulations are added to existing and new projects.

Community and traditional knowledge, further studies, and plans specific to regions should be first and foremost. Any policy for Alaska should be tailored to fit Alaska's specific needs and characteristics, not a one size fits all plan for the nation.

Conclusion

RDC urges cautious development of strategic action plans for national ocean policy, and encourages the task force to take into consideration programs that have already been established and proven to protect and manage the oceans. National oceans policy should include measures to address the need for more research and data collection in the oceans. Any ocean policy should coordinate with existing management programs and stakeholders with a focus on avoiding redundancy and maintaining access. Increased bureaucracy would hamper the already slow processes, delaying projects vital to Alaska's economy with minimal or no added benefits to the environment.

In conclusion, RDC encourages enhanced, open, and transparent communication and coordination with Alaskan stakeholders for national ocean policy. Thank you for the opportunity to comment on this important issue.

Sincerely,



Marleanna Hall
Projects Coordinator

CALIFORNIA COASTAL COMMISSION

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April 29, 2011

Ms. Nancy Sutley, Dr. John Holdren, and Members
National Ocean Council
C/o Council on Environmental Quality
722 Jackson Place NW
Washington, DC 20503

RE: California Coastal Commission Recommendations on Strategic Action Plans for National Priority Objectives

Dear Chairs Sutley and Holdren, National Ocean Council Members:

Thank you for the opportunity to provide input to the National Ocean Council (NOC) as you prepare Strategic Action Plans for each of the nine National Priority Objectives (Objectives) included in the Final Recommendations report. We hope you find this feedback useful.

The Coastal Commission, in partnership with coastal cities and counties, plans and regulates the use of land and water in California's coastal zone. Along with the San Francisco Bay Conservation and Development Commission, and the State Coastal Conservancy, the Coastal Commission also is a key coastal management agency authorized with implementing the federal Coastal Zone Management Act (CZMA) in California. The most significant provisions of the CZMA give the state coastal management agencies regulatory control over all federal activities and federally licensed and permitted activities, wherever they may occur (i.e. landward or seaward of the state's coastal zone boundary) if the activity affects coastal resources. Hence, the states' coastal management agencies will be central to the successful implementation of the nine Objectives.

As stated in our previous comment letters to the Interagency Ocean Policy Task Force, we believe this country and its coastal states already have a powerful tool in the CZMA through which to frame Strategic Action Plans and implement of the National Ocean Policy. Currently, the CZMA and federally approved state coastal management programs are the frontline coastal land and water use decision-makers where on-the-ground decisions regarding the use and conservation of coastal resources are made every day.

The CZMA, however, is rarely discussed in the Final Recommendations report, nor is it recognized for providing a framework for state and federal agencies to work together on addressing any of the nine objectives. For example, the Coastal Nonpoint Pollution Prevention Program, authorized under the 1990 Amendments to CZMA which created Section 6217, requires states with approved coastal management programs to develop Coastal Nonpoint Pollution Prevention Programs. Section 6217 establishes a partnership of state coastal zone management agencies and state water quality agencies as well as a partnership between NOAA and EPA, with authority under the Clean Water Act.

Under the Coastal Nonpoint Program, state CZM agencies work with other state and local entities to address the sources of pollution to our coastal waters. California, for example, was the first state program to be certified by NOAA and the US EPA as meeting the federal requirements for a coastal and statewide Nonpoint Source (NPS) program because of its strong coastal zone management and water quality laws, the leadership of the Coastal Commission and the State Water Board, and the combined efforts of staff from 28 state agencies. Since program approval, and with funding provided through the Coastal Nonpoint Implementation Grants, water quality staff at the Coastal Commission have worked to implement the program by making recommendations to planners, local governments, and developers on hundreds of development proposals and local planning documents in the coastal zone. Projects, ranging from major subdivisions adjacent to coastal wetlands (Bolsa Chica), transportation improvements (widening of Interstate-5) and ocean front construction (hotels, theme-parks, and marinas) to individual houses in the coastal zone, now include water quality management practices, thus reducing nonpoint source pollution to our coastal waters. Through this program, Coastal Commission staff also led statewide efforts to promote low impact development (LID) through workshops and statewide outreach on LID.

Unfortunately, the Coastal Nonpoint Source Pollution Prevention program is not discussed or referenced in the Final Recommendations report as a tool through which sustainable land use practices can be implemented and water quality issues can be addressed. As such, one immediate, near term action the NOC can take is to prioritize this program for federal funding and to work with Congress to strengthen CZMA provisions to mandate its implementation.

Overall, the Coastal Commission urges the NOC to develop its Strategic Action Plans keeping in mind the CZMA, the strength of this existing law and the opportunity its provisions provide for the nation to collectively and collaboratively achieve successes in all of the nine priority objective areas. Furthermore, NOC should work with the White House and Congress to strengthen the existing CZMA to better address the coastal challenges we face now and in the future, such as climate change and adaptation to sea level rise, and include a broader, more informed public in the decision-making processes that affect our coasts and oceans.

In addition to our comments above, we offer more specific input on four of the nine Objectives in the format requested in the Federal Register Notice dated January 24, 2011. This includes providing feedback on: 1) near, mid and long-term actions that would most effectively help the nation achieve the objective; 2) major obstacles and opportunities to achieving the objective; and 3) milestones and/or performance measures for measuring progress. Please note that some objectives do not include comments on all three feedback areas.

Objective 2: Coastal and Marine Spatial Planning (CMSP)

Near

- Ensure representation of state coastal zone management programs on coastal and marine spatial planning bodies with a regional scope (i.e. multi-state CMSP efforts)
- Provide financial and technical support for data collection, organization and dissemination to states, regional bodies, universities, etc.

- Ensure that the best available science informs and provides the foundation for CMSP efforts
- Make sure that data being used to develop coastal and marine spatial plans takes into account climate change and specifically, sea level rise

Mid and Long

- Ensure federal support (financial and technical) is available to update coastal and marine spatial plans as needed and as new tools in CMSP become available

Obstacles

- Limited capacity of state and local governments to generate tools and technical information essential to development of plans

Objective 5: Resiliency and Adaptation to Climate Change and Ocean Acidification

Near

- Define roles of various agencies and mechanisms by which federal programs will coordinate with state partners on adaptation; rely on the CZMA as a coordination framework for participating agencies
- Build capacity at the state and local levels by increasing federal funding for grants to coastal states through Coastal Zone Management State Grants.
- Reauthorize the CZMA with strengthened authority for climate change-related activities, such as provisions to encourage development and implementation of coastal adaptation plans and assessments, and adapting state coastal management programs to reflect current climate change related challenges
- Minimize federal monies going to support infrastructure investments in areas vulnerable to sea level rise, coastal hazards and flooding, especially for major public works projects
- Develop a “Strategic Investment Strategy” that identifies “hot spot” areas that are particularly vulnerable to climate impacts and invest federal funds to protect those areas
- Increase federal guidance and information on strategies, case studies, “best practices”, workshops or decision tools focused on regional and community level planning and vulnerabilities
- Assist in providing best available science on climate change and associated impacts at the local and regional levels

Mid

- Integrate resiliency and climate change planning with other planning efforts, such as Coastal and Marine Spatial Planning (CMSP), Smart Growth, etc.
- Enhance communication and public outreach on climate change impacts and resiliency; translate climate change science to be more accessible to local planners, decision-makers and the public
- Develop guidance for state, regional and local entities on how to integrate future costs for no action vs. benefits for early action to mitigate impacts to climate change
- Provide incentives for voluntary actions that communities and local governments can take to begin to address likely future impacts of climate change

Long

- Identify, revise and/or terminate national policies and federal programs that encourage and/or allow for building/re-building in hazardous and/or flood prone areas
 - This process could occur in phases:
 - **Near term:** update info on vulnerability/hazard prone areas (e.g. maps)
 - Identify programs that create incentives to building in hazardous areas
 - **Long term:** revise or eliminate federal policies and programs or create disincentives to building in hazardous areas
 - Acquisition programs to fund adaptation implementation

Obstacles:

- Lack of capacity, resources and in some cases, commitment for some local coastal governments to incorporate new types of adaptation measures into their local planning and local plan updates
- Limited amount of regionally and locally-specific science / data on the impacts of climate change
- Locally-elected officials, development interests, property owners and others focused on short term gains versus perceived high cost of adaptation planning and implementation
- Weak economy and cost of taking proactive adaptation actions or undertaking resiliency planning
- Current development patterns or General Plans adopted 10 – 15 years ago that allow for/set development in areas we now know are or will be vulnerable

Opportunities:

- Coastal and ocean management plans or other special area management plans supported by CZMA grants to states that are already addressing the impacts of climate change and incorporate adaptation and resiliency elements at the state level
- Climate change adaptation and resiliency efforts will have multiple benefits (e.g. social, economic, and environmental)
- Improvements in accuracy of downscaled data, modeling techniques on climate change impacts for use at the local / municipality level
- Roll-over impacts from implementing Strategic Action Plans for the other NOP Objectives (i.e. Ecosystem-based Management: Ocean, Coastal and Great Lakes Observations, Mapping and Infrastructure: Water Quality...)

Milestones/Metrics:

- Dollars saved (e.g. funds saved by incorporating climate change adaptation and resiliency into local coastal planning and therefore protecting coastal assets)
- Number of projects incorporating mitigation measures to address adaptation
- Community count (e.g. number of coastal communities taking action on climate change and resiliency)
 - The “Tsunami Ready” program could be a good model for this milestone
- Number of local government assistance programs established

- Education (e.g. number of workshops or trainings delivered on climate change adaptation and resiliency)
- Implementable policy (e.g. number of communities with implementable policies on climate change adaptation or resiliency)

Objective 7: Water Quality and Sustainable Practices on Land

Near, Mid and Long Term

- Strengthen the Coastal Nonpoint Program by the following:
 - Provide adequate funding and human resources for EPA and NOAA to fully implement the program and for Coastal Nonpoint Implementation Grants to states.
 - Encourage EPA and NOAA to clarify standards within the agencies so that regions and agency headquarters are applying the standards of review consistently
 - Focus on actions that states can reasonably be expected to implement within the context of the CZMA
 - Facilitate the full approval of all state's Coastal Nonpoint Programs by striving for faster resolution of remaining issues and improved coordination amongst federal partners
 - Improve Program Administration by clarifying and simplifying policies and improving process efficiencies within the federal agencies

Obstacles

- Lack of funding and support from the relevant NOC member agencies and Congress
- Limited capacity within and among relevant federal agencies to coordinate activities to ensure implementation of the Coastal Nonpoint Program

Opportunities

- The existing law that addresses coastal nonpoint source pollution and aims to improve water quality by requiring implementation of sustainable land use practices under Section 6217 of the CZMA

Objective 9: Ocean, Coastal and Great Lakes Observations, Mapping and Infrastructure

Near

- Continue federal support for Ocean Observing Systems, such as the Central and Northern California Ocean Observing System (CeNCOOS) and Southern California Coastal Ocean Observing System (SCCOOS), both of which have been critical for providing real-time data for monitoring, navigation, evaluating effects of predicted sea level rise, and addressing oil spills, ocean acidification and ocean pollution to coastal managers in California
- Improve integration and coordination of Ocean Observing System programs and data management programs, often funded by or part of different federal agencies with differing missions and mandates (i.e. NOAA, Army Corps of Engineers)
- Provide consistent temporal and spatial coverage of high-resolution data (topography, bathymetry data)
- Provide on-going training opportunities for coastal managers for using data provided by the ocean observing and mapping systems such as data analysis, inundation modeling and evaluation of shoreline change

Mid - Long

- Complete comprehensive seafloor mapping of federal and state waters from 3 nautical miles to 12 nautical miles
- Consider and develop new partnerships to leverage federal, state and private sector dollars for data processing at the scales and resolutions needed for decision-makers
- Leadership in the form of data collection, organization, and providing/maintaining data standards, guidance and protocols for a nation-wide ocean and coastal scientific monitoring effort that coast and ocean managers could rely on

Obstacles

- Current stove-piped data collection efforts between federal agencies
- Cost of both collecting data and analyzing the data for the scales and resolutions needed
- Differing scales of interest between federal, state and local agencies/entities

Again, thank you for the opportunity to provide the NOC with our feedback on how best to take action to truly achieve success in meeting the nine National Priority Objectives for our nation. We look forward to reviewing the outlines and draft Strategic Action Plans this summer.

Sincerely,



Susan M. Hansch
Chief Deputy Director



Michelle Jespersen
Federal Programs Manager



Via White House Website

April 29, 2011

National Ocean Council

<http://www.whitehouse.gov/administration/eop/oceans/comment>

Re: Strategic Action Plan Comments

Dear National Ocean Council:

On behalf of the Center for Biological Diversity, we are pleased to submit comments on the strategic action plans. We applaud the work of the task force in its efforts to highlight and develop a national policy for our oceans. The oceans are the source of rich biological diversity, important wildlife habitat, and complex ecosystems. Our oceans are our natural heritage, their conservation is vital to support healthy marine ecosystems and the human communities that depend on them. We support the development of strategic action plans and offer the following specific comments.

Foremost, the action plans must provide the following priority objectives:

- Proactive and comprehensive approach to prevent climate change and ocean acidification, including the goals to rapidly reduce carbon dioxide pollution.
- Strong emphasis on the conservation of biological diversity and environmental protection.
- Existing environmental laws should be fully employed and coordinated.

Strategic Action Plans

1. Ecosystem-Based Management

Effective ecosystem-based management is necessary to ensure the long-term viability of coastal and marine resources, yet presents significant challenges. Viable management must be based on a thorough scientific understanding of the ecosystem in question, including the behavioral and trophic interactions of species comprising the ecosystem, as well as biogeochemical processes that influence the system (Crowder and Norse 2008). It is also necessary to understand linkages between habitat areas, such as source and sink habitats for larvae (*id.*). If ecosystem-based management is to be effective, significant resources will have to be dedicated to scientific research to expand our knowledge of ecosystem components and processes. Scientific understanding must be the governing basis for any ecosystem-based management plan.

Application of the precautionary principle will be absolutely crucial to the success of ecosystem-based management. Ocean and coastal ecosystems are quite complex and most are not fully understood. The greater the uncertainty regarding the effects of a given activity on an ecosystem, the more cautious management measures must be (Pikitch et al. 2004). In addition, ecosystem-based management plans must include mechanisms to continuously monitor the health of the ecosystem and any impacts from resource uses, and provide a ready mechanism for reassessing permitted uses in light of new data.

2. Coastal and Marine Spatial Planning

We support efforts to implement marine spatial planning in order to protect key habitat areas and reduce conflicts between conservation of marine biodiversity and other marine resource uses. As with ecosystem-based management, a successful marine spatial planning effort will require extensive research and analysis, careful weighing of ecosystem values, and application of the precautionary principle.

Marine spatial planning, when based on sound science and the precautionary principle, offers a way to identify key habitat areas in need of greater protection, safeguard ecosystem functions, and reduce conflicts between resource uses. Like ecosystem-based management, marine spatial planning is a challenging undertaking due to limited scientific knowledge as well as political and jurisdictional conflicts.

Crowder et al. (2006) suggested the following basic needs for marine spatial planning: “Key elements of successful zoning include locating and designating zones based on the underlying topography, oceanography, and distribution of biotic communities; designing systems of permits, licenses, and use rules within each zone; establishing compliance mechanisms, and creating programs to monitor, to review, and to adapt the zoning system.” Obviously, a great deal of scientific knowledge is required to identify natural features and communities, as well as to design effective management measures. As a first step, the task force plan should establish a means for gathering and evaluating relevant research, identifying knowledge gaps that need to be filled, and facilitating further research. Management decisions must be governed by the precautionary principle, especially where we lack thorough knowledge of an area or system.

Ocean zoning efforts will necessarily entail some tradeoffs between resource uses. It will therefore be necessary to assess the full range of services provided by a particular ecosystem and weight the likely impacts of proposed activities on those services (Halpern et al. 2008). Such ecosystem services include more readily measurable benefits such as protecting coastal areas from storm surge, improving water quality, and providing food sources, as well as equally valuable but difficult to quantify benefits such as conservation of biodiversity and aesthetic and spiritual value. The plan must prioritize the protection of the full range of ecosystem services and make clear that economic benefits, particularly in the short term, will not be given greater weight than long-term ecosystem health and sustainability.

Because most marine systems are subject to multiple stressors, any impact assessment must take into account the cumulative effects of all activities and other stressors on ecosystem services. In particular, impacts must be evaluated in light of any changes likely to occur in the ecosystem due to climate change and ocean acidification. We agree with Halpern et al. (2008) that ocean zoning can and must be used to address these large-scale ecological threats:

For stressors that are outside jurisdictional boundaries, zoning can at least partially address these threats by acknowledging and accounting for the ways these stressors interact with local and regional stressors. For example, sea level rise may decrease the available sea turtle nesting habitat, such that other stressors to turtles (such as long-line or trawl fishing) should probably have tighter restrictions than would be needed without climate change as a concurrent stressor.

Where information is lacking, managers must err on the side of protecting the ecosystem until new information demonstrates that the cumulative effects of any proposed activity are unlikely to cause significant harm.

A marine spatial planning policy should clearly and explicitly prioritize the protection of certain valuable habitat types. These include:

- Critical habitat designated for species listed under the Endangered Species Act, 16
- U.S.C. § 1531 *et seq.*
- Source habitats that produce fish and invertebrate larvae and sink habitats where the larvae settle and grow
- Spawning areas (such as the bluefin tuna spawning grounds in the Gulf of Mexico) and breeding and nursery grounds (such as southeast U.S. waters for the North Atlantic right whale)
- Foraging grounds
- Migratory corridors
- Unique or highly diverse or productive habitat areas

In some areas, ensuring long-term ecosystem sustainability may necessitate prohibiting certain uses altogether. For instance, marine spatial planning provides a way to reduce fisheries bycatch and protect habitat by prohibiting the use of destructive or non-selective fishing gear, such as trawl gear, in important habitat areas (Pikitch et al. 2004; Crowder & Norse 2008). Bottom trawling causes such habitat destruction and collateral damage to non-target organisms that it is incompatible with virtually any other marine resource use.

In other cases, marine spatial planning could be used to identify important habitat areas and conflicting uses as a first step towards developing other means to better regulate activities that harm conservation and other resource uses. For instance, blue whales, fin whales, and other protected marine mammals are known to use the waters off the southern California coast for feeding and migration. These areas are also heavily used by ship traffic going to and from the ports of Los Angeles and Long Beach. Marine spatial planning should be used to identify areas where whales and ship traffic co-occur and establish mandatory speed limits in these zones. This

sort of planning would allow both uses, conservation and shipping, to continue while significantly reducing the danger of ship collisions to imperiled whales.

3. Inform Decisions and Improve Understanding:

We support the objective and proposals with regard to informing decisions and improving understanding by increasing knowledge and public education about the oceans.

4. Coordinate and Support:

We support better coordination of international, federal, state, local, tribal, and regional management of our oceans and coasts. However, since global warming and ocean acidification are a long-term and overarching threat to the marine environment the plan should specifically address the coordination of comprehensive efforts to reduce greenhouse gas pollution.

The plan should address

- coordinating strong targets for greenhouse gas reductions.
- tools for comprehensive reduction of greenhouse gas.
- support for coordinated efforts to reduce greenhouse gas emissions
- opportunities for international approaches to greenhouse gas reductions

5. Resiliency and Adaptation to Climate Change and Ocean Acidification

Responses to ocean acidification and climate change are essential to address in the ocean policy; the strategic action plans must commit to true action to address these issues. First and foremost, the plans must emphasize the prevention of dangerous levels of ocean acidification and climate change. Adaptation efforts discussed in the plan will not be effective or have long-term success without comprehensive and rapid mitigation of greenhouse gas emissions to sustainable levels that do not jeopardize marine ecosystems.

Ocean acidification should be a particular focus since it is irreversible on any practical timescale. Increases in ocean acidification will persist for hundreds of thousands to millions of years (Richardson et al. 2009). Already the oceans have become about 30 percent more acidic since preindustrial times and scientists tell us that at current levels of atmospheric carbon dioxide the world's coral reefs are committed to irreversible decline (Veron et al. 2009). Scientists have found that we need to reduce atmospheric carbon dioxide below 350 parts per million to protect marine biodiversity and prevent the next major extinction event (McNeil & Matear 2008; Steinacher et al. 2009; Hansen et al. 2008; Cao & Caldeira 2008; Veron et al. 2009). Corrosive waters are already reaching surface waters along the West Coast of the United States (Feely et al. 2008; Wootton et al. 2008). Additionally, the impacts of ocean acidification are already apparent in the thinning shells of plankton in the Southern Ocean (Moy et al. 2009), the reduced calcification of corals in the Great Barrier Reef (De'ath et al. 2009), and the collapse of oyster production in the Pacific Northwest (Miller et al. 2009, Cooley et al. 2009). Our oceans and the

marine life that depends upon them need rapid reductions in carbon dioxide to prevent further deleterious impacts.

To address ocean acidification and ocean climate change the strategic action plan should:

- Discuss comprehensive approaches to reducing carbon dioxide pollution to prevent the worst effects of ocean acidification and ocean climate change.
- Develop baselines and monitoring of ocean acidification and its ecological consequences.
- Fully implement environmental laws such as the Clean Air Act, the Clean Water Act, the National Environmental Policy Act, the Magnuson Stevens Act, the Marine Mammal Protection Act, the Endangered Species Act, among others to protect our oceans from ocean acidification and dangerous climate change. Several of these laws can be brought to bear to protect marine habitat and species and to reduce carbon dioxide emissions.
- Protect climate refugia. Identify and protect areas that show resistance and resilience to climate change and ocean acidification.
- Restore impacted ecosystems in order to increase resilience. Restore and preserve the structural complexity, biodiversity, and ecosystem function of coastal and marine ecosystems. Restore degraded coastal ecosystems, including tidal wetlands and estuaries.
- Minimize or eliminate non-climate stressors to increase resilience of species and ecosystems to climate change. In addition to developing new strategies to promote adaptation, comprehensively improving and implementing the range of existing conservation strategies for coastal and ocean species and ecosystems will be critical to increasing their resilience.
- Prevent overexploitation of marine species. Factor in the impacts of climate change and ocean acidification on species and ecosystems when setting harvest quotas: lower harvest quotas and use the precautionary principle by maintaining an additional buffer in quotas). Eliminate trawling, long-lining, and other nonselective fisheries that have high bycatch mortality. Protect forage fish, krill, and other species at the base of the food web, and restore large predatory fish to maintain ecosystem health.
- Reduce pollution of coastal and marine ecosystems. Improve wastewater treatment and sewer discharge; strengthen regulations for controlling agricultural and urban runoff; manage nutrient sources and wetland treatment of nutrients to limit hypoxia and eutrophication; restore marshes that clean runoff; locate some reserves away from major sources of terrestrial pollution; link marine reserves with terrestrial reserves.
- Prevent further habitat loss.
- Control invasive species and prevent new introductions.

Finally the best-available science should be used to inform a comprehensive approach to reducing greenhouse gas emissions to levels that avoid deleterious and irreversible impacts to ocean ecosystems. Several important processes delay the full impacts of greenhouse gas emissions and make climate impacts, including sea level rise, temperature rise, and ocean acidification, extremely long-lasting. These processes must be considered to inform greenhouse gas mitigation and adaptation strategies in order to prevent irreversible impacts, and include (1) the climate commitment (i.e. future warming and sea-level rise resulting from present greenhouse gas levels); (2) the irreversibility of climate change and ocean acidification from

CO₂ emissions; (3) the triggering of tipping points; and (4) the enhancement of positive feedback cycles that amplify climate change. Each of these processes is briefly discussed.

The climate commitment

Due to thermal inertia in the climate system, there is a time lag between the emission of greenhouse gases and the full physical climate response to those emissions (IPCC 2007). Thus, the climatic changes experienced so far are only part of the full response expected from the greenhouse gases already in the atmosphere (IPCC 2007, Hansen et al. 2008). The delayed effects from existing emissions are known as the “climate commitment.” Based on the greenhouse gases already emitted, the Earth is committed to additional warming estimated at 0.6°C to 1.6°C within this century (Meehl et al. 2007, Ramanathan and Feng 2008), and up to 2°C in the long-term (Hansen et al. 2008). In addition, sea-level rise will continue for centuries due to continuing thermal expansion of the oceans and melting of the Greenland ice sheet (Meehl et al. 2007). For example, Donner (2009) found that the physical warming commitment from greenhouse gases in the atmosphere in 2000 will cause over half of the world’s coral reefs to experience harmfully frequent bleaching at 5-year intervals by 2080.

Irreversible impacts of CO₂ emissions

Although largely under-appreciated, climate-related changes that result from increases in CO₂ concentrations, including temperature increases and sea level rise, are largely irreversible for 1,000 years after emissions cease (Archer and Brovkin 2009, Solomon et al. 2009), while increases in ocean acidification will persist for hundreds of thousands to millions of years (Richardson et al. 2009). An important contributing factor is the long atmospheric lifetime of CO₂ compared to other greenhouse gases. A significant fraction of anthropogenic CO₂, ranging from 20–60%, remains airborne for a thousand years or longer after emissions cease (Archer and Brovkin 2008, Solomon et al. 2009). In the case of temperature, although some of the anthropogenic CO₂ is removed from the atmosphere by deep ocean mixing, global average temperatures do not drop significantly for at least 1,000 years after the cessation of emissions because the removal of CO₂ by deep-ocean mixing is largely compensated by the loss of heat from the ocean (Solomon et al. 2009). Anthropogenic CO₂ also causes irrevocable sea-level rise. Long-lasting warming from persistent CO₂ causes the oceans to continue to expand and the continued melting of the glaciers and ice sheets contributing to millennia of sea-level rise (Solomon et al. 2009). In addition, the long tail of fossil fuel CO₂ in the atmosphere may trigger slow processes and feedbacks including methane hydrate release from the ocean and methane release from melting permafrost (Archer and Brovkin 2008).

As stated by Solomon et al. (2009):

It is sometimes imagined that slow processes such as climate changes pose small risks, on the basis of the assumption that a choice can always be made to quickly reduce emissions and thereby reverse any harm within a few years or decades. We have shown that this assumption is incorrect for carbon dioxide emissions,

because of the longevity of the atmospheric CO₂ perturbation and ocean warming. Irreversible climate changes due to carbon dioxide emissions have already taken place, and future carbon dioxide emissions would imply further irreversible effects on the planet, with attendant long legacies for choices made by contemporary society. (Soloman et al. 2009: 1708-1709).

According to Archer and Brovkin (2008):

The notion is pervasive in the climate science community and in the public at large that the climate impacts of fossil fuel CO₂ release will only persist for a few centuries. This conclusion has no basis in theory or models of the atmosphere/ocean carbon cycle, which we review here. The largest fraction of the CO₂ recovery will take place on time scales of centuries, as CO₂ invades the ocean, but a significant fraction of the fossil fuel CO₂, ranging in published models in the literature from 20–60%, remains airborne for a thousand years or longer. Ultimate recovery takes place on time scales of hundreds of thousands of years, a geologic longevity typically associated in public perceptions with nuclear waste. The glacial/interglacial climate cycles demonstrate that ice sheets and sea level respond dramatically to millennial-timescale changes in climate forcing. There are also potential positive feedbacks in the carbon cycle, including methane hydrates in the ocean, and peat frozen in permafrost, that are most sensitive to the long tail of the fossil fuel CO₂ in the atmosphere. (Archer and Brovkin 2008: 283).

Tipping points

Current climate forcings have the potential to trigger “tipping points,” critical points where rapid climate changes proceed without any additional forcing (Hansen et al. 2008) and the system shifts to qualitatively different state (Lenton et al. 2008). In reviewing the “tipping elements” in the Earth’s climate system that could be altered by anthropogenic climate forcing, Lenton et al. (2008) found that a mean global temperature increase of 1-2°C above ~1990 levels has the potential to trigger irreversible melting of the Greenland ice sheet, a process that could result in an eventual seven-meter sea-level rise (Hansen et al. 2006).

Feedbacks

Climate forcings can trigger reinforcing positive feedbacks that can further amplify climate change. For example, the Arctic ice-albedo feedback loop is already occurring, where the loss of sea ice due to warming reduces the surface albedo and makes the Arctic more vulnerable to future warming. Scientific studies indicate that increased warming will trigger other feedbacks, including the mobilization of carbon in tropical peatlands which are vulnerable to land clearing and drainage, and the release of methane from Arctic permafrost due to warming (Richardson et al. 2009).

Water Quality and Sustainable Practices on Land

We applaud the emphasis on protecting water quality and sustainable practices on land. In addition to the objectives outlined in the report we encourage the addition of the following principles to the strategic action plan.

The plan should address:

- Full implementation of existing environmental laws, including the Clean Water Act. The Clean Water Act has many tools to protect seawater quality and the water quality its tributaries. Many of these mechanisms have been underemployed or outright ignored. For example, a system of total maximum daily should be developed for non point source pollution and to protect water flows.
- Providing adequate flow of fresh water from rivers that feed into important estuarine areas. For example, mismanagement of water resources in California has led to excessive withdrawals of fresh water from the Sacramento and San Joaquin River and Delta systems, threatening multiple, commercially and ecologically important fish species – as well as orcas – with extinction. The plan must address the effects of upstream diversions and other activities on water quantity as well as water quality, as both have a crucial influence on nearshore ecosystems.

Changing Conditions in the Arctic

We support the focus on the Arctic as an area of special emphasis due to the grave threats that climate change and ocean acidification pose to Arctic marine ecosystems.

An action plan that focuses on environmental stewardship of the Arctic in the face of climate change and ocean acidification must include the following components:

- A comprehensive approach to reducing greenhouse gas pollution to protect and restore the Arctic, including actions to reduce CO₂ as well as non-CO₂ pollutants (methane, tropospheric ozone, and black carbon) that make a large contribution to Arctic climate change.
- Incorporation of best-available science on Arctic climate change and ocean acidification and their impacts in all agency decision-making directly or indirectly affecting the Arctic.
- Full implementation of existing environmental laws that relate to the Arctic and climate change to promote mitigation and adaptation actions to benefit the Arctic, including implementation of the Clean Air Act, the Clean Water Act, the National Environmental Policy Act, the Magnuson Stevens Act, the Marine Mammal Protection Act, the Endangered Species Act, among others.
- An emphasis on protecting Arctic marine species that are threatened with extinction due to the rapid loss of Arctic sea-ice habitat, including full protection of these species and their critical habitat under the US Endangered Species Act. Threatened ice-dependent Arctic species that inhabit US waters include the polar bear; the ribbon, ringed, spotted, and bearded seals; and the Pacific walrus.
- A moratorium on new oil and gas leasing and development in the Arctic. Such a

moratorium should be implemented immediately and remain in effect until and unless such activity can be demonstrated to not have adverse impacts on the Arctic ecosystem, and any greenhouse emissions directly or indirectly associated with such activities are shown to be consistent with a comprehensive national plan to reduce CO₂ and non-CO₂ pollutants to levels determined necessary to avoid the continued loss of sea ice and harms to the Arctic.

- Comprehensive approaches to reducing growing threats to the Arctic as sea ice disappears, such as increased shipping which brings black carbon emissions, the risk of oil spills, and direct disruption and disturbance of Arctic species.
- Actions to reduce persistent organic pollutants (POPs) in the Arctic which pose hazards to Arctic wildlife and people, through application of U.S. law and international cooperation.
- Actions to work toward international protection of the Arctic. The United States should proactively promote the large-scale protection of the Arctic through all existing international mechanisms, including the International Agreement for the Conservation of Polar Bears, the Arctic Council, and the United Nations Convention on the Law of the Sea.

Finally, while we fully support protection of the Arctic as an area of special emphasis, the ocean policy would be strengthened if it additionally placed special emphasis on other marine ecosystems that are vulnerable to collapse—foremost among them coral reef ecosystems.

Coral reef ecosystems are in danger of collapse due to the synergistic threats posed by ocean warming, ocean acidification, and numerous other anthropogenic stressors. According to coral scientists, “reefs are likely to be the first major planetary-scale ecosystem to collapse in the face of climate changes now in progress” (Veron et al. 2009: 1433). At today’s atmospheric carbon dioxide level of ~387 ppm, corals are experiencing detrimental bleaching events, and many of the world’s reefs are committed to irreversible declines (Veron et al. 2009). The committed warming from greenhouse gases already in the atmosphere is projected to cause over half of the world’s coral reefs, including reefs in the Indian Ocean and most of the Pacific, to experience harmfully frequent bleaching at five-year intervals by or before 2080 (Donner 2009). Studies projecting the impacts of ocean warming on corals indicate that the majority of the world’s corals will be subjected to recurring mass bleaching events at frequencies from which they will be unable to recover (five-year-intervals or less) by the 2020s or 2030s under mid-to-low level IPCC emissions scenarios, in the absence of thermal adaptations by corals and their symbionts (Hoegh-Guldberg 1999; Sheppard 2003; Donner et al. 2005; Donner et al. 2007; Donner 2009). Studies projecting the impacts of ocean acidification on corals predict that coral erosion will exceed calcification rates at atmospheric carbon dioxide concentrations between 450 to 500 ppm (Hoegh-Guldberg et al. 2007), and all coral reefs will dissolve at carbon dioxide concentrations of 560 ppm (Silverman et al. 2009). Due to the synergistic impacts of ocean acidification, mass bleaching, and other impacts, reefs are projected to experience “rapid and terminal” declines worldwide at atmospheric carbon dioxide concentrations 450 ppm. Clearly coral reef ecosystems are in immediate need of decisive, comprehensive, and coordinated protection.

Conclusion

We thank the Interagency Ocean Policy Task Force for its efforts and look forward to participating in the formation of an effective, forward-looking national ocean policy. Please do not hesitate to contact us with any questions.

Sincerely,

/s/ Miyoko Sakashita

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Geoffrey A. Haddad
Manager
Alaska Exploration

P. O. Box 100360
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phone 907.265.6354
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April 27, 2011

Submitted Electronically to:

<http://www.whitehouse.gov/administration/eop/oceans/comment>

Ted Wackler
Deputy Chief of Staff
Office of Science and Technology Policy
National Ocean Council
722 Jackson Place, NW
Washington, DC 20503

Re: Comments on Development of Strategic Action Plans for the Nine Priority Objectives for Implementation of the National Policy for the Stewardship of the Ocean, our Coasts, and the Great Lakes

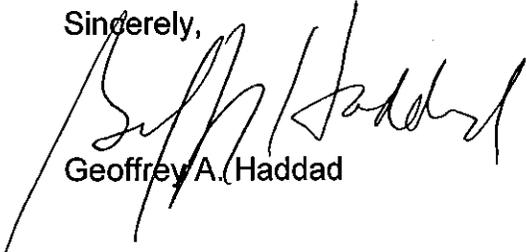
Dear Mr. Wackler:

ConocoPhillips Alaska, Inc. appreciates the opportunity to provide comments on the National Ocean Council's (NOC) request for comments on the preparation of Strategic Action Plans (SAPs) for the nine priority objectives for implementation of the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes; 76 Fed. Reg. 4,139 (Jan. 24, 2011).

ConocoPhillips Alaska, Inc. and its affiliates (collectively "ConocoPhillips") have been operating in Alaska in the Cook Inlet for over 40 years and have participated in other Alaska offshore activities over the last three decades. In 2008, ConocoPhillips acquired a significant acreage holding position in the Alaska Outer Continental Shelf and is actively working to advance exploration drilling in the Chukchi Sea in 2013. ConocoPhillips brings to bear in these activities decades of offshore experience in many regions of the world as well as significant experience in arctic engineering and design.

ConocoPhillips Alaska, Inc. has reviewed the comments submitted by the American Petroleum Institute in this matter, and endorses and adopts those comments. ConocoPhillips Alaska, Inc. appreciates the opportunity to comment on this subject and will be following the progress on the development of the SAPs.

Sincerely,


Geoffrey A. Haddad



2211 Norfolk Street, Suite 614
Houston, Texas 77098
P 713 337 8800
F 866 273 8998
www.consumerenergyalliance.org

April 29, 2011

National Ocean Council
Attn: Ted Wackler, Office of Science & Technology Policy
722 Jackson Place, N.W.
Washington, DC 20503

RE: Comments on the Development of Strategic Action Plans for the Nine Priority Objectives for Implementation of the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes

I am writing to urge the Council to develop its strategic action plans and eventual National Ocean Policy with expansive opportunities for stakeholder engagement and to ensure these plans fully consider the impact any potential policy will have on commercial and recreational activity. I remain concerned that these policies, as currently drafted, may the capacity to negatively affect both terrestrial and marine interests including, but not limited to: agriculture, shipping, energy exploration and production, manufacturing, mining, and transportation. As an organization that represents all of these diverse interests through our membership, I am urging the Council to address these concerns and adequately study the possible effects prior to any implementation.

Consumer Energy Alliance (CEA) is an independent, nonprofit organization that supports the thoughtful utilization of energy resources to help ensure improved domestic and global energy security, stable prices for consumers, and U.S. economic growth. CEA has 160 affiliated members including energy consumers – truckers, farmers, small businesses, airlines, and manufacturers – and energy producers and suppliers. CEA is further supported by approximately 300,000 individual consumer-advocates.

I am particularly concerned about the effect coastal and marine spatial planning may have on traditional and renewable energy development – from exploration offshore to refinement and distribution onshore. These industries and the jobs they support, especially along the Gulf Coast, would be unnecessarily and adversely harmed if these policies are not appropriately studied and vetted to prevent any significant consequences these sectors may now face. The Gulf region continues to recover from a devastating recession followed by a temporary moratorium on deepwater drilling, both of which have cost tens of thousands of jobs and state budget deficits to increase. In addition to the temporary moratorium, the Department of the Interior has reversed its decision to permit additional lease sales in the Central and Western Gulf of Mexico until 2017, citing the National Ocean Policy as part of its justification. It is becoming increasingly clear that at a time of economic uncertainty, these policies are already stagnating future economic gains for the Gulf communities.

Moreover, energy development in the Gulf of Mexico accounts for nearly 30 percent of domestic oil production and 11 percent of natural gas production. This significant amount of domestic production – though projected to temporarily decline over the next few years – is estimated to increase in coming years contributing an average of two million barrels a day of petroleum to domestic supplies, according

to the U.S. Energy Information Administration. If any zoning practices limit the ability to produce domestic resources, U.S. energy and economic security could be severely affected.

Finally, as the Council develops these actions plans and ultimately a national policy, I urge the Council to allow for expansive stakeholder input and Congressional engagement. This policy has the strong potential to have significant economic, societal, and legal impacts; therefore, local communities, stakeholders, and elected officials must be given ample opportunity to comment on proposed actions and all actions going forward must remain as transparent as possible. Furthermore, stakeholder engagement must include all potentially affected industries and communities at every level of discussion.

In closing, I would ask the Council to consider these comments as well as those from other affected industries and communities and thoroughly evaluate the potential harm these policies may inadvertently have on commercial and recreational activities. I appreciate the opportunity to comment, and I look forward to further engaging with the Council as this policy is developed.

Very sincerely,

A handwritten signature in black ink, appearing to read 'D. Holt', with a stylized flourish at the end.

David Holt
President



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April 29, 2011

National Ocean Council
Attn: Ted Wackler, Office of Science & Technology Policy
722 Jackson Place, N.W.
Washington, DC 20503

RE: Comments on the Development of Strategic Action Plans for the Nine Priority Objectives of a National Policy for the Stewardship of the Ocean, our Coasts, and the Great Lakes

Dear National Ocean Council:

Please accept the enclosed comments on the direction of the strategic action plans from Consumer Energy Alliance supporters. Included in this package is a disc that contains 4,103 individual comment letters as well as the contact data for these signatories.

In addition, Consumer Energy Alliance has submitted official comments, which is included in this package as well.

If you have any questions on these comments, their signatories, or any other matter, please contact me at njoubert@consumerenergyalliance.org or 202-778-2103.

I appreciate the opportunity to comment on this important matter.

Thank you,

A handwritten signature in black ink that reads 'Natalie T. Joubert'. The signature is written in a cursive style with a large, stylized 'N' and 'J'.

Natalie T. Joubert

MARINE ENGINEERS' BENEFICIAL ASSOCIATION (AFL-CIO)

444 NORTH CAPITOL STREET, NW, SUITE 800 WASHINGTON DC 20001 PH: (202) 638-5355 FAX: (202) 638-5369

MIKE JEWELL
PRESIDENT



BILL VAN LOO
SECRETARY-TREASURER

April 28, 2011

The National Ocean Council
722 Jackson Place
Washington, DC 20503

Comments: Development of Strategic Action Plans for the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes

Submitted via electronic filing and hand-delivered to White House

Dear Members of the Council:

The Marine Engineers' Beneficial Association (MEBA) AFL-CIO is the nation's oldest maritime labor union representing deck and engineering officers in the United States Merchant Marine. Our Officers serve in a variety of capacities in the commercial, government owned and operated, and domestic fleets, as well as in shore side employment at various marine terminals. The vessels we work on include crude oil and product tankers, freighters, container vessels, large passenger/cruise vessels, ferry systems, Roll/on Roll/off vessels, dry bulk carriers and inland waterway tugs and barges.

The U.S. Merchant Marine is America's fourth arm of defense ó a title given to us during World War II, but one which we have earned since this nation's earliest days. MEBA supports strong security measures that protect our vessels and our ports. We have demonstrated that support in many ways, including widespread participation in various committees across the country¹ as well as international bodies (such as the International Maritime Organization and the International Labor Organization) that are tasked with examining and improving not only shipboard and port security but also safeguarding the marine environment.

MEBA has a vested interest as well to ensure that US flag shipboard transportation remains competitive, profitable, and safe. Shipboard transportation is our lifeblood and sustains a trained maritime workforce and US flag merchant fleet that can be used by our nation in time of international conflict or for humanitarian relief efforts. With that in mind MEBA offers the following comment:

¹ The Marine Engineers' Beneficial Association is a member and/or participant in the following committees, boards, working groups, associations (this is not an exhaustive): National Defense Transportation Association, Merchant Marine Personnel Advisory Committee, Ship Operations Cooperative Program, USCG Chemical Transportation Advisory Committee, USCG Towing Safety Advisory Committee, USCG Navigation Safety Advisory Council, American Society of Naval Engineers, Society of Naval Architects and Marine Engineers, Marine Highways Cooperative Short Sea Shipping, Great Lakes Maritime Task Force, and International Propeller Club.

Pursuant to the Final Recommendations that were adopted in Executive Order 13547, the National Ocean Council is charged with developing Strategic Action Plans for each of the following nine national priority objectives:

- (1) Ecosystem-Based Management;
- (2) Coastal and Marine Spatial Planning (øCMSPö);
- (3) Inform Decisions and Improve Understanding;
- (4) Coordinate and Support;
- (5) Resiliency and Adaptation to Climate Change and Ocean Acidification;
- (6) Regional Ecosystem Protection and Restoration;
- (7) Water Quality and Sustainable Practices on Land;
- (8) Changing Conditions in the Arctic; and
- (9) Ocean, Coastal, and Great Lakes Observations, Mapping, and Infrastructure

In seeking public input on the development of the Strategic Action Plans, the National Ocean Council has requested comments that address the opportunities, obstacles, and metrics of progress relevant to each of the nine national priority objectives, specifically seeking comments on the following points:

É Near-term, mid-term, and long-term actions that would most effectively help the Nation achieve each priority objective;

É Obstacles to achieving the priority objectives and opportunities the priority objectives can further (including transformative changes in how stewardship of the oceans, coasts, and Great Lakes is addressed); and

É Milestones and performance measures most useful for measuring progress toward achieving the priority objectives

MEBA strongly believes that it is absolutely essential that a national ocean policy be based on expansive stakeholder input and be fully vetted regarding economic impact and future considerations that may affect our nation's merchant fleet and U.S. maritime industry.

While MEBA appreciates the opportunity to provide comments, it is, unfortunately, not yet possible to adequately address the questions presented by the National Ocean Council. However, we do provide the following facts that must be considered as the Council moves forward.

TRANSPORTATION

MEBA has serious concerns with the national security implications of a flawed national ocean policy. This policy cannot require such prohibitive costs that the private sector maritime owners and operators are forced out of business. America's domestic fleet is an important part of the national maritime infrastructure which helps ensure there will be ample U.S. sealift capacity to defend our nation. American ships, crews to man them, ship construction and repair yards, intermodal equipment, terminals, cargo tracking systems, and other infrastructure can be made available to the U.S. military at a moment's notice in times of war, national emergency, or even

in peacetime. In addition, during a major mobilization, American domestic vessels move defense cargoes to coastal ports for overseas shipments.

America's domestic shipping industry is responsible for nearly 500,000 jobs and more than \$100 billion in annual economic output, according to a recent study by PricewaterhouseCoopers for the Transportation Institute². Labor compensation associated with the domestic fleet exceeds \$29 billion annually with those wages spent in virtually every corner of the United States³. The American domestic fleet moves a variety of goods along the nation's internal waterways, across the Great Lakes, and over the oceans to Hawaii, Alaska, Puerto Rico, and U.S. territories⁴. With more than 40,000 vessels, the U.S. domestic fleet, is the envy of the world. Every job in a domestic shipyard results in four additional jobs elsewhere in the U.S. economy⁵.

Clearly, the U.S. shipboard and vessel transportation sector, a major driver of the U.S. economy, could be subject to significant adverse consequences under a poorly designed national ocean policy. Such a policy has the potential to seriously disrupt the water transportation sector through new access restrictions, limits on shipping vessel size, speed, and horsepower, new air and water quality regulations, new taxes and fees on transportation and port usage, higher energy costs, and inconsistent standards and rules—all of which could lead to loss of employment opportunities for Americans at the benefit of foreigners.

National Security Impact

- During Operations Enduring Freedom and Iraqi Freedom (2002 - 2010), U.S.-flag commercial vessels, including ships drawn from the domestic trades, transported 57% of all military cargoes moved to Afghanistan and Iraq. As important, the American domestic fleet also provided fully half of the mariners used to crew U.S. government-owned sealift vessels activated from reserve status, which carried an additional 40% of the total cargoes delivered.

Economic Impact

- The waterborne transportation sector contributed \$10.7 billion to GDP in 2007, with an operating surplus of \$4.9 billion⁶
- Nearly 267,000 individuals were employed by waterborne transportation, port services (cargo, handling, and other), and shipbuilding and repair industries in 2008⁷

² See report: *Contribution of the American Domestic Maritime Industry to the U.S. Economy*, prepared for the Transportation Institute by PricewaterhouseCoopers, 2011.

³ Id.

⁴ Id.

⁵ Id.

⁶ U.S. Department of Transportation, Maritime Administration, U.S. Water Transportation Statistical Snapshot, July 2009, available at http://www.marad.dot.gov/documents/US_Water_Transportation_Statistical_snapshot.pdf (accessed May 10, 2010).

- In addition, both the U.S. freight railroad and truck transportation/warehousing industries are intricately tied to the waterborne transportation sector; the freight railroad industry produces \$265 billion in economic activity every year and supports 1.2 million jobs⁸, while the U.S. truck transportation and warehousing industry provided 2.1 million jobs⁹ and is estimated to have generated over \$332 billion in revenue in 2008¹⁰
- In 2008, U.S. waterborne trade totaled 2.3 billion metric tons¹¹
- 7,119 oceangoing vessels made 60,578 U.S. ports of call in 2008, 35% by tankers, 31% by containerships, 17% by dry bulk carriers, 10% by Roll-on/roll-off (Ro/Ro) vessels, and 6% by general cargo ships¹²
- In 2008, just under 10 million passengers spent 64 million passenger nights traveling on 4,212 of the seventeen largest North American cruise lines; in 2008, cruise lines and their passengers spent over \$19 billion on purchases, generating an economic impact in excess of \$40 billion and nearly 360,000 U.S. jobs that paid more than \$16 billion in wages¹³
- From 2003 to 2008, the average size of vessels transiting U.S. ports increased by 6%¹⁴

⁷ U.S. Department of Transportation, Maritime Administration, U.S. Water Transportation Statistical Snapshot, July 2009, available at http://www.marad.dot.gov/documents/US_Water_Transportation_Statistical_snapshot.pdf (accessed May 10, 2010).

⁸ Association of American Railroads, The Economic Impact of America's Freight Railroads, February 2010, see: <http://www.aar.org/~/media/AAR/BackgroundPapers/Economic%20Impact%20of%20US%20Freight%20RRs%20%20Sept%202009.ashx> (accessed May 10, 2010).

⁹ U.S. Department of Labor, Bureau of Labor Statistics, Career Guide to Industries, 2010-2011 Edition, Truck Transportation and Warehousing, available at <http://www.bls.gov/oco/cg/cgs021.htm> (accessed May 10, 2010).

¹⁰ U.S. Census Bureau, Annual & Quarterly Services, 2008 Annual Survey Data, Truck Transportation, Messenger Services, & Warehousing-NAICS 48/49, see http://www2.census.gov/services/sas/data/48/2008_NAICS48.pdf (accessed May 10, 2010).

¹¹ U.S. Department of Transportation, Maritime Administration, U.S. Water Transportation Statistical Snapshot, July 2009, available at http://www.marad.dot.gov/documents/US_Water_Transportation_Statistical_snapshot.pdf (accessed May 10, 2010).

¹² U.S. Department of Transportation, Maritime Administration, U.S. Water Transportation Statistical Snapshot, July 2009, available at http://www.marad.dot.gov/documents/US_Water_Transportation_Statistical_snapshot.pdf (accessed May 10, 2010).

¹³ See Cruise Line International Association, About CLIA, available at <http://www2.cruising.org/about.cfm> (accessed July 7, 2010).

¹⁴ U.S. Department of Transportation, Maritime Administration, U.S. Water Transportation Statistical Snapshot, July 2009, available at

MEBA has the following concerns with respect to a National Ocean Policy:

- Establishment of new access and use restrictions that impact ships, tankers, and cruise ships, as well as transportation modes such as tugs and barges transiting inland waterways should be made with caution and with input from the industry
- Any regulations with regard to deep sea, costal, inland, and Great Lakes shipping should be applied to all vessels entering the designated waters regardless of flag. If undue burdensome regulations affect only the vessels operating under the U.S.-flag, those carriers will choose to reflag their vessel allowing them to use foreign crews and circumvent U.S. regulations
- Measures which in the past may have been traditionally established with little controversy and substantial industry participation (such as Areas To Be Avoided, Precautionary or Prohibited Areas, marine protected and other areas, Mandatory Vessel Traffic Routes, Vessel Traffic Separation Schemes, Lightering Areas, Particularly Sensitive Sea Areas, Pilot Boarding Areas, Safety Zones Around Vessels and Terminals, Anchoring and No Anchoring Grounds or Areas, and Security Zones in Ports and Waterways) are instead established arbitrarily without the proper risk analysis and with little opportunity for stakeholder input
- Utilization of the "precautionary approach" as applied to the creation of new restrictions under a National Ocean Policy
- Limitations on shipping vessel size or horsepower that result in increased air and water emissions and heightened safety risk
- New and duplicitous air and water quality regulations, including specification of the level of waste treatment technology and limitations on the amount of discharge in marine areas
- New taxes and fees on transportation and port usage
- Rising energy prices as a result of domestic offshore energy exploration and development restrictions that would cause serious harm to the transportation sector, a major consumer of energy

- Regional coastal and marine spatial plans could create mass confusion and drive waterborne commerce away from the U.S. due to variation of rules among regions and inconsistency with International Maritime Organization standards
- Conflicts in legal requirements within federal requirements across Executive Branch agencies as well as between federal and state requirements

Conclusion

There is need for a consistent set of federal requirements for commercial marine vessels regardless of location within U.S. navigable waters and the exclusive economic zone. As stated above, there is real potential for the national ocean policy to disrupt the economic and national security of the United States.

The Marine EngineersøBeneficial Association AFL-CIO appreciates the opportunity to comment on a National Ocean Policy. Should you have any questions or comments, please do not hesitate to contact me and/or my Chief of Staff William P. Doyle at wdoyle@meba.us.

Respectfully submitted,

Mike Jewell
National President
Marine EngineersøBeneficial Association (AFL-CIO)

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Governor Sean Parnell
STATE OF ALASKA

September 10, 2009

Ms. Nancy Sutley
Chair
Council on Environmental Quality
722 Jackson Place, N.W.
Washington, DC 20503

Dear Ms. Sutley,

Thank you for the opportunity to provide comments as you consider development of a national oceans policy. Alaska has a strong stake in the health and productivity of the nation's oceans, as do other coastal states. In Alaska, we rely on our oceans for commercial, sport, and subsistence fisheries, recreation, transportation, shipping, and a multitude of other uses. The oceans are vital to Alaska's economy, supporting a vibrant fishing industry that produces almost six billion dollars in economic activity in our state annually, accounts for approximately 60 percent of the nation's seafood production, and is our largest private sector employer.

Carefully crafted oceans policies could be valuable, and we support your efforts in this arena. The vision expressed in President Obama's memorandum creating the task force of "healthy, resilient, and sustainable oceans, coasts, and Great Lakes resources for the benefit of this and future generations" is one we share. The development of national oceans policies is an ambitious endeavor. To ensure an effective outcome, it is important that the work have an appropriate timeline utilizing a solid process that engages both the states with shared stewardship responsibilities and users of marine resources.

We strongly encourage you to gather additional input from the public and stakeholders as you proceed with this process. In particular, we request extensive engagement with the coastal states who share trust responsibilities for management of the submerged lands and resources off their shores. It is difficult to provide detailed comments without further clarification on the goals of the task force. It would be helpful if the task force would develop preliminary recommendations, then seek more extensive and targeted comments from interested parties. Any final recommendations should be enacted through a statutory or regulatory process that allows for public engagement and not by executive order. The health and management of our oceans is simply too critical to engage in a process that does not provide a meaningful avenue for public input and support.

The State of Alaska's preliminary comments are attached, and we look forward to providing more comprehensive comments after you have had the opportunity to develop and circulate a draft that

Ms. Nancy Sutley
September 10, 2009
Page 2

articulates goals and outlines proposals. We appreciate your consideration and look forward to additional opportunities for dialogue.

Sincerely,

A handwritten signature in black ink that reads "Sean Parnell". The signature is written in a cursive style with a large, sweeping "S" at the beginning.

Sean Parnell
Governor

Enclosure

cc: The Honorable Lisa Murkowski, United States Senate
The Honorable Mark Begich, United States Senate
The Honorable Don Young, United States Congress

State of Alaska Comments to Interagency Oceans Policy Task Force

September 10, 2009

National Policy

The overarching consideration when developing policy recommendations should be recognition of the need for a strong federal-state partnership and the involvement of our local communities in the development and implementation of national oceans policies. President Obama's memorandum directs the task force to develop a framework for oceans policies that includes "specific recommendations to improve coordination and collaboration among federal, state, tribal, and local authorities, including regional governance structures." Durable, reliable, and implementable national policies require an understanding of local issues and a public process sufficient to ensure local support.

Jurisdiction over marine waters and submerged lands and responsibility for ocean and coastal activities and ecosystems is divided between the federal government and the states. Alaska's jurisdiction includes uplands, wetlands, and tidelands and extends out to the three mile territorial limit. Within these areas, Alaska manages and leases lands, and with federal agencies, permits or restricts activities on them that could impact the environment. Alaska shares a common responsibility with the federal government to maintain healthy, resilient, and sustainable oceans and coasts. We urge that new policies be developed with a keen awareness of the current multi-jurisdictional structure and respect for the traditional role of states in managing upland resources.

State government works closely with communities and is in a good position to evaluate how proposed national oceans policies will work, or not work, in different ecosystems and communities around the state. With a state as large and diverse as Alaska, it will be particularly important to capture the experience and wisdom of the state and our local communities in developing and implementing oceans policies. We encourage the task force to build the framework for oceans policies from the ground up. There are already a number of successful partnerships in Alaska among federal, state, and local governments, tribes, organizations, and concerned citizens. The aim of national oceans policies should be to build on the strength of these existing partnerships and avoid supplanting them with management or direction coming from outside the state.

Our record of sustainable management of fisheries and protection of the marine environment has led to national and international recognition of Alaska and the North Pacific as a leader in these fields. Alaska's experience demonstrates that a strong regional model can be very effective when implemented responsibly and, therefore, we support national policies that recognize the need for regional decision-making while encouraging other areas to adopt some of the practices that have proven effective in Alaska.

For example, fishery management measures employed with great success in the North Pacific include: consideration of ecosystem factors in developing management plans, setting precautionary harvest limits, utilizing a comprehensive federal fishery observer program, and establishing a large network of closed or restricted areas that encompass 673,000 square miles (an area larger than Alaska's landmass). We strongly suggest that any national oceans policies consider that these achievements have been made possible by a process that promotes local and regional decision-

making and allows regional fishery management councils the flexibility to respond to local needs and changing conditions.

We understand that you intend to consider the work of the U.S. Oceans Commission. The State of Alaska provided extensive comments on the work of the Oceans Commission when it was completed five years ago. These comments were lengthy and detailed, illustrating the complexities involved, as well as the level of engagement and interest that coastal states have in national oceans issues. While the Oceans Commission's work remains relevant, we encourage you to recognize that considerable progress has been made in the areas of national fisheries and oceans policy since the development of this report. Progress has been made to strengthen and enhance marine research, oceans observing, and habitat protection, including marine protected areas. Here in Alaska, we have continued to move forward with governmental coordination and partnerships, ecosystem-based management, precautionary measures, and protecting fragile or emerging areas such as the Arctic. Again, we recommend an approach to national oceans policies that builds on the successes realized in our region.

In addition, NOAA and the regional fishery management councils are still in the process of implementing major amendments to the Magnuson Stevens Act to halt overfishing, reduce bycatch, encourage ecosystem-based management, protect marine habitat and sensitive species, and strengthen the role of science and research in fisheries management. Rebuilding, in particular, takes time. These reforms should be expeditiously implemented, then given a chance to work before concluding that an additional overhaul of fisheries management is necessary. Your recommendations should be based on new and ongoing initiatives rather than conclusions reached in previous reports.

Because we are unaware of which recommendations of the U.S. Oceans Commission the task force may or may not be considering, the following provides a short summary of some of the major themes of Alaska's original comments. Alaska supports formation of a National Ocean Council with exclusively advisory and coordination powers. The Council should not have policy-making, resource-allocation or other regulatory powers. We are cautious of Regional Ocean Councils. We would need to understand their specific roles, authorities, and responsibilities as well as membership, makeup, and how they will relate to the Regional Fishery Management Councils and National Marine Fisheries Service regional offices.

In general, we oppose creation of additional bureaucracy as a purported means for solving ocean governance problems and support achieving efficiency by relying on existing processes and authorities rather than increasing spending to achieve ocean management objectives. It is important to guard against replacing or interfering with organizations and mechanisms that are working well. For example, the North Pacific Fishery Management Council has been recognized as a model for sustainable fisheries management and should not be supplanted, undermined, or weakened by additional layers of bureaucracy or parallel processes with conflicting missions.

We support the proposed emphasis on ecosystem management as underpinning ocean policy and have already made significant strides towards considering effects at an ecosystem level in Alaska. We oppose mandating "precautionary approaches" or "precautionary principles" that dictate worst-case assumptions when faced with scientific uncertainty. These terms are misleading and should not be confused with the careful and conservative abundance-based management used in Alaska and the North Pacific. We support approaches that deal with scientific uncertainty by adopting reasonably conservative assumptions.

We support a major role and voice for the coastal states in offshore policy making and decisions. Coastal states must be recognized as partners with distinct jurisdictions and authorities, not relegated to stakeholder status in oceans policy development and implementation. Many of the recommendations of the Oceans Commission give the sovereign states the same status as “territorial, tribal, and local governments and nongovernmental participants” or relegate the states to the status of cooperators in a federal initiative. We support further development of oceans policy to the extent that it accords appropriate roles to the sovereign states who will be necessary partners in any governance structure that will effectively address the conservation and activities in and bordering marine ecosystems that overlap federal and state jurisdiction. Ocean jurisdiction should not be extended inland under watershed management principles where it could supplant legitimate state interests and jurisdiction.

Framework for Policy Coordination

The charge to the task force includes making recommendations on a framework for policy coordination. We support this type of coordination, but caution against taking any action that compromises the current primacy of regional fishery management councils and NOAA fisheries in managing fishing activities off our shores. Likewise, we cannot support additional levels of federal bureaucracy that would slow an already cumbersome process. Flexibility to respond to regional needs and changing conditions is crucial to successful oceans and fisheries management.

We support efforts that would reemphasize and strengthen the current role of NOAA as the lead agency for ocean and fishery research and management. Sufficient funding for NOAA to achieve its mandates would certainly be a widely supported recommendation from the task force. Any additional regulatory processes should be carefully reviewed to ensure they are not overlapping or inconsistent with existing regulations and authorities.

Implementation Strategies

While it is important during policy development to consider how the results would be implemented, the appropriate strategy at this stage is for the national policy to identify broad goals. Once these goals are identified on a national scale, coastal states, regional fishery management councils, and stakeholders with immediate knowledge of and interests in identifiable ecosystems should be engaged to develop objectives and implementation strategies to ensure each region and ecosystem progresses towards broader national policy goals.

Without identification of national goals, it is difficult for stakeholders to comment on how these goals should be achieved in their region. Likewise, given the timeline and scope of the national work, it is unrealistic to expect development of objectives and implementation strategies that are regionally appropriate and enjoy local support.

Marine Spatial Planning

The emphasis of the task force on marine spatial planning is not described in detail and consequently, the intent of the panel is uncertain both in terms of the process that would produce a marine spatial plan and the expected content of such a plan. However, in reviewing marine spatial planning efforts undertaken in other areas of the globe it is clear that the enterprise entails substantial long-term consequences for the conservation and use of the marine environment and, therefore, implicates the ongoing vitality and viability of coastal states and communities dependent on marine-based activities and resources. Given that little insight into the substantive expectations of

the panel has been provided, our immediate concerns focus on process and participation. Marine ecosystems are not limited to the spatial extent of federal jurisdiction and hence, the development of marine spatial planning should assure active participation of coastal states as sovereigns with authorities in marine waters and relevant uplands as well as resources and competencies of value to the planning process. Furthermore, the process should include active outreach to the wide range of constituencies and authorities with interests or responsibilities in the marine environment and resources.

Marine spatial planning as undertaken in other countries raises important questions and considerations for such a process in the United States. For example, what authorities will be used to develop and implement marine spatial planning? Other nations that have pursued marine spatial planning have relatively complex geopolitical and ecological circumstances, though arguably none as complex as ours with 23 states bordering two oceans and eight more on the margins of the Great Lakes. Marine spatial planning in nations such as Norway, Australia, and England has been preceded by analysis that helped define the regions and ecosystems under consideration. With this as a precursor, legislation was prepared that created the necessary authorities to develop and implement marine spatial planning. We encourage use of this model in the current planning process because it will help ensure a deliberative and participatory process.

Expectations regarding the timeline for the planning process, when it might conclude, and anticipated benchmarks to judge progress are similarly unclear. While the President's memo calls for a "recommended framework for effective coastal and marine spatial planning" to be completed within 180 days of the date of the memo, it is not clear whether that would outline best practices conceptually or specify responsibilities and objectives for identified authorities. We support a deliberate and inclusive process as a necessary precursor to an effective plan and, therefore, encourage a conceptual level of discourse to be followed by expansive outreach and consultation with states. It is interesting to note that marine spatial planning pursued in other countries or by individual states in our own country has been a process requiring years of intensive effort.

Marine spatial planning should have a local and regional focus relying on the resources and expertise of state and regional authorities. Other countries have developed marine spatial plans of varying extent. Belgium is developing an integrated national plan for its jurisdiction in the North Sea which entails 44 kilometers of coastline and 3,600 square kilometers of marine waters. Between 2002 and 2006, Norway completed a plan for part of its exclusive economic zone (EEZ) that addresses an area of 1.4 million square kilometers in the Barents Sea and anticipates two more plans for areas of a similar size. The United States has jurisdiction over 11 million square kilometers in its EEZ in addition to the Great Lakes, with the marine area extending from the Arctic to the temperate zones along the shores of two oceans. The extent of U.S. marine holdings and complexities of jurisdiction would require that action at the national level focus on stating broad goals and objectives and that more localized processes be employed to develop strategies and programs to fulfill the national goals.

The State of Alaska and the North Pacific Fishery Management Council have designated 673,000 square miles in the waters off Alaska as closed to fishing with some or all gear types. It is important that boundaries and management measures for these areas remain under local control. Regional councils and coastal states have the local knowledge and regulatory processes necessary to expand, modify, or contract these areas in response to new scientific research or changing conditions. We do not support inclusion of existing protected areas into a national framework that could make it

difficult to modify boundaries or management measures in the future. Marine sanctuaries and marine protected areas should be established through existing regulatory processes at the local or regional level.

Emerging Issues

In addition to oceans policy, we understand the task force has an interest in resource development issues and implications of climate change. Alaska is a resource storehouse. Our oceans and coastal watersheds produce approximately 14 percent of the nation's domestic oil and about 60 percent of the nation's seafood. In addition, Alaska has a vibrant cruise ship and tourist industry, attracting visitors from around the world.

As the nation looks to reduce greenhouse gas emissions, there is no better place to look for a relatively low-carbon fuel, natural gas, than Alaska. Alaska has the ability to provide 5 to 8 percent of the nation's natural gas supply. The Alaska natural gas pipeline will also enhance the economics of continued production of oil from the North Slope. With proper resource management and responsible development, a portion of the estimated 45 billion barrels of technically recoverable oil on both state and federal acreage in Alaska could help further reduce the nation's dependence on imported oil. We encourage the task force to think broadly, looking at the long-term economic, energy, and security needs of the country; and create a framework so those needs can be realized within the sustainability goals for our oceans and coastal areas.

To access additional energy resources, the State of Alaska strongly supports a responsible Outer Continental Shelf (OCS) leasing program that makes leases available in Alaska's OCS for the exploration, development, and production of oil and gas that is vitally important to Alaska and the nation. There are an estimated potential technically recoverable 27 billion barrels of oil and 130 trillion cubic feet of natural gas in the Alaska OCS. Development of these resources will increase economic opportunities for both Alaska and the nation, and significantly advance U.S. national security and foreign policy interests. We urge support for sharing a certain portion of revenue derived from OCS development with affected coastal states, including Alaska. Those states and communities that absorb the impacts of coastal development should receive a portion of the federal revenues to support planning, infrastructure development, and impact mitigation that falls to state and local governments to provide. A copy of Governor Parnell's recent letter to Secretary Salazar on this topic is attached and provides additional details.

Alaska is on the front lines of climate change. Some of our communities are already dealing with severe effects from coastal erosion. The State, under the guidance of the Climate Change Subcabinet, is in the process of developing a climate change strategy for Alaska. More information on the development of the climate change strategy is available at <http://www.climatechange.alaska.gov/>. Alaska, as the nation's only Arctic state, is planning for the implications of a warmer and more accessible Arctic. Recently the nation updated and revised its Arctic policy. Alaska had a strong interest in that policy and participated in its development. We believe it will serve the nation well and would encourage a national oceans policy that is compatible.

With increased maritime traffic in the Arctic comes the need for better navigational aids, charts, weather data and forecasts, monitoring, spill prevention, incident response, and enforcement capacity. The State of Alaska appreciates the good working relationship we have with the U.S. Coast Guard, NOAA, and the Environmental Protection Agency. We are already cooperating on a number of different projects extending our reach into the Arctic to better serve the needs of the people who

live and work there. The Alaska Department of Environmental Conservation has partnered with the U.S. Coast Guard on a comprehensive risk assessment of marine traffic that transits the Aleutian Islands between North America and Asia. With the right resources, we could take what we learn and move north, performing similar risk analyses for the Bering Straits, the Chukchi Sea, and the Beaufort Sea. Clearly, additional traffic in the Arctic will require development and expansion of port facilities and infrastructure in the area.

A copy of Governor Parnell's recent statement before the U.S. Senate Subcommittee on Homeland Security Appropriations, entitled "The Strategic Importance of the Arctic in U.S. Policy," is attached should you wish to consider in detail the implications of a more accessible Arctic on resource development, homeland security, national security, science, and foreign policy. One key point in this testimony is the need for the nation to fund new U.S. Coast Guard icebreakers. Melting sea ice and increased military and commercial activity in the Arctic require a greater Coast Guard presence. The U.S. Coast Guard needs to move north and improve its capabilities, and our heavy icebreakers are on their last legs. To provide homeland security, the U.S. Coast Guard must have new Arctic-class icebreakers equipped for search and rescue missions, border protection, law enforcement, fisheries enforcement, infrastructure, and environmental protection.

Other Recommendations

One area in which national policies could be helpful is recommending and ensuring adequate funding for marine research, including increasing our knowledge of ocean acidification and the effects of climate change on the marine environment and fish stocks, increased funding for stock assessments, and improved observing and monitoring of oceans conditions. Additionally, we recommend resources for enforcement and monitoring, especially full funding for the U.S. Coast Guard to fulfill its responsibilities in international boundary enforcement and emerging responsibilities in the Arctic. Alaska is unique among states in that we share maritime boundaries with multiple foreign nations and harvest and assess fish stocks that migrate across international boundaries.

Alaska would benefit from improved baseline data, environmental monitoring, and access to high-resolution mapping and imagery. Much of Alaska's coastline lacks updated and complete navigational and bathometric data. Building on our existing collaborations and work, an assessment needs to be done of the critical needs in these areas and how to address them. National oceans policies should support this work.

Statement for the Record

The Honorable Sean Parnell

Governor
State of Alaska

Before the
United States Senate
Subcommittee on Homeland Security Appropriations

"The Strategic Importance of the Arctic in U.S. Policy"

August 20, 2009
Anchorage, Alaska

Introduction

Thank you, Senator Murkowski, for this opportunity to address the Homeland Security Subcommittee of the Senate Appropriations Committee on one of the greatest challenges facing the Nation and the State of Alaska – the changing Arctic and the national policies necessary for its understanding, its protection, and its responsible development.

Before I begin my remarks, Madam Chair, I would like to take a few moments to recognize and thank Admiral Thad Allen, Commandant of the United States Coast Guard, and all the members of the Coast Guard for their bravery and hard work in Alaska.

Just this week, the Coast Guard helped save the lives of nine people in Alaska. A Coast Guard helicopter found two missing adults and a child near Ketchikan. With help from Alaska State Troopers, family and friends, the Coast Guard rescued another six people when a 20-foot pleasure boat overturned at Tee Harbor near Juneau. Unfortunately, one person lost their life in that incident. My thoughts and prayers are with his family, and we deeply appreciate the men and women who keep America's coastlines safe and secure.

As you know Senator Murkowski, Alaska is America's Arctic – it's our home, our history, our heritage, and our future. And Alaska is the only national link to the Arctic and the only state that shares a border with two other Arctic nations. Arctic policies affect every state and every citizen – Alaskans most of all, not just because of our strategic location on the globe, but because of what we have to offer. The Arctic's abundant resources – human and natural – and our strategic location for national security demand our attention. The people of Alaska understand and eagerly accept our role in the examination and development of national Arctic policy.

We worked closely with the previous Administration on national and homeland security directives outlining broad policies on the Arctic. We hope to continue that collaboration with this Administration and Congress.

Today, I present Alaska's view of U.S. Arctic policies in five areas: resources, national and homeland security, science, and foreign policy. In the Arctic, these policies are inextricably linked. And, while I describe these issues individually, it is vital that this committee and the Administration understand and act on them jointly. Domestic energy supplies support national and homeland security. Security enables development and protects the environment. Foreign policy enables international participation in scientific research. This must all be discussed in the context of climate change and how Alaska is adapting in light of Arctic policy.

Resources

Let me begin by focusing on Alaska's resources – most of all, our human resources: Alaska's people. Make no mistake, Alaskans have been adapting for years. Changes in the Arctic affect us directly, every day. No one is more vested in Arctic policy than the people who subsist from the land – hunting, fishing and gathering, not just for food, but for the survival of their culture. Collaboration with our Arctic residents and local governments is a must. Alaskans understand the need for balance.

Any conversation about the Arctic must also include Alaska's natural resources – coal, gold, zinc, silver, copper, natural gas and oil. These resources make the Arctic vital to American energy security. Alaska is America's Arctic energy breadbasket. We have traditional and renewable sources of energy in staggering volumes here. Alaska can play an even greater role in reducing the amount of oil and gas we import from abroad. And we can be America's test-bed for renewable and alternative energy sources.

The onshore Arctic areas, such as the NPR-A and the coastal plain of ANWR, hold great promise.

Alaska is home to the Trans Alaska Pipeline System, which carries 685,000 barrels of oil a day to the lower 48 states. This major supply of oil is key to our national energy security.

Offshore Alaska ... the Beaufort and Chukchi Seas can be explored safely in the near-term, producing oil and gas for decades. Without these known, traditional sources of energy, we risk higher cost energy, higher taxes, and greater dependence on foreign oil. We can do this on our own soil. Let us not be led down the easy path to investing America's foreign aid dollars in exploration abroad. Let's keep it here – where Americans can get the jobs, and where environmental laws safeguard our land, seas, and wildlife.

Putting the brakes on domestic energy production does not prevent global warming or end threats to species. Instead, delaying responsible exploration and development increases the problem by shifting resource extraction to less environmentally preferred fuels and locations.

Turning to cleaner fuels, the State of Alaska is also pursuing the construction of a pipeline to bring the North Slope's abundant, clean natural gas to American markets. We have two competing private sector groups working diligently to permit a natural gas pipeline that can deliver 4.5 billion cubic feet of natural gas a day to the continental United States. Again, if we can turn on the supply of clean, American natural gas – from Alaska – we will reduce our dependence on imports and bring less expensive energy to homes across America.

Unfortunately, current language in proposed climate change legislation would likely make the project uneconomic and would lead to the use of higher cost fuel sources before technology catches up.

Alaska remains fully committed to alternative and renewable energy, as well. This is the place to field test every alternative. From wind turbines to hydro-electric, to chip-fired systems that burn wood for fuel – Alaska is America's alternative energy center.

I am confident that together we can bring traditional, renewable and alternative energy to market and increase Alaska's contribution toward our nation's energy independence for years to come.

Homeland Security

Alaska is America's Arctic Guardian. Our strategic location, resources and people compel strong funding for homeland security. The Department of Homeland Security and its agencies have been strong partners in providing for the safety and security of Alaskans and our economy.

Melting sea ice and increased military and commercial activity require a greater Coast Guard presence. The Coast Guard needs to move north and improve its capability — our heavy ice-class icebreakers are on their last legs. To provide homeland security the Coast Guard must have new Arctic-class icebreakers equipped for search and rescue missions, border protection, law enforcement, fisheries enforcement, infrastructure and environmental protection.

Support for funding for those icebreakers is up to this committee. We need to fund a new Coast Guard duty station or port on Alaska's coast between Nome and Barrow to meet the new challenges of the Arctic.

The Coast Guard needs to keep the promise of the Oil Pollution Act of 1990 and establish a research program for the Arctic. With information in hand, we can continue to work with the Coast Guard to improve our ability to prevent and respond to oil spills in the region.

In addition, the Department of Homeland Security and the Federal Emergency Management Agency must have authority to act on disasters we can predict, not just those looming around the corner or the one we currently face. In western and northern Alaska, the sea ice no longer shields the coast from fall storms. The resulting erosion threatens the sustainability of some communities. The federal law was not written with such hazards in mind and does not provide the large-scale response these small communities need.

Exploration and development will bring more coastal and maritime infrastructure, such as ports, repair facilities, fuel depots, pipelines, and transportation. These assets will need effective, enforceable security buffer zones to ensure continuity under all hazards.

National Security

As the summer ice retreats, opportunities for commerce, tourism and transportation advance. Already we see more mineral, oil and gas exploration – more vessel traffic and science missions. As we have seen throughout the world's oceans, increased maritime traffic elevates both risks and threats. Currently, the North Slope Borough and oil and gas producers on the slope fill much of that void. We need the federal government to step in. We can no longer assume that the threat from the north to our oil production fields is not real. We can no longer assume that the Arctic is an impenetrable barrier.

The United States must increase national focus on the Arctic, add resources to collect scientific data, and increase Coast Guard presence to address these new challenges and opportunities. This will provide the ability to develop the American Arctic's vast natural resources and is critical for the protection of strategic national infrastructure and assets.

Alaska's strategic position as the northern crossroads also places us squarely in line between potential adversaries and the rest of the United States. I urge the Congress to support the ground-based missile defense system in Alaska and reconsider the proposal to scale back the placement of interceptors at Fort Greely. We play a critical role in national security and in the security of American allies.

Science

Despite centuries of exploration and study, much about the Arctic remains a mystery. Standard weather and climate models are not sufficient for understanding and predicting trends and patterns. New models require fresh data and up-to-date research.

The State of Alaska strongly supports the National Oceanic and Atmospheric Administration and its initiatives to improve its observations and research across the Arctic and to develop innovative forecasting models for next week's weather and next century's climate.

I encourage scientific collaboration among the academic world, the Arctic nations, and non-governmental organizations to improve our understanding of fisheries, marine mammals, land animals and vegetation in the Arctic ecosystem. This research must be open and rigorous.

The State continues its support of the use of unmanned aerial systems for Arctic operations and research. The Alaska Aerospace Development Corporation and NOAA are working on a plan for how best to make that happen. The technology exists; the stakeholders are ready; but the current regulations are inflexible and outdated.

And the Arctic, literally, needs to be put on the map. Scientific research and economic exploration are set back by low-quality, decades-old mapping data. There is no accurate baseline to measure change, to

identify trends and patterns, or to predict potential outcomes. We need high-quality maps of the Arctic – both land and sea. Funding for such priorities should not be based on population density, but instead on current and future strategic economic and environmental values.

Foreign Policy

For much of its history, the Arctic has been both ungoverned and ungovernable. Even as the eight Arctic nations have increased economic activity, the Arctic climate has impeded economic and social development, transportation, and research. That era must end.

I strongly urge the Senate to ratify the United Nations Convention on the Law of the Sea. Once ratified, the treaty will allow us to claim jurisdiction over the offshore continental shelf behind the 200-mile limit. U.S. boundaries could grow into areas that may hold large deposits of oil, natural gas and other resources. Russia, Canada, Denmark, and Norway have claims to Arctic territory under the auspices of the Law of the Sea. Without ratification, the U.S. cannot fully participate in adjudication of these claims.

Climate change

Alaskans have extremely close ties to the land and the sea and are sensitive to their subtleties and variability. The changes in the Arctic ice – their timing, extent, and nature – give us cause for concern.

To define and address these concerns, Governor Palin formed the Climate Change Subcabinet to respond to immediate needs in rural villages, plan for the long term and determine research needs. The subcabinet has turned recommendation into action. We're now working on coastline stabilization, emergency and evacuation planning, hazard mitigation planning, training and exercises for the communities most in need.

The climate change strategy is in the final stages and will be presented to me this fall. We've had noteworthy partnerships with several federal agencies in this process, and we look forward to continued work with the federal government as we address climate change.

Conclusion

In conclusion, I applaud you, Senator Murkowski, on bringing to Alaska this hearing on the strategic importance of the Arctic in U.S. policy. These policies, whether long-standing or emerging, will have a profound effect on the nation and on Alaska for generations. We must take a balanced approach to protect our food sources, thousands of jobs and the energy security provided by Alaska's oil and mineral development.

Alaska and the U.S. government share a policy that is balanced and recognizes the diversity the Arctic offers. And it highlights the Arctic's unique characteristics and consequent need for unique treatment.

I urge the Congress and the federal Administration to continue the good work on Arctic policies and encourage the development of a National Arctic Doctrine that includes all stakeholders in the future of the Arctic. Alaska will participate and Alaska will contribute. We are eager to work with Congress to manage all our resources.

On taking office last month, I asked Alaskans and myself several questions: In the next 50 years, will Alaska move forward, or will time pass us by? Will each of us be a vital player, or will we stay on the bench? Will we just survive, or will we choose to thrive?

Today Alaskans join me in stating that our state – and our nation – must not be idle and passive; that we must not drift; that we must choose our destiny and work hard to achieve it.

The Arctic is our future. We choose to move forward, and we choose to thrive.

Thank you for your leadership and your service to our great State and to our Nation.

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Governor Sean Parnell
STATE OF ALASKA

September 2, 2009

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Re: Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program 2010 – 2015
[Docket MMS-2008-OMM-0045]

Dear Mr. Secretary,

I am pleased to continue the State of Alaska's (State's) participation in decision-making relative to energy development in the Outer Continental Shelf (OCS) by offering the following comments on the *Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program 2010 – 2015*.

On behalf of the State of Alaska, I strongly support a responsible OCS leasing program that makes available leases in Alaska's OCS for the exploration, development, and production of oil and gas vitally important to Alaska and the nation. In supporting OCS development, I am guided by the following principles:

- A comprehensive energy future must include oil and gas, in addition to conservation and greater reliance on renewable sources. Alaska accounts for a significant percentage of the nation's technically recoverable oil and gas resources, including an estimated potential of 27 billion barrels of oil and 130 trillion cubic feet of natural gas in the Alaska OCS alone. New oil production will also allow the Trans Alaska Pipeline, now operating at less than one-third of capacity, to continue efficient operations for decades.
- Development of the OCS will increase economic opportunities for both Alaska and the nation. High paying jobs will be created and more royalty and tax revenue will go to our own government, not foreign ones, reducing our deficit.
- Development of Alaska's OCS will significantly advance U.S. national security and foreign policy interests. We increasingly rely on imported oil, now importing 58 percent of our domestic needs, and too much comes from unstable regimes sometimes hostile to the United States.

- Alaska has a long record of responsible offshore development that demonstrates sensitivity and respect for Native culture, tradition, and a subsistence lifestyle.
- The Alaska natural gas pipeline will be one of the largest and most reliable long-term sources of natural gas in the future. Economic viability of the gas pipeline and our nation's homes and businesses depend upon access to the 130 trillion cubic feet of natural gas in Alaska's OCS.
- The federal government should share a certain percentage of revenue derived from OCS development with affected coastal states, including Alaska. Those states and communities that absorb the impacts of coastal development should receive a portion of the federal revenues to support planning, infrastructure development, and impact mitigation that fall to the state and local governments to provide. The State of Alaska supports federal revenue sharing legislation.

Each of these principles is discussed in more detail below.

I. A Comprehensive Energy Plan for the Nation Must Include Alaska's OCS, and Must Include Oil and Gas

I concur with the statement made earlier this year by President Obama that, "As we transition to renewable energy, we can and should increase our domestic production of oil and natural gas." Maintaining the schedule for Alaska's OCS lease sales, exploration, and development programs, especially in the Beaufort Sea and Chukchi Sea, is critically important to these efforts.

Based on current estimates, Alaska accounts for over 30 percent of the nation's technically recoverable oil and gas resources. Alaska's OCS is an important source of the future U.S. energy supply, with an estimated potential for 27 billion barrels of oil and 130 trillion cubic feet of natural gas. By comparison, the total oil production from the North Slope of Alaska since construction of the Trans Alaska Pipeline System (TAPS) in 1977 is approximately 15.5 billion barrels.

Without development of new oil fields, the most promising of which are believed to be in the Alaska OCS, TAPS is at risk of eventual shutdown. The Joint Pipeline Office July 17, 2009 newsletter reports that TAPS operators will have to address the operational challenges of low flow as early as the 2012 to 2018 timeframe. At its peak in 1988, the 800-mile pipeline transported 2.1 million barrels of oil a day, or approximately 24 percent of the nation's crude oil production. In February 2009, the pipeline carried on average 14 percent of the nation's crude oil production, and throughput is now 680,000 barrels per day and falling at an average of 4.95 percent per year.

We are quickly approaching the minimum throughput rate, beyond which the flow of oil cannot be maintained. Without development of new sources of Alaskan oil, TAPS could shut down within the next decade. New sources of oil must be discovered now in order to realize production in time to sustain TAPS operations and provide oil to the nation beyond the immediate future.

The State of Alaska also supports development of alternative energy sources in the OCS, starting with increased analysis of its potential to provide renewable energy resources, such as wind or tidal

power. Nonetheless, the State strongly asserts that continuing and increased production of oil and gas resources, especially from Alaska's robust OCS resources, is essential to the nation's economic recovery, to reduction of the nation's dependence on foreign oil, and to the nation's future competitiveness in global markets.

II. Economic Benefits – to Alaska and to the Nation – of OCS Production

According to a recent University of Alaska study, OCS production could provide an annual average of 35,000 jobs for 50 years and \$72 billion in new payroll. The Alaska OCS has the potential to contribute to our nation's economic recovery, sustain Alaska's economy for generations, sharply increase Alaska oil and gas production, create tens of thousands of new jobs, and generate hundreds of billions of dollars in federal, state, and local government revenues.

Based on U.S. Geological Survey (USGS) and Minerals Management Service (MMS) assessments, 50 percent of undiscovered oil resources and 36 percent of undiscovered natural gas resources lie offshore. Further, a recent report issued by the U.S. Department of the Interior shows that the undeveloped reserves of the OCS represent about four times America's proven reserves of oil and natural gas. According to these estimates, 86 billion barrels of oil and 420 trillion cubic feet of natural gas lie undeveloped in the OCS, the equivalent of 50 years worth of today's OPEC imports.

Developing our own resources means that royalties from production will go to our own government, not foreign ones. At a time when Americans are concerned about the swelling national budget deficit, it is important to underscore that OCS leases off Alaska's coast have already generated over \$9 billion for the federal treasury from lease sales, with the promise of many more billions for decades to come from lease sales and royalties – if development is allowed to proceed. Our massive trade deficit will also be reduced because we will be less dependent on foreign sources of oil.

Given that demand for energy will rise as the economy recovers, and in view of the significant challenges posed to the nation's manufacturing sector by the cost of energy, the U.S. must continue to pursue new oil and gas development even as the nation transitions to the new energy sources of the future.

III. Development of Alaska's OCS Will Advance U.S. National Security and Foreign Policy Interests

Developing the Alaska OCS will significantly advance U.S. national security and foreign policy interests. Let's be clear: as our population grows and our economy expands, the energy resources we need as a country *will* come from somewhere. Right now, too much of our oil comes from unstable regimes hostile to the United States; and petro dollars from the Middle East help fund global terrorist operations. Delaying or preventing OCS development will only exacerbate this national security threat.

IV. Offshore Development is Environmentally Responsible Development

Offshore development has an outstanding safety and environmental record spanning decades in Alaska's Cook Inlet, the Gulf of Mexico, the North Sea, and elsewhere. Alaska has decades of

experience in safely extracting oil and gas from our resource basins, including those in the Arctic. Over this time period, industry technology has also advanced tremendously, allowing for long-reach directional drilling while leaving ever smaller footprints on the land.

Concurrently, federal and state regulatory processes have matured, and oil and gas activities are now subject to comprehensive and stringent oversight. Oil and gas production in the United States OCS does and can continue to occur in a responsible manner under our strong regulatory system, with seasonal operating restrictions as needed, and mitigation measures to avoid conflicts with other resource and subsistence users.

We respect the Alaska Native culture, traditions, and subsistence harvests of wildlife. I have committed to Native leaders and all Alaskans to treat their concerns with respect. I have made a commitment to listen to the concerns of those who live and subsist on the North Slope and work with them to address their concerns.

Some would encourage you to delay exploration and development in the Alaska OCS over concerns related to global warming and its effects in the Arctic. First, allow me to make clear that Alaska understands, firsthand, the effects of climate change. We live every day with the changes only observed from afar: diminished sea ice, increased coastal erosion, melting permafrost, and overall ecosystem changes are very real to us. However, the mitigation goals for CO₂ reduction required under the most credible climate change models, including the International Panel on Climate Change will require a dramatic increase, in the very near term, in the use of preferred, available fuels.

As you know, natural gas is a readily available and clean fuel with a very low carbon footprint. Further, and of critical economic importance, the increased use of natural gas presents an opportunity, to the nation, to make use of extensive existing natural gas infrastructure and tooling in the public and private sectors, and, where necessary, relatively inexpensive retooling to transition from oil and its derivatives to green energy sources.

Delaying production from the Alaska OCS will result in less available natural gas to meet the nation's energy needs and potentially prolong our reliance on oil, resulting in much higher greenhouse gas concentrations than could otherwise be achieved.

An increased emphasis on development of renewable energy sources must not preclude and will not reduce the need for oil and gas development. Under even the most optimistic projections for use of renewable energy sources, oil and natural gas are projected to account for nearly 65 percent of domestic energy consumption in 2025. Therefore, under even the best of circumstances, *increased development of domestic oil and gas resources is required to meet demand, even while the percentage of overall energy demand met by oil and gas is decreasing.*

V. The Alaska Natural Gas Pipeline is the Single Largest and Best Future Source of Clean Energy for the Nation

The Alaska natural gas pipeline is one of President Obama's "Top Five Green Energy Priorities." Construction of the pipeline and delivery of the 3.5 to 5.9 billion cubic feet per day of natural gas that it can carry will be a giant step toward reducing greenhouse gas emissions in North America.

Access to OCS gas resources may be critical to taking the first giant step in the nation's transition to clean energy sources. Alaska's OCS resources are significant.

The U.S. Geological Survey and the Minerals Management Service have estimated that Alaska holds over 260 trillion cubic feet of proven and undiscovered conventional and technically recoverable natural gas. In addition, over 85 trillion cubic feet of undiscovered unconventional and technically recoverable natural gas from gas hydrates have been identified by the USGS. With predictable lease sales and a means of transportation, the private sector can deliver those resources to the nation.

The State of Alaska has committed \$500 million to make the natural gas pipeline a rapid and successful project. Further, the Alaska Gasline Inducement Act (AGIA) requirements – pipeline expansion, open access opportunities, and low pipeline tariffs – provide the opportunity to bring new gas to market economically. The significant gas potential of the OCS is critical to the long-term economic viability of the pipeline and to the dependability of the nation's energy supplies.

VI. Alaska Supports Equitable Revenue Sharing

The State of Alaska strongly supports the President's call to Congress to address new legislation to enhance current revenue sharing laws. We support allowing broader state participation in fiscal planning related to future coastal resource development. To date, this has occurred in certain limited circumstances, but there is no comprehensive program for OCS revenue sharing.

While Alaskans strongly support offshore oil and gas development (77 percent in a 2009 poll), we also recognize the impact to the state and local governments whose institutions and communities are affected by it. Therefore, I strongly support changes to federal law to provide states and coastal communities with a fair percentage of direct revenues from royalties, bonus bids, and rental fees derived from all OCS activities off their coasts. I am prepared to participate in, and encourage your support of discussions focused on revising current revenue-sharing practices to effect fair and equitable sharing of OCS revenues.

Thank you for your consideration of these comments. I look forward to a continuing dialogue on our joint efforts to provide energy to the nation, doing so responsibly, and guiding the nation's transition to both existing and new sources of clean energy.

Sincerely,



Sean Parnell
Governor

cc: Renee Orr, Chief, Leasing Division, Minerals Management Service

STATE OF ALASKA

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OFFICE OF THE COMMISSIONER

April 29, 2011

National Ocean Council
722 Jackson Place, N.W.
Washington, DC 20503

Re: State of Alaska comments on the Development of Strategic Action Plans for the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes (Federal Register/Vol. 76, No. 15/ January 24, 2011/Notices)

Dear Council:

The Office of Science and Technology Policy published a federal register notice requesting comments on the development of nine strategic action plans for the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes. Federal Register/Vol. 76, No. 15/ January 24, 2011/Notices. Following are the consolidated comments for the State of Alaska based on input from the Alaska Department of Fish and Game, Alaska Department of Natural Resources, Alaska Department of Environmental Conservation, and the Alaska Department of Law. Please consider and include these comments within the administrative record. Please also include in the record the enclosed comments the State provided on September 10, 2009 and on February 12, 2010 in response to the request for comments on the development of a national oceans policy. The right to supplement or amend the State's comments is reserved.

Alaska has a strong interest in assuring the continued health and productivity of its marine and coastal resources. We rely on these areas for commercial, sport, and subsistence fisheries, recreation, transportation, shipping, and a multitude of other uses. Marine and coastal resources are vital to our economy, supporting a vibrant fishing industry that produces almost six billion dollars in economic activity in our state annually, accounts for approximately 60 percent of the nation's seafood production, and is our largest private sector employer. Coastal and marine areas also provide abundant development opportunities, such as; offshore oil and gas, renewable energy, shipping, and tourism. The Alaska Outer Continental Shelf (OCS) is a large area, roughly the size of Texas and California combined, and is largely untapped as a natural resource. This area holds an estimated 27 billion barrels of oil and 132 trillion cubic feet of natural gas, and is a key to our nation's energy security. With 44,500 miles of shoreline - more mileage than the other eight proposed planning areas combined - and an expansive Exclusive Economic Zone, Alaska's interest in managing ocean and coastal resources cannot be overstated.

The development of these nine strategic action plans appears to be focused on developing a framework for marine and coastal policy coordination. Alaska's marine and coastal resources and their uses are already tightly regulated by a vast and diverse array of federal, state, and local authorities. This existing oversight has a proven track record and is fully capable of ensuring the long-term health and

viability our marine and coastal resources. Therefore, we oppose creation of additional bureaucracy and regulation and instead support achieving efficiency by relying on the effective proven processes and authorities that are already in place. At this time, we do not believe that new federal regulatory and/or coordination bodies are needed. We also do not support use of this process for zoning or regulated marine use planning purposes.

Congress has already “occupied the field” of management of the nation’s coastal and ocean resources with the many laws now in place. The State is not aware of a single law granting the President authority to amend or supplement existing statutes with a new National Ocean Council to be guided by the conservation principles of Executive Order 13537 (EO) while controlling the decisions of federal agencies and seeking to limit resource development to certain designated ocean or coastal zones. On its face, the EO does not cite any federal statute as a source of such authority. If the EO is based on existing authority the legal cite(s) should be provided.

Alaska's experience and record demonstrates that a strong state model can be very effective when implemented responsibly and, therefore, national policies must recognize the need for state-based decision-making. Our record of sustainable management of Alaska’s marine and coastal resources has led to national and international recognition of Alaska as a leader in these fields. In Alaska, significant progress has been made to strengthen and enhance marine research, coastal and marine observing, and habitat protection.

Investment in Arctic infrastructure would improve the safety, security, and reliability of transportation in the region. In short, we need more resources, not more rules, to ensure conservation of our coastal and marine resources. Needed infrastructure include aids to navigation, new polar-class icebreakers, ports in the Bering Sea and the Arctic Ocean, and forward basing for the U.S. Coast Guard (USCG) and Air National Guard aircraft. We also encourage the development of safe, secure, and reliable shipping regimes envisioned by the U.S. Arctic Policy.

A national commitment to provide adequate and sustained funding for Arctic research and infrastructure is needed. Alaska would benefit greatly from access to high resolution mapping and imagery. For example, much of Alaska's coastline lacks complete navigational and bathymetric data. Resources are also needed to increase our knowledge of ocean acidification and the effects of climate change on the marine environment and fish stocks, for stock assessments, and improved observing and monitoring of oceans conditions. We endorse the Sustained Arctic Observing Network and urge full U.S. participation.

We also strongly recommend allocation of resources for enforcement and monitoring, especially full funding for the USCG to fulfill its responsibilities in international boundary enforcement and emerging responsibilities in the Arctic. The USCG’s “High Latitudes” study and recommendations need to be released by the administration and key infrastructure recommendations presented to Congress for funding. Alaska is unique among states in that we share maritime boundaries with multiple foreign nations and manage fish stocks and marine mammals that migrate across international boundaries. From an international perspective, implementation of marine and coastal policy must recognize that different legal regimes, with their associated freedoms, rights and duties, apply in different maritime zones of foreign countries. Due to our shared boundaries with Canada and Russia in the Arctic this is a very important issue. For example, activities in the adjacent Canadian Beaufort Sea currently operate

under the jurisdiction of the *Arctic Waters Pollution Prevention Act*. While we do not have a specific proposal to endorse at this time, we encourage discussion of an Arctic high-seas fisheries agreement.

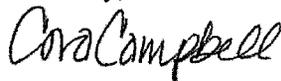
Rather than direct implementation of the provisions of an international treaty through executive order, we urge the Senate to ratify the United Nations Convention on the Law of the Sea. Once ratified, this treaty will allow the U.S. to claim jurisdiction over the offshore continental shelf beyond the 200-mile limit. As a result, U.S. boundaries could grow into areas that may hold large deposits of oil, natural gas, and other resources. Russia, Canada, Denmark, and Norway already have claims to Arctic territory and the U.S. needs a seat at the table to protect its interests.

Finally, to ensure an effective outcome, it is important that any planning effort, including the development of the nine strategic plans, have clearly defined expected outcomes, an appropriate timeline, and provides both the states and the users of marine and coastal resources with primary authority to develop ocean and coastal policies. The health and management of our marine and coastal resources is simply too critical to engage in a process that does not provide a meaningful avenue for both state and public input and support. We support a major role and voice for the coastal states in marine and coastal policy making and decisions. Coastal states must be recognized as partners with sovereign jurisdictions and authorities, not relegated to stakeholder status in marine and coastal policy development and implementation.

The State of Alaska's comments on the nine strategic plan focal areas are enclosed. We begin by providing some overarching comments, followed by general comments on each of the nine strategic plan focal areas and identification of needed short-term actions. We have chosen to not recommend mid and longer term actions at this time as we believe it is premature to comment on these until the short-term recommended actions are completed. We also provide our assessment of significant obstacles and opportunities for each of the nine focal areas.

We look forward to providing more comprehensive comments, after you have had the opportunity to develop and circulate draft strategic plans for each focal area. We will also continue our legal review which thus far has identified serious concerns with the process of trying to implement changes in the authorities and actions of federal agencies in the absence of congressional action. We appreciate your consideration and look forward to additional opportunities for dialogue. Please feel free to contact Doug Vincent-Lang at (907) 267-2339 or douglas.vincent-lang@alaska.gov if we can provide additional information. Thank you for the opportunity to comment.

Sincerely,



Cora Campbell
Commissioner

Enclosures:

State of Alaska Comments September 10, 2009

State of Alaska Comments February 12, 2010

Governor Parnell's letter to Secretary Salazar on Alaska OCS development

The Strategic Importance of the Arctic in U.S. Policy

Lt. Governor Treadwell's letter on Arctic priorities

Lt. Governor Treadwell's letter to Julie Gourley

cc: The Honorable Mead Treadwell, Lt. Governor, State of Alaska
The Honorable Lisa Murkowski, Senator, U.S. Senate
The Honorable Mark Begich, Senator, U.S. Senate
The Honorable Don Young, Congressman, U.S. House of Representatives
John Katz, Director of State and Federal Relations and Special Counsel, State of Alaska
Randall Ruaro, Deputy Chief of Staff, State of Alaska
The Honorable Dan Sullivan, Commissioner, State of Alaska
The Honorable John Burns, Attorney General, State of Alaska
The Honorable Larry Hartig, Commissioner, State of Alaska
Mark Robbins, Associate Director, State of Alaska
Doug Vincent-Lang, Acting Deputy Commissioner, State of Alaska

State of Alaska Comments on Coastal Marine Spatial Planning Priority Objectives

Overarching Comments

Jurisdiction and management decisions for marine waters and submerged lands and responsibility for marine and coastal activities and ecosystems is divided between the states and the federal government. Alaska's jurisdiction includes uplands, wetlands, tide and submerged lands and extends out three nautical miles to the territorial limit. Within these areas, Alaska manages and leases lands, and with federal and local agencies, permits or restricts activities on them that could impact the environment. Alaska shares a common responsibility with the federal government to maintain healthy, resilient, and sustainable marine and coastal resources. We urge that before imposing any new policies or strategies the federal executive branch seek express and clear authority for such changes through the passage of a bill by Congress. Congress has a keen awareness of the current multi-jurisdictional structure and respect for the traditional role of states in managing their marine and coastal resources.

State government works closely with communities and is in a good position to evaluate how proposed national marine and coastal policies will work, or not work, in different ecosystems and communities around the state. With a state as large and diverse as Alaska, it will be critically important to capture the experience and knowledge of the state in developing and implementing marine and coastal policies. We encourage that these policies be developed from the ground up. Durable, reliable, and implementable national policies require an understanding of local issues and a public process sufficient to ensure local support. There are already numerous successful partnerships in Alaska among federal, state, and local governments, tribes, organizations, and concerned citizens. National policies should recognize these existing partnerships and avoid supplanting them with management or direction coming from outside the state.

At the outset, the State notes several legal concerns. Congress has already "occupied the field" of management of the nation's coastal and ocean resources with the many laws now in place. The State is not aware of a single law granting the President authority to amend or supplement existing statutes with a new National Ocean Council (NOC) to be guided by the conservation principles of Executive Order 13537 (EO) while controlling the decisions of federal agencies and seeking to limit resource development to certain designated ocean or coastal zones. On its face, the EO does not cite any federal statute as a source of such authority. "The President's power, if any, to issue the order must stem either from an act of Congress or from the Constitution itself." *Youngstown Sheet & Tube v. Sawyer*, 343 U.S. 579, 585-589 (1952) (Invalidating Presidential Executive Order). If the EO is based on authority expressly granted the President by statute, please provide the legal cite(s).

If there is no express statutory authority for the EO, an issue of authority to amend or even supplement existing laws arises. "In the framework of our Constitution, the President's power to see that the laws are faithfully executed refutes the idea that he is a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad ... The President's order does not direct that a congressional policy be executed in a manner prescribed by Congress – it directs that a presidential policy be executed in a manner prescribed by the President." *Id.*

In fact, despite the disclaimer language in the EO that it shall only be implemented to the “fullest extent consistent with applicable law”, the new scheme of ocean and coastal planning outlined in the EO appears to conflict with existing laws. “In sum, we think it is untenable to conclude there are no judicially enforceable limitations on presidential actions, besides actions that run afoul of the Constitution or which contravene direct statutory prohibitions ... [such a] position [by the government] would permit the President to bypass scores of statutory limitations on governmental authority and we therefore reject it.” *Chamber of Commerce of the U.S. v. Reich*, 74 F.3d 1322, 1332 (D.C. Cir. 1996).

For example, in the Coastal Zone Management Act (CZMA) Congress declared “the key to more effective protection and use of the land and water resources of the coastal zone is to encourage states to exercise their full authority over the lands and waters in the coastal zone ...”.

16 U.S.C. section 1451(i). States are given the authority to exercise discretion in developing (with input from local communities and the public) individual coastal zone plans or “management programs” 16 U.S.C. section 1454. Each State’s coastal management program must include a definition of allowable land and water uses and is subject to review and approval by the Governor of an individual state. 16 U.S.C. 1455(d)(2)(B) and (d)(5).

Yet, the EO provides that management decisions in the coastal and ocean waters will be governed by a “coastal and marine spatial plan” that is judged by the NOC as meeting the “definition, goals, principles, and process described in the Final Recommendations” of the Interagency Ocean Policy Task Force. EO, section 3. Federal agency management decisions must be “guided by the stewardship principles and national priority objectives set forth in the Final Recommendations ...” EO, section 5.b and 6. There are a number of other areas where the process and substance of the EO seem to conflict with existing statutes.

Further, the EO requires “all actions” of the NOC and federal agencies to “be consistent with applicable international law, including customary international law such as that reflected in the Law of the Sea Convention.” EO, section 9.c. The State respectfully recommends the President seek ratification of the Law of the Sea treaty by the Senate, and not attempt to implement the treaty through an EO.

Other overarching themes that appear in the section-by-section comments include:

- Prior State comments: The Governor and the State have expressed strong concerns with the National Ocean Policy in previous comments, particularly with respect to coastal and marine spatial planning (CMSP). We have enclosed documents previously provided on this issue and ask that they be included in the administrative record.
- Request for specifics: The current proposal for coastal and marine spatial planning lacks specificity, and consequently, the intent of the effort is uncertain both in terms of the process that would produce a plan and the expected content and utility of such a plan. We recommend specifics be provided on both the expected outcomes and on how the process will be implemented. These specifics must be provided in time for the public to comment on them. In addition, once the specifics are provided, an analysis of the impacts of any new processes on businesses and jobs needs to also be provided to the public with time for comment.

- Existing regulatory oversight and the necessity for a new planning process: Alaska's marine and coastal resources and their uses are already tightly regulated by a vast and diverse array of federal, state, and local authorities. This existing oversight has a proven track record and is fully capable of ensuring the long-term health and viability of our marine and coastal resources. Given this, we do not support an additional layer of bureaucracy for zoning or regulated marine use planning purposes. If the federal government has specific examples of projects and situations that are not adequately addressed under existing laws and regulations, these should be provided and an explanation of how new regulatory or coordination bodies would have made a difference.
- Need to identify discrete problems: For any of the nine priority objectives to be accepted or implemented in Alaska on state land or water (including marine waters out to three nautical miles) a discrete problem or opportunity must be identified that cannot be resolved with existing federal, state or local planning processes or laws. Additionally, due to the size of Alaska, the length of its coastline and the dispersed population, any planning process must be focused geographically within the State.
- Ecosystem-based management: Alaska manages its resources at the ecosystem level. This said, we have concern with adopting ecosystem-based management guidelines at the federal or international level. State level management is the best approach.
- Funding for Arctic initiatives: There is an urgent need for a commitment to sustained financial support to Arctic priorities. Needed infrastructure include aids to navigation, new polar-class icebreakers, ports in the Bering Sea and the Arctic Ocean, and forward basing for the U.S. Coast Guard and Air National Guard aircraft. Resources are also needed to increase our knowledge of ocean acidification and the effects of climate change on the marine environment and resources, for stock assessments, and improved observing and monitoring of oceans conditions. Lt. Governor Mead Treadwell's letter on the subject is enclosed.
- Precautionary management: While Alaska supports data and information collection, we oppose mandating "precautionary approaches" or "precautionary principles" that dictate worst-case assumptions when faced with even a sliver of scientific uncertainty. These terms are misleading and should not be confused with the careful and conservative abundance-based management used in Alaska. We support approaches that deal with scientific uncertainty by adopting reasonably conservative assumptions.
- Outer Continental Shelf (OCS) leasing: Oil and gas exploration in marine and coastal waters should proceed under the existing regulatory regime. Sufficient information is available and regulatory oversight exists to manage risk associated with these activities.
- Opposition to marine sanctuaries: The State opposes the creation of new marine sanctuaries. Sufficient protections are already in place.
- Coastal management and primacy of State jurisdiction: Alaska's jurisdiction includes uplands, wetlands, tide and submerged lands and extends out three nautical miles to the territorial limit. Within these areas, Alaska manages and leases lands, and with federal and local agencies,

permits or restricts activities on them that could impact the environment. New policies that may be developed should consider the current multi-jurisdictional structure and respect for the traditional role of states in managing their coastal resources.

- Tribal involvement: While we support consulting with tribes on coastal and marine policy, it should be noted that in the aftermath of Alaska Native Claims Settlement Act and the Venetie decision, law is different on the subject in Alaska than in other states.
- Communities threatened by climate change: Many Alaskan communities are threatened by coastal erosion, storm effects, sea ice retreat, and permafrost melt. These effects must be recognized and assistance provided to address them.

Objective 1: Ecosystem-based Management

Adopt ecosystem-based management as a foundational principle for the comprehensive management of the oceans and our coasts.

Alaska already manages using an ecosystem approach. Our current land and resource management programs focus not only on the needs of individual species, but also on protecting these species in the context of their inter-relationships and associated ecosystems. Our programs also focus on conserving the sustainability of ecosystems and their dependent uses in the context of multiple use principles.

Numerous examples exist. Alaska's Coastal Zone Management Program incorporates standards to assure the long-term health and sustainability of Alaska's marine and coastal resources and the uses they support. Both the Alaska Board of Fisheries and North Pacific Fisheries Management Council (NPFMC) incorporate ecosystem principles into their management plans and actions. The Alaska Department of Environmental Conservation (ADEC) air permitting is approached on a regional basis, with the identification of areas where air quality is attained and areas where air quality is not attained. ADEC Air Quality Division's State Implementation Plan reflects this regional focus.

The State of Alaska recently received permitting authority for wastewater discharges from the Environmental Protection Agency. ADEC has taken on industry permitting in distinct phases and is slated to take over authority for oil and gas permitting in the fall of 2012. Wastewater permitting for oil and gas exploration through the Clean Water Act will require an Ocean Discharge Criteria Evaluation (ODCE) to be performed. The ODCE looks at the marine ecosystem and the effects of proposed discharges on marine life from the smallest copepod to the largest whale.

While Alaska manages using an ecosystem approach, we have concern with adopting ecosystem-based management guidelines at the federal or international level. State level management is the best approach. We also oppose mandating "precautionary approaches" or "precautionary principles" that dictate worst-case assumptions when faced with scientific uncertainty. These terms are misleading and should not be confused with the careful and conservative abundance-based management used in Alaska. We support approaches that deal with scientific uncertainty by adopting reasonably conservative assumptions.

Given the vast differences in ecosystems, we also believe that it is important that any planning effort initiated remain regionally focused and rooted. Flexibility to respond to regional needs and changing conditions is crucial to successful management of our marine and coastal resources and their uses. The plans need to be rooted and driven locally and not driven by national policies that are overly prescriptive and inflexible.

Recommended near-term actions: Sound management requires development and use of effective, funded observing networks, such as the Alaska Ocean Observing System (AOOS) and Sustained Arctic Observing Network (SAON), as well as geospatial and planning tools. As such, we believe that an appropriate near-term action is to catalog and inventory these existing efforts to identify gaps and possible areas of overlap. There may be significant overlap in the array of geospatial and planning tools and much could be gained from better centralization and coordination of these efforts. Once the catalog and inventory of current efforts has been developed, we believe identified gaps should be prioritized and filled and tactics developed to ensure coordination of inter-related activities.

Obstacles/Opportunities: As new funds have become available, agencies have developed and initiated a diverse array of ecosystem-based management programs. Unfortunately, many of these programs are independent and not well coordinated across agencies. It will be a challenge to coordinate these diverse programs given the already developed agency infrastructure.

Objective 2: Coastal and Marine Spatial Planning

Implement comprehensive, integrated, ecosystem-based coastal and marine spatial planning and management in the United States.

The proposed concept of CMSP lacks specificity, and consequently, the intent of the effort is uncertain both in terms of the process that would produce a plan and the expected content and utility of such a plan. Specifics must be provided on both the expected outcomes and on how the process will be implemented. These specifics must be provided in time for the public to comment on them.

In reviewing spatial planning efforts undertaken in other areas of the globe it is clear that the effort could entail substantial long-term consequences for the conservation and use of the coastal and marine environment. Examples from other areas stress the importance of preserving and strengthening the ongoing vitality and economic viability of coastal states and communities dependent on marine-based activities and resources. Given that little insight into the substantive expectations of a plan has been provided, our immediate concerns focus on process and participation in the development of these plans and goals and expectations of the plans.

CMSP as undertaken in other countries raises important questions and considerations for such a process in the United States (U.S.). For example, what authorities will be used to develop and implement marine spatial planning? Other nations that have pursued such efforts have relatively complex geopolitical and ecological circumstances, though arguably none as complex as in the U.S. with 23 states bordering two oceans and eight more on the margins of the Great Lakes. CMSP in nations such as Norway, Australia, and England has been preceded by analysis that helped define the regions and ecosystems under consideration and the expected outcomes. With this as a precursor, legislation was prepared that created the necessary frameworks to develop and implement such efforts.

We encourage use of this model in the current planning process because it will help ensure a deliberative and participatory process.

The goals and expectations of the U.S. planning effort need to be clearly defined before the program is initiated. Given the adequacy of the existing regulatory programs, we do not believe an additional process adds value. The focus should remain aimed at coordinating and informing existing regulatory processes rather than developing new regulatory and decision processes. Sufficient authorities exist and focus should remain on informing and coordinating these authorities.

Expectations regarding the timeline for the planning process, when it might conclude, and anticipated benchmarks to judge progress also require definition. A deliberate and inclusive process is a necessity and, therefore, we encourage a conceptual level of discourse to be followed by expansive outreach and consultation with states. We note that CMSP pursued in other countries or by individual states in our own country has been a process requiring years of intensive effort.

Coastal and marine ecosystems are not limited to the spatial extent of federal jurisdiction and hence, the development of CMSP cannot proceed without active participation of coastal states as sovereigns with authorities in coastal and marine waters and relevant uplands, as well as resources and competencies of value to the planning process. Furthermore, the process should include active outreach to the wide range of constituencies and authorities with interests or responsibilities in the coastal and marine environment and resources.

Also, CMSP should have a state and regional focus relying on the resources and expertise of state and regional authorities. Other countries have developed coastal and marine spatial plans of varying extent. Belgium is developing an integrated national plan for its jurisdiction in the North Sea which entails 44 kilometers of coastline and 3,600 square kilometers of marine waters. Between 2002 and 2006, Norway completed a plan for part of its exclusive economic zone (EEZ) that addresses an area of 1.4 million square kilometers in the Barents Sea and anticipates two more plans for areas of a similar size. The U. S. has jurisdiction over 11 million square kilometers in its EEZ in addition to the Great Lakes, with the marine area extending from the Arctic to the temperate zones along the shores of two oceans. The extent of U.S. marine holdings and complexities of jurisdiction require that action at the national level focus on broad goals and objectives and that more localized processes be employed to develop strategies and programs to fulfill the national goals.

It is also important that boundaries and management measures for these plans remain under state control. Regional fishery management councils and coastal states have the local knowledge and regulatory processes necessary to expand, modify, or contract plan implementation measures in response to new scientific research or changing conditions.

The approach taken by the Magnuson-Stevens Fishery Conservation and Management Act bears further detailed study. The regional councils created by the Magnuson-Stevens Act (MSA) choose from a variety of options for management. These measures and allocation determinations are then sent to the U.S. Secretary of Commerce for approval. The National Marine Fisheries Service is then responsible for implementation of those determinations, so there is clear accountability. From our perspective Congress provided a useful yardstick for effective management with the MSA, carefully balancing the needs for jobs and the need for conservation, setting deadlines for compliance and a

relatively straightforward process for achieving those goals. It is troubling that the proposed CMSP is silent as to how the process will work with existing bodies such as the NPFMC.

It appears that CMSP is being proposed to act as a new mechanism for conflict resolution. Given that CMSP as proposed would be voluntary and not regulatory, it is unclear how CMSP will be aid in coastal zone management disputes, since the Coastal Zone Management Act (CZMA) requires that the resulting decision be binding upon the parties involved. We do not support use of this process for zoning or marine use planning purposes.

It appears inevitable that the complexity of marine and coastal management will only increase with the introduction of CMSP. It also appears inevitable that the introduction of CMSP will increase the transactional costs of planning and management due to the increased number of meetings, increased involvement of stakeholders and increased amount of time involved.

Since a major CMSP decision could be considered an action that requires consultation under the Endangered Species Act (ESA) and a federal activity under National Environmental Policy Act (NEPA) it is not entirely clear how these processes will interact with each other. Given the tiered lease sale process engaged in by the Bureau of Ocean Energy Management there may be difficulties in determining the proper time for engaging in ESA consultation. The criteria for determining whether a decision is ripe for review must now follow the standards set out in *Center for Biological Diversity v. U.S. Department of Interior* (563 F.3d U.S. Department of Interior (563 F.3d 466 (D.C. Circuit, 2009)).

There is also a danger in attempting to add the CMSP process to the ESA, CZMA and NEPA processes without a clear understanding of the relative statutory authorities of each process. It is not clear whether a CMSP decision could supersede a state coastal management plan or whether a CMSP decision can change or influence an ESA or NEPA process. Since CMSP is not supposed to be regulatory, it should not result in giving a task force, agency or federal office authority over another unless specifically directed to by Congress. Since CMSP was enacted by presidential order rather than legislation, the statutory authority remains in question. It should be noted that both Norway and the United Kingdom enacted their marine spatial planning efforts through legislation rather than administrative action.

Finally, planning should focus on near and mid-term outlooks rather than longer-term outlooks (those beyond 50 years). There is simply too much uncertainty to focus planning beyond 50 years.

Recommended near-term actions: Define clear goals and expectations of CMSP. Specifics must be provided on both the expected outcomes and on how the process will be implemented. These specifics must be provided in time for the public to comment on them.

Inventory existing authorities and their interaction with the planning effort. Build upon the existing successful efforts and programs already in place. Engage the states with shared stewardship responsibilities and users of marine and coastal resources.

Obstacles/Opportunities: The single largest obstacle will be the lack of a commonly defined expectation and agreed upon outcome for the planning effort. Differing expectations will result in confusion regarding the expected benefits and outcomes of the planning effort.

Objective 3: Inform Decisions and Improve Understanding

Increase knowledge to continually inform and improve management and policy decisions and the capacity to respond to change and challenges. Better educate the public through formal and informal programs about the ocean and our coasts.

The gathering of increased knowledge to continually inform and improve management and policy decisions and the capacity to respond to change and challenges is a critical element of any adaptive planning effort. Alaska recognizes this and supports data and information collection aimed at improved management and regulatory decisions. Yet, to be clear, endless study and re-study of issues and delay of responsibly permitted resource development until every possible study has been completed is not necessary or wise.

Alaska would benefit from improved baseline data, environmental monitoring, and access to high resolution mapping and imagery. Much of Alaska's coastline lacks updated and complete navigational and bathymetric data. Resources are also needed to increase Alaskans' knowledge of ocean acidification and the effects of climate change on the marine environment and resources, for stock assessments, and improved observing and monitoring of oceans conditions.

Numerous efforts have been initiated to collect baseline information to increase the knowledge base to inform policy decisions. For example, Alaska has recently received funding through the Department of Interior's Coastal Impact Assessment Program to collect important scientific information about the Arctic marine environment. This scientific information will help inform policy decisions in both state and federal waters in the Arctic. Also, significant resources are being expended under the guidance of the North Pacific Research Board (NPRB) in the Bering Sea and Gulf of Alaska. The Pacific Coastal Salmon Recovery Fund also funds numerous studies aimed at assessing the health of Alaska's coastal and marine resources.

The diversity of data and information collection activities should be better coordinated. Currently, each agency has its own plan or policy in place to guide data and information collection activities. Additional focus on coordinating these activities would reduce overlap and redundancy. Given the budget climate and reduced availability of new funds, a more formalized process for coordinating data and information collection across jurisdictions and boundaries is needed. ADEC has already had success working across agencies and with industry on coordinating the collection of baseline water quality monitoring data in the Arctic, where the difficult logistics and the expense of data collection provides a strong impetus for cooperation and collaboration.

Finally, education and outreach are a critical element towards increasing public understanding of the changes facing our coastal and marine resources. Alaska understands this need and supports the development of improved education and outreach strategies. A recent example was a workshop held by the North Slope Science Initiative (NSSI) in Barrow where western science was brought to the local community in the hopes of bridging the gap between better science and local knowledge.

Recommended near-term actions: An essential first step is to catalogue and inventory past and current efforts underway to increase the knowledge base to inform policy decisions. Use, coordinate, and

appropriately fund existing science-based planning processes including NPRB, AOOS, SAON, and NSSI. Another essential near-term action is to develop a strategy to better communicate with the stakeholders and the public regarding marine and coastal management issues.

Obstacles/Opportunities: Coordinating data gathering and storage between individual agencies is a considerable challenge.

Objective 4: Coordinate and Support

Better coordinate and support Federal, State, Tribal, local and regional management of the oceans and our coasts. Improve coordination and integration across the Federal government and, as appropriate, engage with the international community.

Alaska supports better coordination between Federal, State, Tribal, local, and regional entities, but this can be done without national mandates. We also support improved coordination and integration across the Federal government agencies so that one agency is not approving an action that another agency later disapproves.

Given the vast differences in regions, we believe that it is important that any planning effort remain regionally and state focused. Flexibility to respond to regional needs and changing conditions is crucial to successful management of our marine and coastal resources and their uses. Any plans that may be developed need to be driven at the state level and not driven by national policies that are overly prescriptive and inflexible. In other words, the plans need to be driven from the bottom up rather than the top down.

Engagement with the international community is a key issue in the Arctic. The potential for development of oil and gas resources located on the Arctic OCS has created intense interest in the potential areas that can be claimed by each Arctic nation. Given that the United Nations Convention on the Law of the Sea (UNCLOS) has yet to be ratified by the United States, it is unclear how any decisions made through the coastal and marine spatial planning process will be affected by the potential ratification of the UNCLOS treaty and the potential settlement of the disputed international boundary in the Beaufort Sea between the U.S. and Canada. International engagement on Arctic issues in the context of the Arctic Council is necessary with State of Alaska involvement.

Implementation of a national marine and coastal policy should also recognize that different legal regimes, with their associated freedoms, rights and duties, apply in different maritime zones.

Recommended near-term actions: Assign lead federal agencies that state, tribal, and local entities can coordinate with.

Obstacles/Opportunities: There is considerable overlap and duplication of activities by a multitude of federal agencies. Better coordination and cooperation is sorely needed.

Objective 5: Resiliency and Adaptation to Climate Change and Ocean Acidification
Strengthen resiliency of coastal communities and marine environments and their abilities to adapt to climate change impacts and ocean acidification.

Climate change has the potential to have both short and long term impacts on marine and coastal environments. These impacts range from melting permafrost to increased coastal erosion to changes in sea ice to acidification of the oceans. It is important to collect information to assess the impacts of these possible changes and to assess the resiliency of marine and coastal resources to these possible impacts.

Physical effects and resulting alterations in the natural environment will pose challenges for Alaskans and the Alaska economy. Changes in permafrost affect coastal erosion rates, near shore sedimentation, and sediment input into coastal waters. The need to understand these shifting permafrost extents unique to Alaska should not be overlooked. Additionally, shifting Arctic Ocean conditions such as increased coastal storm surge frequency due to changing sea ice coverage illustrates the need for improved wave and weather monitoring. These effects will also provide economic opportunities due to a longer summer tourism season and increased navigation potential. It is essential to develop adaptation strategies to inform programs and decisions so that climate change and its consequences are taken into consideration.

Alaska believes that taking proactive steps to address the potential impacts and opportunities facing Alaska could provide significant savings over costs that would be incurred if action is delayed until such impacts are imminent or even dire. Towards this end, a solid base of information on which to base sensible decision making and engagement of a wide range of stakeholders and collaborators—both within and outside state government—in the process of adaptation is needed. Indigenous knowledge and Native community participation will also be critical contributors to adaptation.

Not enough is known about acidification of marine and coastal waters to consider and select an approach. Some researchers believe acidification has the potential to alter marine food webs. If this were to occur to the hypothesized levels, it could affect sustained yields of species that are dependent upon marine waters for all or part of their lives. More baseline monitoring and modeling are needed to understand possible effects.

Finally, we note that community resiliency can be intimately tied to socio-economic factors that are distinctly different from those typically addressed in ecosystem-based management.

Recommended near-term actions:

- Focused data collection, monitoring, mapping and observation to understand the current status of resources and changes over time.
- Assess, analyze, and evaluate climate impacts and stressors.
- Improve coordination and collaboration with key government agencies, organizations, and decision makers.
- Identify the appropriate institutional and decision making framework.

Obstacles/Opportunities: In our opinion, too much effort has been devoted to assessing impacts far into the distant future. More effort needs to be focused on the nearer term (the next 15-25 years) as this is the decision frame for many state and local officials. It is critical to test assumptions of models used to forecast change and to improve the quantity and quality of data and information that serve as model inputs. Model outputs are only as good as the data and assumptions used as inputs.

Objective 6: Regional Ecosystem Protection and Restoration

Establish and implement an integrated ecosystem protection and restoration strategy that is science-based and aligns conservation and restoration goals at the Federal, State, Tribal, local and regional levels.

This goal appears to be focused on the establishment of conservation and restoration strategies for marine and coastal waters across jurisdictions. Alaska recognizes that experience has shown that the most successful conservation is that which crosses boundaries and jurisdictions. As such, Alaska recognizes that there is much to be gained by cooperating on cross jurisdictional conservation planning.

Towards this end, the State of Alaska and the NPFMC have designated 673,000 square miles in the waters off Alaska as closed to fishing with some or all gear types. It is important that boundaries and management measures for these areas remain under state and council control. Regional councils and coastal states have the local knowledge and regulatory processes necessary to expand, modify, or contract these areas in response to new scientific research or changing conditions. We do not support inclusion of existing protected areas into a national framework that could make it difficult to modify boundaries or management measures in the future.

We also agree on a focus on restoration of impacted areas. In Alaska, the Coastal America Partnership Program has a successful history of coastal restoration throughout Alaska. The NSSI also recently evaluated restoration as part of its emerging issues effort. It is important to utilize these types of existing partnerships as restoration goals are established.

Recommended near-term actions: An essential first step will be to define how the planning process will appropriately balance ecosystem protection and resource development. Since Alaska is relatively undeveloped, this differs greatly from the situation in the rest of the U.S. The goals and objectives created for this region need to reflect the importance of resource development to the economy of the State of Alaska as well as the coastal communities.

Obstacles/Opportunities: If the planning process is not clearly defined at the outset, the process will evolve in an ad-hoc fashion and may not achieve intended goals.

Objective 7: Water Quality and Sustainable Practices on Land

Enhance water quality in the ocean and along our coasts by promoting and implementing sustainable practices on land.

This objective appears to assume that the water quality in Alaska and the Arctic is impaired and the current practices on land are unsustainable. Given the fact that a majority of Alaska is relatively undeveloped, impacts are relatively minor and not the same issue as in other more densely populated

or industrial areas. For those areas that are developed, Alaska has a robust permitting and monitoring program in place to maintain water quality in the ocean and along our coasts.

Alaska's Coastal Zone Management Program incorporates standards to assure the long-term health and sustainability of Alaska's marine and coastal resources and the uses they support. In addition, the State of Alaska recently received permitting authority for wastewater discharges from the Environmental Protection Agency. The DEC has taken on industry permitting in distinct phases and is slated to take over authority for oil and gas permitting in the fall of 2012. Wastewater permitting for oil and gas exploration through the Clean Water Act will require an Ocean Discharge Criteria Evaluation (ODCE) to be performed. The ODCE looks at the marine ecosystem and the effects of proposed discharges on marine life from the smallest copepod to the largest whale.

Recommended near-term actions: The near-term priorities are collection of water quality data at the ecosystem level to establish baseline conditions and development of a greater understanding of the ocean acidification process in offshore areas of Alaska.

Obstacles/Opportunities: An essential first step is to acknowledge that Alaska's water quality is not suffering from widespread pollution and conditions differ from other areas of the U.S.

Objective 8: Changing Conditions in the Arctic

Address environmental stewardship needs in the Arctic Ocean and adjacent coastal areas in the face of climate-induced and other environmental changes.

Alaska is a resource storehouse. Our oceans and coastal watersheds produce approximately 14 percent of the nation's domestic oil and about 60 percent of the nation's seafood. In addition, Alaska has a vibrant cruise ship and tourist industry, attracting visitors from around the world. The Arctic Ocean has been explored for over 500 years for its shipping potential; we are seeing that potential realized in the present generation.

As the nation looks to reduce greenhouse gas emissions, there is no better place to look for a relatively low-carbon fuel, natural gas, than Alaska. Alaska has the ability to provide 5 to 8 percent of the nation's natural gas supply. The Alaska natural gas pipeline will also enhance the economics of continued production of oil from the North Slope. With proper resource management and responsible development, a portion of the estimated 45 billion barrels of technically recoverable oil on both state and federal acreage in Alaska could help further reduce the nation's dependence on imported oil. We encourage consideration of the long-term economic, energy, and security needs of the country and creation of a framework so those needs can be realized within the sustainability goals for our oceans and coastal areas.

To access additional energy resources, the State of Alaska strongly supports a responsible (OCS) leasing program that makes leases available in Alaska's OCS for the exploration, development, and production of oil and gas that is vitally important to Alaska and the nation. There are an estimated potential technically recoverable 27 billion barrels of oil and 130 trillion cubic feet of natural gas in the Alaska OCS. Development of these resources will increase economic opportunities for both Alaska and the nation, and significantly advance U.S. national security and foreign policy interests. We urge

support for sharing a certain portion of revenue derived from OCS development with affected coastal states, including Alaska. Those states and communities that absorb the impacts of coastal development should receive a portion of the federal revenues to support planning, infrastructure development, and impact mitigation that falls to state and local governments to provide. A copy of Governor Parnell's recent letter to Secretary Salazar on this topic is enclosed and provides additional details.

Alaska is on the front lines of climate change. Some of our communities are already dealing with severe effects from permafrost melt, storm surge and coastal erosion. The State, under the guidance of the Alaska Climate Change Subcabinet, is in the process of developing a climate change strategy for Alaska. More information on the development of the climate change strategy is available at <http://www.climatechange.alaska.gov/>. Alaska, as the nation's only Arctic state, is planning for the implications of a warmer and more accessible Arctic. Recently the nation updated and revised its Arctic policy. Alaska had a strong interest in that policy and participated in its development. We believe it will serve the nation well and would encourage a national oceans policy that is compatible.

With increased maritime traffic in the Arctic comes the need for better navigational aids, charts, weather data and forecasts, monitoring, spill prevention, incident response, and enforcement capacity. The State of Alaska appreciates the good working relationship we have with the U.S. Coast Guard (USCG). We are already cooperating on a number of different projects extending our reach into the Arctic to better serve the needs of the people who live and work there. ADEC has partnered with the USCG on a comprehensive risk assessment of marine traffic that transits the Aleutian Islands between North America and Asia. With the right resources, we could take what we learn and move north, performing similar risk analyses for the Bering Straits, the Chukchi Sea, and the Beaufort Sea. Clearly, additional traffic in the Arctic will require development and expansion of port facilities and infrastructure in the area.

A copy of Governor Parnell's recent statement before the U.S. Senate Subcommittee on Homeland Security Appropriations, entitled "The Strategic Importance of the Arctic in U.S. Policy," is enclosed should you wish to consider in detail the implications of a more accessible Arctic on resource development, homeland security, national security, science, and foreign policy. One key point in the testimony is the need for the nation to fund new USCG icebreakers. Melting sea ice and increased military and commercial activity in the Arctic require a greater USCG presence. The USCG needs to move north and improve its capabilities, and our heavy icebreakers are on their last legs. To provide homeland security, the USCG must have new icebreakers equipped for search and rescue missions, border protection, law enforcement, fisheries enforcement, infrastructure, and environmental protection.

The U.S. Arctic Research Commission (USARC), the Interagency Arctic Research Policy Committee (IARPC), (NPRB), and (NSSI) should play key roles in the development and implementation of research efforts in the Arctic. The USARC and IARPC are responsible for developing a national Arctic research policy and five year plan to implement that policy. NSSI, developed by federal, state, and local governments with land and ocean management trust responsibilities to "facilitate and improve collection and dissemination of ecosystem information pertaining to the Alaskan North Slope region, including coastal and offshore regions," has as its mission the "improve[ment] [of] scientific and regulatory understanding of terrestrial, aquatic and marine ecosystems for consideration in the

context of resource development activities and climate change." The State supports full utilization of existing programs such as these.

The U.S. Government and Alaska must also work together to reestablish leadership in Arctic and Sub-Arctic oil spill research. This will require appropriate planning and funding. As offshore oil and gas exploration is in process now in Russia, Canada, Greenland, Iceland and Norway, as well as Alaska, industry and government efforts to exchange best practices and establish sensible international standards is appropriate and necessary. Rather than refuse to drill in offshore areas of Alaska, the United States needs to be working more closely with its Arctic neighbors to make sure drilling, wherever it occurs in the Arctic, happens responsibly.

Finally, we provide for reference Alaska Lt. Governor Mead Treadwell's letter to Senator Lisa Murkowski on Arctic funding priorities and his letter to Julie Gourley on eco-system based management framework for the Arctic Environment.

Recommended near-term actions:

- Put a commitment of resources ahead of new rules and authorities in the coastal region.
- Provide the USCG with resources to construct new icebreakers, forward basing for helicopters, and appropriate port facilities. These funds are needed for the USCG to carry out its national statutory missions in the newly accessible Arctic.
- Fund the AOOS, the Integrated Ocean Observing System (IOOS), SAON, NPRB, and NSSI science programs. Better use the joint science planning processes of the Arctic Research and Policy Act, the NSSI, the NPRB, and the Oil Spill Pollution Act of 1990.
- Work internationally to establish coordination in Arctic Ocean fisheries management, including in the unregulated high seas outside each nation's 200 mile EEZ.
- Work internationally to establish a "safe, secure and reliable" Arctic shipping regime envisioned by the U.S. Arctic Policy, perhaps modeled after the St. Lawrence Seaway.
- Assist Alaska in planning new Arctic ports
- Recognize and join with Alaska in establishing new security regimes in the Arctic.
- Prioritize issues and funding opportunities in concert with the USARC and the IARPC.
- Improve wave and weather monitoring in the Arctic.
- Establish an effective Arctic oil spill research and response program.
- Adopt a goal of sustaining the fuel of the TAPS pipeline at 1 million barrels per day or more within 10 years, with state, federal, onshore and offshore resources.
- Share OCS and Extended Continental Shelf revenues with the State of Alaska.
- Work to see refined gas transport infrastructure put in place.

Obstacles/Opportunities: Additional funding is needed to meet these objectives. Coordination of diverse agency activities is needed to ensure efficiency and avoid duplication.

Objective 9: Ocean and Coastal Observations, Mapping and Infrastructure

Strengthen and integrate Federal and non-Federal ocean observing systems, sensors, data collection platforms, data management, and mapping capabilities into a national system and integrate that system into international observation efforts.

Alaska endorses this goal, which is essentially a reiteration of the purposes and intent of the Integrated Coastal Ocean Observing System Act (ICOOS) signed into law by President Obama in 2009. The ICOOS Act established NOAA as the lead federal agency and created an interagency Integrated Ocean Observing Committee (IOCC) to oversee the federal/non-federal partnership. A central element of this program is the creation and implementation of a robust data management and communication system that allows for the rapid and seamless integration of dispersed federal and non-federal data. Already, the program has been successful in bringing non-federal data into the system. Currently, over 50% of the data served by NOAA's National Buoy Data Center is from non-federal sources made possible by the IOOS data management system.

International scientists recently set up an Arctic Observing Network in the Chukchi and Beaufort Seas, a series of observation points offshore that will be visited at different times during scientific field seasons. This international cooperation provides a unique opportunity that should be built upon.

In Alaska, AOOS represents a network of critical ocean and coastal observations, data and information products that aid our understanding of the status of Alaska's marine ecosystem and allow stakeholders to make better decisions about their use of the marine environment. The mission of AOOS is to address regional and national needs for ocean information, gather specific data on key coastal and ocean variables, and ensure timely and sustained dissemination and availability of these data. Alaska supports this effort as a critical element towards increasing our understanding of Alaska's marine and coastal resources. We further support having an effective NPRB, NSSI, and SAON.

Recommended near-term action: The plan should endorse the full implementation of the IOOS, and in Alaska, AOOS, as the mechanism for achieving this goal. The NOC should work closely with the IOCC to ensure that the IOOS program priorities align with the NOC priorities and that the limited resources are allocated in the most productive and effective manner.

There is a need to develop a national in-situ observation plan. The need for observations has long been recognized, but the nation still lacks a cohesive plan that describes what observations are needed. The NOC should engage the IOCC and IOOS to develop a national plan for in-situ observations to fulfill user needs. The plan should include the scientific rationale for the observations (oceanographic features such as major currents, upwellings, biologically active zones, hypoxic zones, etc.), the temporal and spatial scale requirements and the technical options for gathering the observations (fixed platforms such as buoys, gliders, etc), and include the priorities for filling gaps.

Obstacles/Opportunities: One obstacle is the lack of support by NOAA leadership for building IOOS into an operating system to address the nation's need for physical, chemical, biological and ecosystem observations. Even as the lead federal agency, NOAA leadership has not seized the opportunity to grow this nascent program into a broad-based program that serves the nation's observing needs. The oceanographic community has advocated for the development of IOOS, passage of national legislation, creation of a national network of regional systems and the opening of a program office, and continues to advocate for full development of a robust program.



Lieutenant Governor Mead Treadwell
STATE OF ALASKA

March 17, 2011

Ms. Julie Gourley
U.S. Senior Arctic Official
Office of Ocean and Polar Affairs
Bureau of Oceans, Environment and Science
U.S. Dept. of State
Washington, D.C. 20520

Re: Ecosystem-Based Management Framework for the Arctic Environment Proposal for
the Senior Arctic Officials

Dear Ms. Gourley,

Thank you for providing an opportunity for the State of Alaska to comment on the proposed new Arctic Council initiative, "Ecosystem-Based Management Framework for the Arctic Environment." Though we appreciate the important goals of promoting the sustainability of Arctic resources and communities, we believe it is premature for the U.S. to promote this initiative, without a secure foundation in U.S. domestic policy.

We view the Ecosystem-Based Management (EBM) proposal to be an extension of the Administration's new National Ocean Policy. The National Ocean Policy calls for coastal and marine spatial planning (CMSP) to support an ecosystem-based approach to resource management. Thus, it is apparent the Arctic Council initiative is intended to compliment the domestic framework, once established.

Implementation of the National Ocean Policy, however, remains in its early stages. Time is necessary for the Administration to develop the proposed governance structure and for the National Ocean Council to formulate strategic action plans for its nine priority objectives. Furthermore, the National Ocean Policy could produce significant changes to marine resource management in the U.S. Stakeholders must have time to adjust to new measures and assess the results of those measures. Also, with no statutory mandate behind the National Ocean Policy, it is unclear whether adequate funding will be available for its execution.

Finally, the State of Alaska continues to have reservations about the measures called for in the National Ocean Policy. For example, we are leery of a new centralized federal

Statement for the Record

The Honorable Sean Parnell

Governor
State of Alaska

Before the
United States Senate
Subcommittee on Homeland Security Appropriations

"The Strategic Importance of the Arctic in U.S. Policy"

August 20, 2009
Anchorage, Alaska

Introduction

Thank you, Senator Murkowski, for this opportunity to address the Homeland Security Subcommittee of the Senate Appropriations Committee on one of the greatest challenges facing the Nation and the State of Alaska – the changing Arctic and the national policies necessary for its understanding, its protection, and its responsible development.

Before I begin my remarks, Madam Chair, I would like to take a few moments to recognize and thank Admiral Thad Allen, Commandant of the United States Coast Guard, and all the members of the Coast Guard for their bravery and hard work in Alaska.

Just this week, the Coast Guard helped save the lives of nine people in Alaska. A Coast Guard helicopter found two missing adults and a child near Ketchikan. With help from Alaska State Troopers, family and friends, the Coast Guard rescued another six people when a 20-foot pleasure boat overturned at Tee Harbor near Juneau. Unfortunately, one person lost their life in that incident. My thoughts and prayers are with his family, and we deeply appreciate the men and women who keep America's coastlines safe and secure.

As you know Senator Murkowski, Alaska is America's Arctic – it's our home, our history, our heritage, and our future. And Alaska is the only national link to the Arctic and the only state that shares a border with two other Arctic nations. Arctic policies affect every state and every citizen – Alaskans most of all, not just because of our strategic location on the globe, but because of what we have to offer. The Arctic's abundant resources – human and natural – and our strategic location for national security demand our attention. The people of Alaska understand and eagerly accept our role in the examination and development of national Arctic policy.

We worked closely with the previous Administration on national and homeland security directives outlining broad policies on the Arctic. We hope to continue that collaboration with this Administration and Congress.

Today, I present Alaska's view of U.S. Arctic policies in five areas: resources, national and homeland security, science, and foreign policy. In the Arctic, these policies are inextricably linked. And, while I describe these issues individually, it is vital that this committee and the Administration understand and act on them jointly. Domestic energy supplies support national and homeland security. Security enables development and protects the environment. Foreign policy enables international participation in scientific research. This must all be discussed in the context of climate change and how Alaska is adapting in light of Arctic policy.

Resources

Let me begin by focusing on Alaska's resources – most of all, our human resources: Alaska's people. Make no mistake, Alaskans have been adapting for years. Changes in the Arctic affect us directly, every day. No one is more vested in Arctic policy than the people who subsist from the land – hunting, fishing and gathering, not just for food, but for the survival of their culture. Collaboration with our Arctic residents and local governments is a must. Alaskans understand the need for balance.

Any conversation about the Arctic must also include Alaska's natural resources – coal, gold, zinc, silver, copper, natural gas and oil. These resources make the Arctic vital to American energy security. Alaska is America's Arctic energy breadbasket. We have traditional and renewable sources of energy in staggering volumes here. Alaska can play an even greater role in reducing the amount of oil and gas we import from abroad. And we can be America's test-bed for renewable and alternative energy sources.

The onshore Arctic areas, such as the NPR-A and the coastal plain of ANWR, hold great promise.

Alaska is home to the Trans Alaska Pipeline System, which carries 685,000 barrels of oil a day to the lower 48 states. This major supply of oil is key to our national energy security.

Offshore Alaska ... the Beaufort and Chukchi Seas can be explored safely in the near-term, producing oil and gas for decades. Without these known, traditional sources of energy, we risk higher cost energy, higher taxes, and greater dependence on foreign oil. We can do this on our own soil. Let us not be led down the easy path to investing America's foreign aid dollars in exploration abroad. Let's keep it here – where Americans can get the jobs, and where environmental laws safeguard our land, seas, and wildlife.

Putting the brakes on domestic energy production does not prevent global warming or end threats to species. Instead, delaying responsible exploration and development increases the problem by shifting resource extraction to less environmentally preferred fuels and locations.

Turning to cleaner fuels, the State of Alaska is also pursuing the construction of a pipeline to bring the North Slope's abundant, clean natural gas to American markets. We have two competing private sector groups working diligently to permit a natural gas pipeline that can deliver 4.5 billion cubic feet of natural gas a day to the continental United States. Again, if we can turn on the supply of clean, American natural gas – from Alaska – we will reduce our dependence on imports and bring less expensive energy to homes across America.

Unfortunately, current language in proposed climate change legislation would likely make the project uneconomic and would lead to the use of higher cost fuel sources before technology catches up.

Alaska remains fully committed to alternative and renewable energy, as well. This is the place to field test every alternative. From wind turbines to hydro-electric, to chip-fired systems that burn wood for fuel – Alaska is America's alternative energy center.

I am confident that together we can bring traditional, renewable and alternative energy to market and increase Alaska's contribution toward our nation's energy independence for years to come.

Homeland Security

Alaska is America's Arctic Guardian. Our strategic location, resources and people compel strong funding for homeland security. The Department of Homeland Security and its agencies have been strong partners in providing for the safety and security of Alaskans and our economy.

Melting sea ice and increased military and commercial activity require a greater Coast Guard presence. The Coast Guard needs to move north and improve its capability — our heavy ice-class icebreakers are on their last legs. To provide homeland security the Coast Guard must have new Arctic-class icebreakers equipped for search and rescue missions, border protection, law enforcement, fisheries enforcement, infrastructure and environmental protection.

Support for funding for those icebreakers is up to this committee. We need to fund a new Coast Guard duty station or port on Alaska's coast between Nome and Barrow to meet the new challenges of the Arctic.

The Coast Guard needs to keep the promise of the Oil Pollution Act of 1990 and establish a research program for the Arctic. With information in hand, we can continue to work with the Coast Guard to improve our ability to prevent and respond to oil spills in the region.

In addition, the Department of Homeland Security and the Federal Emergency Management Agency must have authority to act on disasters we can predict, not just those looming around the corner or the one we currently face. In western and northern Alaska, the sea ice no longer shields the coast from fall storms. The resulting erosion threatens the sustainability of some communities. The federal law was not written with such hazards in mind and does not provide the large-scale response these small communities need.

Exploration and development will bring more coastal and maritime infrastructure, such as ports, repair facilities, fuel depots, pipelines, and transportation. These assets will need effective, enforceable security buffer zones to ensure continuity under all hazards.

National Security

As the summer ice retreats, opportunities for commerce, tourism and transportation advance. Already we see more mineral, oil and gas exploration – more vessel traffic and science missions. As we have seen throughout the world's oceans, increased maritime traffic elevates both risks and threats. Currently, the North Slope Borough and oil and gas producers on the slope fill much of that void. We need the federal government to step in. We can no longer assume that the threat from the north to our oil production fields is not real. We can no longer assume that the Arctic is an impenetrable barrier.

The United States must increase national focus on the Arctic, add resources to collect scientific data, and increase Coast Guard presence to address these new challenges and opportunities. This will provide the ability to develop the American Arctic's vast natural resources and is critical for the protection of strategic national infrastructure and assets.

Alaska's strategic position as the northern crossroads also places us squarely in line between potential adversaries and the rest of the United States. I urge the Congress to support the ground-based missile defense system in Alaska and reconsider the proposal to scale back the placement of interceptors at Fort Greely. We play a critical role in national security and in the security of American allies.

Science

Despite centuries of exploration and study, much about the Arctic remains a mystery. Standard weather and climate models are not sufficient for understanding and predicting trends and patterns. New models require fresh data and up-to-date research.

The State of Alaska strongly supports the National Oceanic and Atmospheric Administration and its initiatives to improve its observations and research across the Arctic and to develop innovative forecasting models for next week's weather and next century's climate.

I encourage scientific collaboration among the academic world, the Arctic nations, and non-governmental organizations to improve our understanding of fisheries, marine mammals, land animals and vegetation in the Arctic ecosystem. This research must be open and rigorous.

The State continues its support of the use of unmanned aerial systems for Arctic operations and research. The Alaska Aerospace Development Corporation and NOAA are working on a plan for how best to make that happen. The technology exists; the stakeholders are ready; but the current regulations are inflexible and outdated.

And the Arctic, literally, needs to be put on the map. Scientific research and economic exploration are set back by low-quality, decades-old mapping data. There is no accurate baseline to measure change, to

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Lieutenant Governor Mead Treadwell
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March 1, 2011

The Honorable Lisa Murkowski
United States Senator
709 Hart Building
Washington, DC 20510-0202

Dear Senator  Murkowski,

Following your remarks to the Alaska Legislature on Arctic issues on Thursday, February 24, I write to share my great concern about the treatment America's Arctic has received in the President's recently proposed budget. I ask your attention and action on the critical need for Polar Class Arctic Icebreakers and greater transparency in budgeting for Arctic research.

Polar Class Icebreakers

Like you, I am disappointed to learn that the Coast Guard is decommissioning the *Polar Sea* icebreaker this year and will not have the refurbished *Polar Star* icebreaker operational until 2013. Perhaps most disappointing of all is the indefinite delay of the decision to build new polar class icebreakers as called for in the study the Congress funded at the National Research Council, completed in 2006. I don't feel a Homeland Security study on this matter is necessary; it would be more appropriate if Congress directed the Department to begin design of the two needed new ships.

For several years now the State has worked with you and other members of our delegation to see new Polar Class icebreakers funded. Governor Parnell included this request in testimony before the United States Senate Appropriations Subcommittee on Homeland Security on August 20, 2009. Alaska has over 2000 miles of Arctic Ocean coastline. Polar Class icebreakers, will answer the growing need for U.S. presence in the Arctic. They allow our nation the capability to protect our borders, enforce our laws, administer our fisheries, protect our environment, conduct Arctic research, and to support safety in growing Arctic shipping. Don't Alaska's residents and resources deserve the same protection given by the Coast Guard to other parts of the United States?

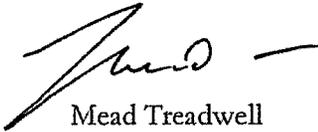
This May, in response to the 2009 recommendation of the Arctic Marine Shipping Agreement, our nation will commit to an international instrument to better coordinate Arctic search and rescue. New Polar class icebreakers are necessary to do that job, too.

Transparency in the Arctic Research Budget

Section 110 of the Arctic Research and Policy Act requires the Office of Management and Budget to prepare “a single integrated, coherent, and multiagency budget request for Arctic research” in the President’s budget submission. Once again, this year, that cross-cutting budget is missing, and the specific Arctic research plans of federal agencies are not apparent. I ask you, and the Appropriations Committee, to request that “cross-cut” be delivered early enough in this appropriation cycle to allow us to help better affect how the U.S. Arctic Research program is being carried out.

Thank you for the leadership you are providing in helping the U.S. recognize its responsibilities as an Arctic nation. In this age of deficit budgets, we are not looking for higher spending – we are looking for appropriate allocation of spending to meet national needs in a part of Alaska and the world that is undergoing great change.

Sincerely,



Mead Treadwell
Lieutenant Governor

Cc: Senator Mark Begich
Representative Don Young
Governor Sean Parnell
Mike Nizich, Chief of Staff to Governor Sean Parnell
John Katz, Director, Washington D.C. Office of the Governor
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February 12, 2010

Ms. Nancy Sutley
Chair
Interagency Ocean Policy Task Force
c/o Council on Environmental Quality
722 Jackson Place, NW
Washington, DC 20503

Dear Ms. Sutley,

Thank you for the opportunity to provide comments on the Ocean Policy Task Force's *Interim Framework for Effective Coastal and Marine Spatial Planning* (Interim Framework). Alaska has a strong stake in the health and productivity of the nation's oceans and coasts, as do other states. Alaska recognizes that the oceans, coasts, and Great Lakes play a major role in the nation's economic and energy security, transportation, commerce, foreign policy, recreation and tourism, and food and ecological resources. With 44,500 miles of shoreline (more shoreline mileage than the other eight proposed regional planning areas combined) and an expansive Exclusive Economic Zone, Alaska's interest in the Interim Framework cannot be overstated. Given this, I would request that you and others heavily involved in development of this framework take the time to meet directly with senior administration officials from Alaska to discuss our concerns.

As included in my September 10, 2009 comments, I support the vision expressed in President Obama's memorandum of creating "healthy, resilient, and sustainable oceans, coasts, and Great Lakes resources for the benefit of this and future generations." Carefully crafted policies that address the collective uses and resources of our oceans, coasts, and Great Lakes could be valuable, but only if crafted in a manner that involves and engages both the State and federal agencies with shared stewardship responsibilities and users of the resources. To date, there has been no substantial involvement or engagement with the State of Alaska, Alaskan residents, or users of the resources in Alaska in the development of the Interim Framework.

I remain concerned with the process used by the Interagency Ocean Policy Task Force to develop provisions that would significantly overhaul the federal government's approach to coastal and marine planning, and am dissatisfied with the Interim Framework in what it lays out as a vision and product for ocean and coastal policy. Most importantly, the Interim Framework sets out a process and requires the development of a coastal marine spatial plan that appears to supersede and take primacy over all other existing State and federal laws. Through an Executive Order rather than by

Ms. Nancy Sutley
February 12, 2010
Page 2

Congressional action, the President would mandate changes through the planning process contained in the Interim Framework which, while well intentioned, could have a devastating impact on Alaska and ultimately our nation's economy, energy independence, and national security. Secondly, the Interim Framework broadly sets out a proposed solution without adequately identifying a focused problem. Third, the Interim Framework sets out a process that will be financially burdensome to the State and other users without proposing any funding mechanism to offset that expense or personnel investment. With suggestions that the one proposed region for the entire state of Alaska be broken into five regions, this expense on a statewide basis is unacceptable.

The health and management of our oceans and coasts is simply too critical to engage in a process that does not clearly identify the problem and desired outcomes or consider the existing legal framework of those State and federal agencies who share trust responsibilities for management of the submerged lands and resources off our shores. The process should not be forced into using unrealistic timeframes, and the outcome affecting the nation's interest, economy, and resources should not be delivered in an Executive Order without appropriate Congressional input and support. National ocean and coastal policy should be rational, should recognize the important role and authorities of coastal states, and should strike a balance between our ocean and coastal protection and commercial activities. The Interim Framework does not achieve these goals or objectives.

I have included a detailed discussion of my concerns on the Interim Framework as an attachment to this letter. We look forward to working with you to address these important issues.

I appreciate your consideration of these comments and look forward to additional opportunities for meaningful dialogue. I would appreciate you contacting John Katz, Director of Federal/State relations, in our Washington, DC office at 202-624-5858, to determine a mutually convenient time to discuss this further.

Sincerely,



Sean Parnell
Governor

Enclosure

cc: The Honorable Lisa Murkowski, United States Senate
The Honorable Mark Begich, United States Senate
The Honorable Don Young, United States Congress

State of Alaska Comments on the Ocean Policy Task Force's *Interim Framework for Effective Coastal and Marine Spatial Planning* (Interim Framework).

General

The Constitution of the State of Alaska addresses the development and protection of its natural resources in Section 8, which reads in part,

"It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest."

The State of Alaska is committed to developing its rich resources in an ecologically responsible manner. We comprehensively manage Alaska's ocean, coastal, and inland uses and resources, and have forged relationships with other federal resource agencies operating in Alaska to ensure coordinated management. In addition, we actively participate in federal decision-making processes through existing public means such as the National Environmental Policy Act (NEPA), the North Pacific Fishery Management Council (NPFMC), the Clean Air and Clean Water Act, and other such robust federal programs, and we have developed a powerful and comprehensive Alaska Coastal Management Program (ACMP) under the Coastal Zone Management Act (CZMA).

We are concerned that the proposed framework could lead to centralized decision-making in Washington, DC, empowering the federal bureaucracy rather than the citizens and stakeholders most affected by planning decisions. The success of Alaska's marine management programs are largely due to extensive stakeholder input as well as regional decision-making that allows for flexibility to adapt to new information. Centralized decision-making and built-in bureaucratic delays will have significant costs in missed opportunities. Designating areas for certain activities without knowing if fish will migrate there or if oil and gas reserves may exist unnecessarily impedes future development.

Based on our critical read of the Interim Framework, it does not create nor provide a greater level of resource management or protection than we are already achieving in Alaska, but it certainly has the potential to limit balanced resource development.

State Authorities

The Interim Framework acknowledges and recognizes the importance of strong partnerships and the need to develop the Coastal and Marine Spatial Planning (CMSP) "thoughtfully, allowing for time to address the myriad complexities and challenges that would undoubtedly arise as the process moves forward" (page 19). Unfortunately, that acknowledgement and recognition has not resulted in equivalent and commensurate actions to date.

Although the Ocean Policy Task Force has allowed three public input opportunities and held one "listening" session in Alaska, the Interim Framework does not reflect any substantial or significant engagement with the State of Alaska, and certainly does not reflect on our stated concerns contained in our previous correspondence on this issue (Governor Parnell, State of Alaska, comments dated September 10, 2009 and October 16, 2009).

The proposed geographic scope of the CMSP is defined "to include landward to the mean high-water line, includes bays and estuaries, and may include additional inland areas as deemed

appropriate.” Based on the proposed relationship of existing State and federal laws, the Interim Framework “for CMSP is to provide all agencies with agreed upon principles and goals to guide their actions under these authorities.” Further, the Interim Framework states that “State and federal authorities with programs relevant to the Coastal Marine Spatial (CMS) Plan would review and modify programs as appropriate to ensure their respective activities ... adhere to the CMS Plan.” The CMSP proposes to become the overarching umbrella authority to the exclusion of individual state authorities – the State of Alaska’s jurisdictional authority is expected to be completely subsumed by CMSP. This ignores the fact that the State has certain sovereign authorities, such as ownership of most lands offshore to the three-mile limit, as well as certain regulatory authorities in these coastal waters. We are not aware of what authority CMSP presumes to have to override or require the State to amend our existing laws. This is a significant concern to the State of Alaska, and may violate the Constitution of the State of Alaska, as cited above.

CEQ and the Ocean Policy Task Force should, as suggested above, evaluate whether the existing State and federal programs meet the goals of the CMSP. For example, the CZMA is a federally authorized, state specific program that is designed to comprehensively evaluate activities that may affect coastal uses or resources. The State of Alaska has advanced that program, and, under the CZMA authority, reviews activities located on federal lands (approximately 60 percent of the land base in Alaska is in federal ownership) and on the outer continental shelf. This provides the State with a very powerful tool to review proposed activities to ensure compliance with State laws. It is also an appropriate tool to use in managing our uses and resources, and maintains the jurisdictional authority provided to the State. It is not clear how CMSP would increase the resource protection beyond what is already provided.

Other examples of successful processes in Alaska are the State and federal fishery management programs. The eight Regional Fishery Management Councils have expressed concerns that their specific authority is not clearly recognized in the draft framework, nor are they or State fishery management agencies specifically designated as members of regional planning bodies. We cannot support additional bureaucratic processes which have the potential to undermine or supersede existing, successful regulatory processes, especially if the proposed new processes do not specifically recognize and harmonize with existing authorities.

Any action related to the CMSP that eliminates, reduces, or otherwise compromises the State’s authorities, rights, or abilities to successfully manage the uses and resources of the oceans, coasts, and Great Lakes, must be reviewed at the Congressional level.

No Identified Problem

The Interim Framework represents a solution looking for a problem – it is attempting to craft a national, one-size-fits-all solution to address a situation deemed a problem that has not been identified or articulated. For example, page one of the Interim Framework states that, “...human uses of the ocean, coasts, and Great Lakes are expanding at a rate that challenges our ability to plan and manage them under the current sector-by-sector approach.” However, it does not articulate or otherwise identify how or why the current State and federal statutory and regulatory regimes for managing our collective resources is not adequate. In fact, the NEPA, a process overseen by the Council on Environmental Quality (and primary drafter of the Interim Framework), is called out as inadequate as it “...focuses solely on a limited range of management tools and outcomes...” To the contrary, the State of Alaska believes that the NEPA process provides but one example of an

important and comprehensive process that solicits federal agency, State agency, other user group, and public input on the proposed action. This solicitation of input includes the analysis of impacts on habitat and subsistence, addresses environmental justice issues, considers cumulative impacts, and more than achieves the goals of CMSP.

As a relevant example in Alaska, the Minerals Management Service (MMS) completed the Chukchi Sea Lease Sale 193 Environmental Impact Statement (EIS) in May 2007. As is current and common practice, the State of Alaska submitted comments at different times during the development of that EIS. Additionally, that MMS lease sale was subject to the ACMP consistency review process authorized under the CZMA. Through the ACMP, the State of Alaska was able to apply its laws to the proposed lease sale, even though it was located significantly offshore from State waters and jurisdictional authority. Through NEPA and our own State programs, we were able to address a myriad of issues important to the State including air quality, water quality, habitat degradation, fish and wildlife impacts, subsistence resources, as well as the importance of those activities to the State's economy and the nation's energy needs and independence. Other interested users were able to participate and influence the MMS decision, including the federal agencies with oversight and/or regulatory authority for managing resources, the coastal political subdivisions of the State (including the North Slope Borough, the Northwest Arctic Borough, etc.), and other non-governmental organizations that have an interest in the actions of the agencies or area of proposed activities. The MMS decision was comprehensive, and appears to meet and address the very goals drafted for the CMSP (page seven of the Interim Framework), and included important habitat deferral areas as recommended by the State.

Another example of successful comprehensive public processes in Alaska is the system of spatial planning in fisheries management. Between the federal North Pacific Fishery Management Council and the State of Alaska's Board of Fisheries, a large network of closed or restricted areas that encompass 673,000 square miles (an area larger than Alaska's landmass) has been developed. These were developed with stakeholder input through a public process and with the local knowledge and flexible regulatory processes necessary to expand, modify, or contract these areas in response to new scientific research or changing conditions. Replacing this process with a national system of centralized decision-making would eliminate both the local input and the inherent flexibility that have made these areas successful. We strongly urge you to consider the benefits of leaving boundaries and management measures for marine spatial planning under local or regional control.

The CEQ and the Interim Framework have not documented nor shared specific examples of how the existing programs and processes do not already achieve the stated goals of the coastal marine spatial planning exercise. In fact, page ten of the Interim Framework addresses this issue – “It is the intent of the CMSP process to better understand how current mandates and programs interact towards the common goals of CMSP...” Rather than hope that the CMSP will result in a better understanding of the existing programs and how they are coordinated, the Ocean Policy Task Force should first and foremost evaluate whether the existing programs such as NEPA, the CZMA, etc. meet the goals of the CMSP, whether the nation needs an additional layer of planning, and whether a new process and plan is needed to achieve the additional stated goals of CMSP. It is certainly possible and probable that minor amendments to the existing programs and processes could achieve the same outcomes with significantly less human and financial impacts.

We understand that other areas may face significantly different demands on their marine resources than we face here in Alaska due to differences in population and geography. Given this, we request that you consider allowing regional flexibility rather than attempting to develop a blanket approach that does not fit the needs of all regions.

Funding

As stated in the Interim Framework, "...the development of CMSP would require significant initial investments of both human and financial resources..." (page three). The State of Alaska strongly agrees with this statement – it will take significant funding and personnel time to develop, implement, and maintain CMSP. While we are aware that the President's budget request includes \$20 million in funding to establish a new competitive Regional Ocean Partnership grants program, the Interim Framework does not propose new financial resources for State or federal agencies to develop or implement the CMSP. Equally concerning is the prospect that this Interim Framework will be signed into law by President Obama through Executive Order without the review, involvement, and support of the United States Congress. It is critical that an overhaul of the existing systems associated with the review of activities affecting oceans, coasts, and the Great Lakes, especially one that involves significant financial and human resources, needs the policy and financial support of the lawmakers of this nation.

The Interim Framework lays out an intensive process and mandates actions that are expensive and costly in terms of both time and money. As included in the Interim Framework, Alaska is considered to be a single proposed regional planning area, and yet includes more shoreline than the other eight proposed regional planning areas combined. Even if Alaska were to develop the five sub-regional CMS Plans as proposed in the Interim Framework, the amount of time, energy, and financial investment estimated to accomplish that is astronomical, especially given the challenging economic situations nationally and logistically challenging travel dynamics in Alaska.

In addition, the Interim Framework mandates the development of a "national information management system with either a central portal or regional portals that connect to CMSP information." The State of Alaska recognizes the need and benefit to base decisions on sound science, but is concerned with the challenges of such a portal system. Beyond the obvious cost issues associated with the development of such a system, the State is also concerned with the establishment of information and data protocols, input, and more (confidential or proprietary information, non-peer reviewed science, etc.).

One additional and significant aspect of the funding issue that concerns the State is the redirection of existing Federal agency monies to offset the new costs associated with developing and implementing CMSP. The Interim Framework requires federal agencies to "... re-evaluate how resources are allocated in light of their statutory and regulatory mandates." Reasonable and appropriate present and future activities by federal agencies may be terminated in order to comply with mandates laid out in CMSP actions. This has the potential to financially and ecologically cripple Alaska and our nation.

As mentioned above, Alaska has experienced success in managing its ocean and coastal uses and resources. This was accomplished given existing funding levels. While the lack of funding for the CMSP is a concern, it would be of equal concern to exclude a state from funding opportunities that

would ultimately contribute to meeting the goals and objectives of the CMSP, regardless of whether that state engaged in the formal development process of a CMS Plan.

Additional Concerns

The State of Alaska has additional and significant specific concerns with various aspects of the Interim Framework. However, until the basic structure of the Interim Framework addresses the issues identified above, it does not seem appropriate to discuss the other details of the Interim Framework. We strongly encourage you to reevaluate your proposed approach to marine spatial planning and begin with a narrower approach that addresses a defined problem and works with existing authorities rather than supplanting them.

STATE OF ALASKA

3650

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER

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February 25, 2011

The Honorable Ken Salazar
Secretary
U.S. Department of Interior
1849 C Street, NW
Washington, DC 20240

Re: Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2012-2017

Dear Secretary Salazar:

Thank you for providing me with an opportunity to testify and provide comments related to energy development in Alaska's Outer Continental Shelf (OCS). I am pleased to continue the State of Alaska's participation in decision-making relative to OCS by offering the following scoping comments on the *Outer Continental Shelf (OCS) Oil and Gas Leasing Program for 2012-2017*. I am submitting these comments on behalf of the Governor of Alaska as provided under section 18 of the Outer Continental Shelf Lands Act with regard to the size, timing and location of leasing activity in the Alaska Outer Continental Shelf. The State will be submitting additional comments prior to the March 31, 2011 deadline.

Before getting into substantive matters, I wanted to mention my professional background because it informs my comments. I have been serving as Commissioner of the Alaska Department of Natural Resources (DNR) since December 2010. The DNR commissioner is responsible for managing the State's vast energy and natural resources and overseeing regulatory activities on approximately 100 million acres of uplands, 60 million acres of tidelands, shore lands, and submerged lands, and 40,000 miles of coastline. My primary responsibility under the Alaska Constitution is to maximize the development of the State's resources in a manner that furthers the public interest.

Prior to being Commissioner, I served as Alaska's Attorney General where much of my focus centered on issues relating to natural resource management and development. I have also served as the U.S. Assistant Secretary of State for Economic, Energy, and Business Affairs and as a Director in the International Economics Directorate of the National Security Council and National Economic Council staffs at the White House.

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

Alaska Remains a World Class Hydrocarbon Basin

By any measure, the North Slope of Alaska remains a world class hydrocarbon basin. For example, according to the U.S. Geological Survey, Alaska accounts for over 30 percent of the nation's technically recoverable oil and gas resources. The USGS in 2008 estimated that that Alaska Arctic held approximately 40 billion barrels of technically recoverable oil and 236 trillion cubic feet of natural gas. The Alaska OCS constitutes an important share of these totals with an estimated potential for 27 billion barrels of oil and 132 trillion cubic feet of natural gas. Thus, Alaska is almost certainly the United States' most important and abundant source of future oil and gas that can help our country meet its significant energy security challenges

The Alaska OCS is also a very large area. The Beaufort and Chukchi Seas are roughly the size of Texas and California combined and are largely untapped as a natural resource. The Bureau of Ocean and Energy Management Regulation and Enforcement (BOEMRE) has estimated that the Chukchi Sea OCS holds oil reserves of approximately 15.4 billion barrels, and the Beaufort Sea approximately 11.1 billion. Such production is years away, and will not be able to occur without the type of exploration work planned as far back as 2007 and, unfortunately, still not executed as of this date.

Alaska's OCS Goals and those of the United States

Given these facts, it is the goal and policy of the State of Alaska to progress development of oil and gas resources located within the Outer Continental Shelf. The goals of the State of Alaska with regard to the 2012-2017 leasing program can be summarized as follows:

1. Support for new lease sales and responsible exploration and development in Beaufort Sea, Chukchi Sea, and Cook Inlet.
2. The need for a consistent, stable lease sale program for the Alaska OCS that will allow industry and State, federal, and local governments to plan and properly staff in anticipation of preparation and review of OCS exploration and development plans.
3. Analysis of recently acquired data on marine mammals and other marine resources to support the lease sale decision-making process and help avert litigation that could arise in future lease sale offerings in these Alaska offshore waters.
4. Strong support for new legislation to enhance current revenue sharing laws and to allow broader State participation in fiscal planning related to future coastal

resource development. Alaska is one of the states that do not receive a portion of revenues generated in the OCS.

These goals are similar to and consistent with those articulated by Governor Parnell in his May 3, 2010 letter to you (see attachment 1).

It is also important to underscore that these goals are consistent with and supportive of those of the United States as set forth in the federal Outer Continental Shelf Lands Act (OCSLA) which provides that the “outer Continental Shelf is a vital natural resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs.” 43 U.S.C § 1332(3). The Department of Interior needs to keep in mind the clear goals and directive of OCSLA as it makes future Alaska OCS decisions.

The Economic Benefits of Alaska’s OCS Development Would be Enormous

The estimated benefits of Alaska OCS development would be enormous. Northern Economics and the University of Alaska Anchorage’s Institute of Social and Economic Research recently completed a new study on potential national-level benefits of Alaska OCS development in the Chukchi and Beaufort Seas. This report found that such development will:

- Create an estimated 54,700 new jobs on annual basis for 50 years
- Generate an estimated \$145 billion payroll
- Generate \$193 billion in federal, state, and local government revenue
- Generate approximately 1.2 million barrels of oil per day and significantly extend the life of the Trans Alaska Pipeline (TAPS) – one of our country’s most important energy infrastructure systems

The State of Alaska thus strongly urges the Obama Administration to implement policies that will allow for the timely and responsible development of the Arctic OCS because it will extend the life of TAPS, advance U.S. national security and energy security interests by decreasing reliance on foreign oil, generate tens of thousands of high paying jobs, reduce the nation’s trade deficit, and provide substantial revenue to state, local, and federal governments.

Substantial Studies Have Been Made Regarding Alaska OCS Development

Despite the considerable energy security and economic benefits of Arctic OCS development, some have suggested that before leasing additional Arctic OCS acreage, more scientific studies need to be conducted. We disagree. Since 1973, federal agencies have performed more than 5,000 environmental studies to better understand the Alaska

OCS. Over the past 30 years, the Department of the Interior has funded nearly \$300 million for environmental studies in Alaska. And since 2000, it has conducted 30-40 environmental studies each year, spending over \$45 million.

For that reason, the Obama Administration's Department of the Interior released a report in 2009 entitled "Survey of Available Data on OCS Resources and Identification of Resource Gaps." In this report, the Department of Interior concluded: "Overall, an adequate baseline of information exists to address the environmental effects of the OCS oil and gas program ... in support of leasing decisions." Thus, according to this administration, sufficient studies have been conducted to support the 2012-2017 leasing plan.

This conclusion is bolstered by the fact that the National Academy of Science has produced three reports on the environmental science that guides OCS activity. Industry has also spent millions to better understand the Arctic ecosystem. Shell, alone, has spent over \$40 million in the last several years on environmental studies.

Safety and Spill Prevention in the Alaska OCS

Alaska has a strong record in terms of OCS exploration being safely conducted off its shores. 84 exploratory wells have been drilled in federal waters off Alaska with 31 Beaufort Sea and 5 drilled in the Chukchi Sea. Federal and State regulatory agencies impose some of the most rigorous requirements in the world to prevent well blow-outs and spills, which are why there has never been a blow-out or spill on Alaska's OCS.

In terms of safety and spill prevention, it is also important to recognize that the Alaska OCS has shallow water depth (approximately 150 feet) nullifying many of the risks associated with deepwater drilling. Further, the State reviews all OCS exploration drilling and spill response plans through the Alaska Coastal Management Program to ensure that those activities are consistent with Alaska standards.

In the wake of the *Deepwater Horizon* spill in the Gulf of Mexico, it is understandable and appropriate to re-evaluate safety requirements for extreme deepwater exploration and production. It is critical, however, to underscore some of the material differences in operating conditions and risks between deepwater drilling in the Gulf of Mexico. First, as mentioned above, oil and gas development in the Alaska OCS will occur in shallow water. Second, the wells and technology used in exploration activities have been safely employed for decades. Third, the pressure encountered in deepwater drilling is multiple times greater in the Gulf of Mexico than in Alaska. And fourth, there is a robust review process by State and federal regulators. More specifically, State agencies are currently undergoing an assessment of current oil and gas operations in Alaska through several distinct efforts. For example, the Petroleum Systems Integrity Office has conducting an analysis of the regulatory gaps and overlaps that apply to both onshore and offshore oil

and gas facilities, whether in federal or State waters. In addition, the Department of Environmental Conservation recently completed a risk assessment of oil and gas infrastructure in Alaska, focusing on root causes and lessons learned from past incidents on the North Slope.

Regarding the important issue of the State's and industry's spill response preparedness for an offshore oil spill, the Department of Environmental Conservation is the lead State agency for spill preparedness and response on Alaska lands and waters. ADEC reviews exploration and production oil discharge prevention and contingency plans to ensure plan holders have sufficient response resources to meet the State's response planning standards. ADEC has also reviewed the latest OCS exploration plans through the Alaska Coastal Management Program to ensure they are consistent with Alaska standards.

Broader Issues Related to Alaska Resource Development

In 2009, President Obama stated that "As I've often said, in the short term, as we transition to renewable energy, we can and should increase our domestic production of oil and natural gas. . . . We still need more oil, we still need more gas. If we've got some here in the United States that we can use, we should find it and do so in an environmentally sustainable way."

As the new Commissioner for DNR I have heard from hundreds of Alaskans during an "engagement tour" who have expressed considerable dismay and frustration over recent federal decisions that have blocked economic development in a manner that conflicts with the President's stated position quoted above. Promising economic opportunities – from decisions on the Tanana River Bridge to Tongass National Forest timber sales – have been derailed or delayed by the Obama Administration.

Nowhere is Alaskan's frustration more acute than with federal decisions that have stalled or prevented oil and gas development on the North Slope and have chilled the investment climate. Let me provide some examples:

NPR-A / CD-5 Critical Permit Denial. The CD-5 field lies on the western edge of the NPR-A and abuts the Alpine Field. ConocoPhillips (CP), the State, and native communities worked for years with the U.S. Army Corps of Engineers to ensure that responsible safeguards are in place in order to open this field to development and, once the infrastructure was in place, the western portion of the NPR-A. First production from the NPR-A was expected to start in 2012. After years of collaboration among the stakeholders, at the direction of the Corps the permits were considered a foregone conclusion. Yet, in February 2010, the Corps reversed course and denied CP permits to construct a drill pad, a pipeline/vehicle bridge across the Nigliq Channel in the Colville River Delta, and access roads.

OCS Delays. Shell has spent billions of dollars over the past five years to explore the Arctic OCS. It has also acquired over 34 permits to drill exploration wells. Yet its plans have been repeatedly derailed; first by the 9th Circuit in 2008 and more recently by the Department of the Interior and the EPA. BOEMRE stopped processing drilling permit application for the 2010 drilling season following the Deepwater Horizon tragedy and more recently the EPA's Environmental Appeals Board (EAB) remanded Shell's air quality permits back to the EPA for additional work, which precluded any drilling by Shell for the 2011 open water drilling season .

Point Thomson EIS Delay. ExxonMobil has committed to a Point Thomson development plan to produce 10,000 bpd starting in 2014. The EIS, however, is not being timely processed. As a result, the start-up date for the project has been delayed from 2014 to, perhaps, 2015.

ANWR into Wilderness. The Fish and Wildlife Service (FWS) is in the process of considering designating the 1002 Area in ANWR as "Wilderness", which would essentially lock-up ANWR development for good.

Endangered Species Act – Polar Bear Critical Habitat Designation. Recently the FWS designated an enormous swath of the North Slope as critical habitat for the Polar Bear. The State, and many others, believes that the FWS's critical habitat determination violates federal law and will impede North Slope resource development.

Wildlands Designation. You issued Secretarial Order 3310, which empowers the BLM to convert vast areas of Alaska, including the NPR-A, into a de-facto wilderness area without Congressional oversight or approval. The State is concerned that this Order violates federal law, will chill the investment climate, and, if implemented, would shut-down resource development in the NPR-A.

These decisions have, and will continue to have, negative consequences for the State and nation.

America's Energy Challenge

Restricting access to lands and stalling development projects will accelerate the decline in Trans Alaskan Pipeline System (TAPS) throughput – from 2003 to 2010, the daily oil production rate has decline from about 1 million barrels of oil a day to 640,000 barrels per day. If this trend continues unabated, we as a State and nation risk the loss of vital national security and energy infrastructure, which currently produces about 12% of the nation's domestic oil production. Reducing the decline in TAPS throughput should be one of the country's highest energy priorities.

It should also be stressed that continued TAPS throughput decline is not an inevitability given Alaska's tremendous energy resource base and potential. The U.S. Geological Survey in 2008 estimated Arctic Alaska has approximately 40 billion barrels of oil and 236 trillion cubic feet of gas.

The State of Alaska is focused on doing all it can - through fiscal policy reform, royalty relief, investments in infrastructure, regulation and permitting reform - to reverse this decline, but we need a more willing partner in the federal government to more comprehensively address this important energy security challenge.

Not only have recent federal decisions jeopardized the life of TAPS, but decisions that impede oil and gas development in Alaska also have far reaching ramifications for the nation. In particular, decisions that restrict Alaska's oil and gas development undermine U.S. national security and energy security, kill job and investment growth, deprive the State and federal governments of revenue, and increase the U.S. trade and budget deficits. Moreover, when development is restricted in Alaska, it pushes oil and gas development to countries with lower environmental standards; for example, when TAPS was shut down for five days in January, West Coast refineries were importing Russian crude. Thus, policies that discourage or impede Alaskan oil and gas development ultimately harm global environmental protection.

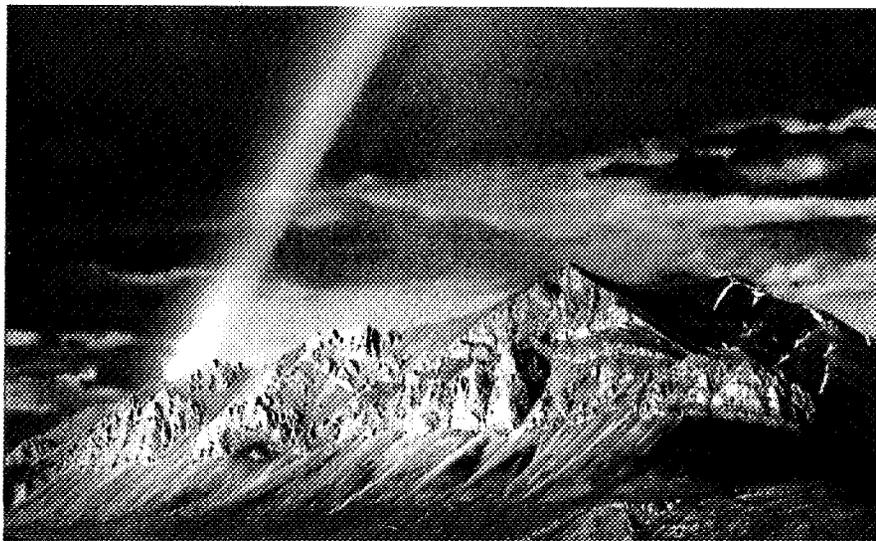
Thank you for your consideration of these comments. I look forward to a continuing dialogue on our mutual interest in providing energy to the nation, doing so responsibly, and guiding the nation's transition to both existing and new sources of clean energy.

Sincerely,

Daniel S. Sullivan
Commissioner

Circum-Arctic Resource Appraisal: Estimates of Undiscovered Oil and Gas North of the Arctic Circle

The U.S. Geological Survey (USGS) has completed an assessment of undiscovered conventional oil and gas resources in all areas north of the Arctic Circle. Using a geology-based probabilistic methodology, the USGS estimated the occurrence of undiscovered oil and gas in 33 geologic provinces thought to be prospective for petroleum. The sum of the mean estimates for each province indicates that 90 billion barrels of oil, 1,669 trillion cubic feet of natural gas, and 44 billion barrels of natural gas liquids may remain to be found in the Arctic, of which approximately 84 percent is expected to occur in offshore areas.



Overtaken sedimentary rocks of the Lisburne Group under a midnight rainbow near Galbraith Lake, Alaska, summer 2001. USGS photo by David Houseknecht.

Introduction

In May 2008 a team of U.S. Geological Survey (USGS) scientists completed an appraisal of possible future additions to world oil and gas reserves from new field discoveries in the Arctic. This Circum-Arctic Resource Appraisal (CARA) evaluated the petroleum potential of all areas north of the Arctic Circle (66.56° north latitude); quantitative assessments were conducted in those geologic areas considered to have at least a 10-percent chance of one or more significant oil or gas accumulations. For the purposes of the study, a significant accumulation contains recoverable volumes of at least 50 million barrels of oil and/or oil-equivalent natural gas. The study included only those resources believed to be recoverable using existing technology, but with the important assumptions for offshore areas that the resources would be recoverable even in the presence of permanent sea ice and oceanic water depth. No economic considerations are included in these initial estimates; results are presented without reference to costs of exploration and devel-

opment, which will be important in many of the assessed areas. So-called nonconventional resources, such as coal bed methane, gas hydrate, oil shale, and tar sand, were explicitly excluded from the study. Full details of the CARA study will be published later.

A number of onshore areas in Canada, Russia, and Alaska already have been explored for petroleum, resulting in the discovery of more than 400 oil and gas fields north of the Arctic Circle. These fields account for approximately 240 billion barrels (BBOE) of oil and oil-equivalent natural gas, which is almost 10 percent of the world's known conventional petroleum resources (cumulative production and remaining proved reserves). Nevertheless, most of the Arctic, especially offshore, is essentially unexplored with respect to petroleum. The Arctic Circle encompasses about 6 percent of the Earth's surface, an area of more than 21 million km² (8.2 million mi²), of which almost 8 million km² (3.1 million mi²) is onshore and more than 7 million km² (2.7 million mi²) is on continental shelves under less than 500 m of water. The extensive Arctic continental shelves may constitute the

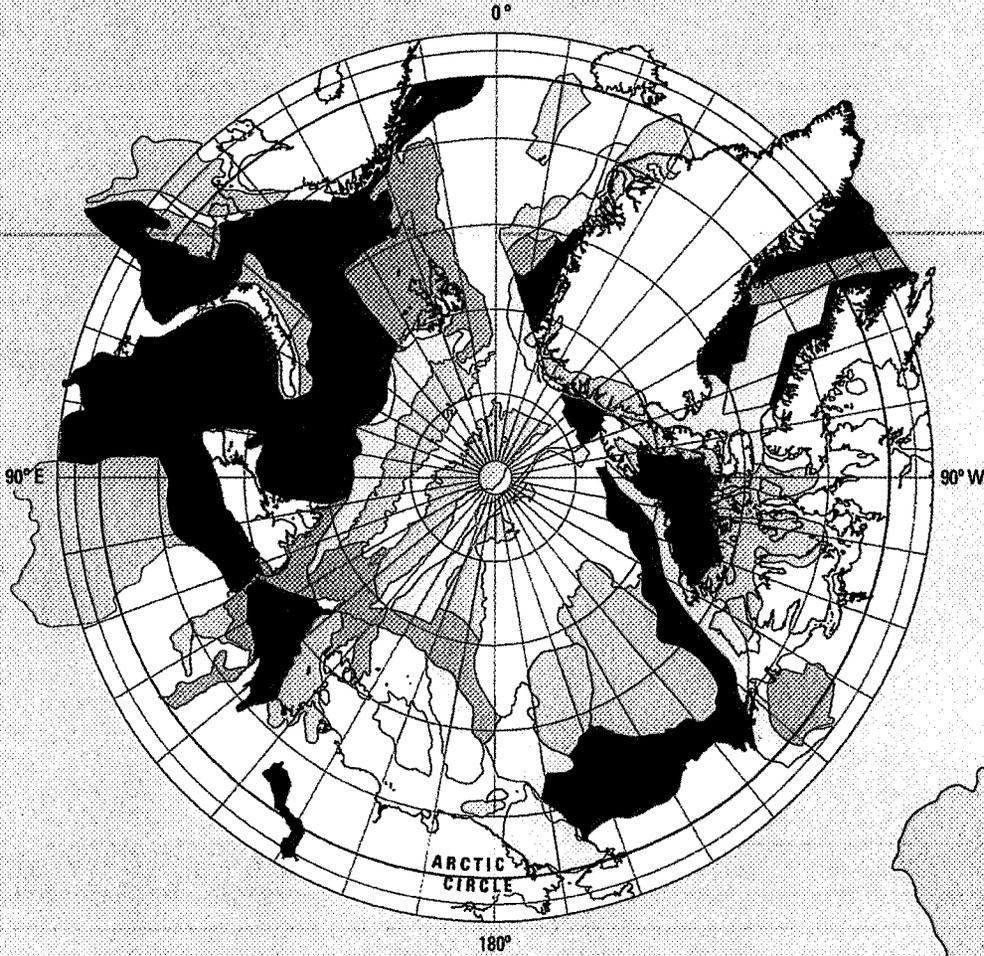
geographically largest unexplored prospective area for petroleum remaining on Earth.

Methodology

A newly compiled map of Arctic sedimentary basins (Arthur Grantz and others, unpublished work) was used to define geologic provinces, each containing more than 3 km of sedimentary strata. Assessment units (AUs)—mappable volumes of rock with common geologic traits—were identified within each province and quantitatively assessed for petroleum potential. Because of the sparse seismic and drilling data in much of the Arctic, the usual tools and techniques used in USGS resource assessments, such as discovery process modeling, prospect delineation, and deposit simulation, were not generally applicable. Therefore, the CARA relied on a probabilistic methodology of geological analysis and analog modeling. A world analog database (Charpentier and others, 2008) was developed using the AUs defined in the USGS World Petroleum Assessment 2000 (USGS World Assessment Team, 2000). [Continued on back page]

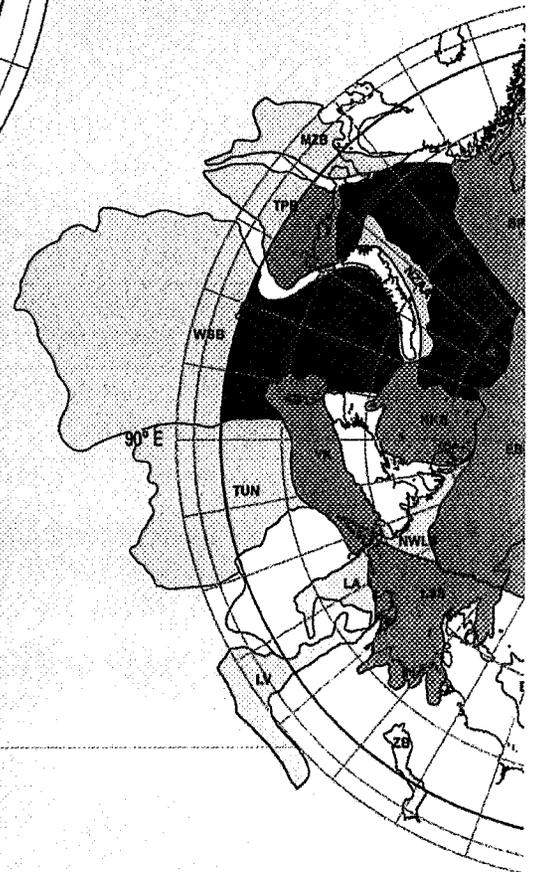
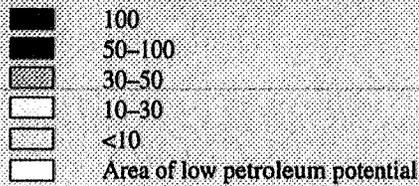
PETROLEUM POTENTIAL OF ASSESSMENT UNITS AND PROVINCES IN THE CIRCUM-ARCTIC

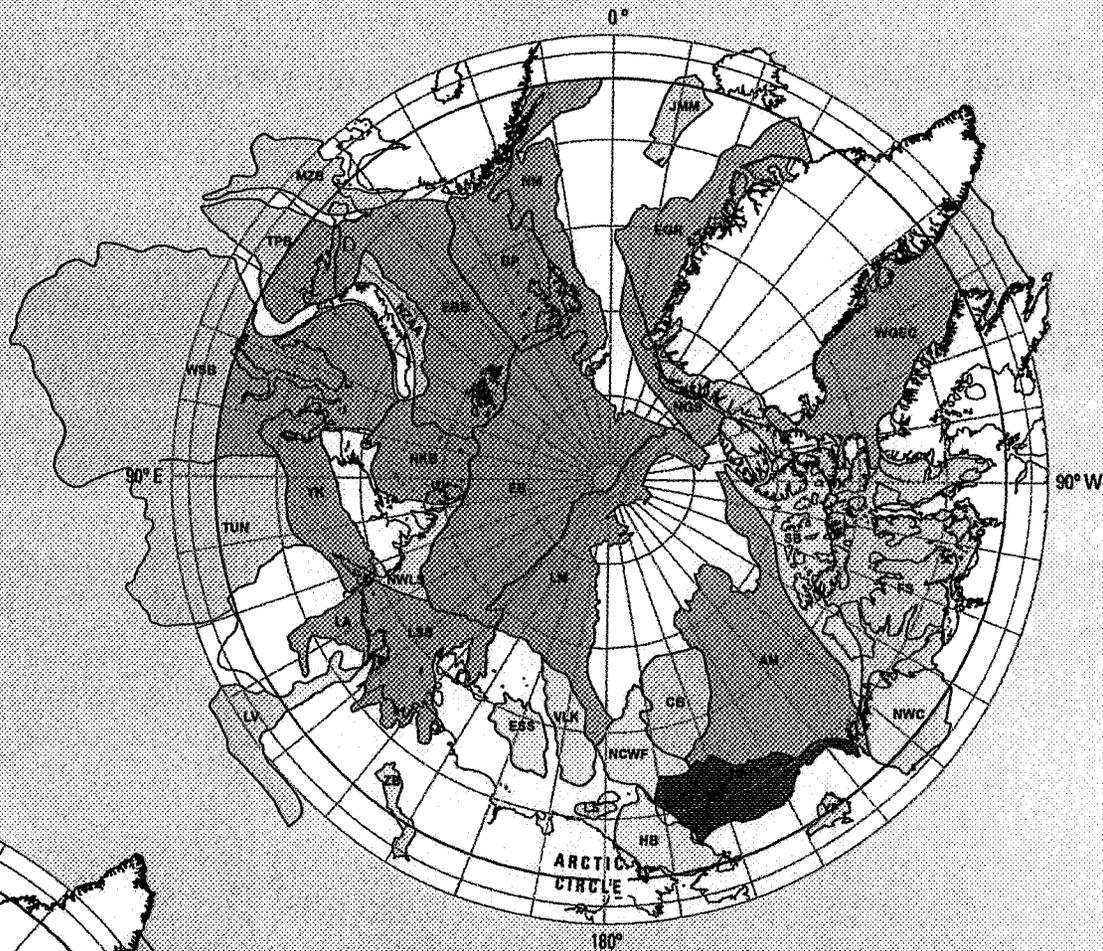
In the Circum-Arctic Resource Appraisal (CARA), 33 provinces were examined, of which 25 were judged to have a 10-percent or greater probability of at least one significant undiscovered petroleum accumulation in any constituent assessment unit (AU) and were therefore quantitatively assessed. Shown in these three maps are the relative probabilities for all assessment units assessed and the estimated relative potentials for undiscovered oil and gas in the assessed provinces.



▲ Figure 1. Assessment units (AUs) in the Circum-Arctic Resource Appraisal (CARA) color-coded by assessed probability of the presence of at least one undiscovered oil and/or gas field with recoverable resources greater than 50 million barrels of oil equivalent (MMBOE). Probabilities for AUs are based on the entire area of the AU, including any parts south of the Arctic Circle.

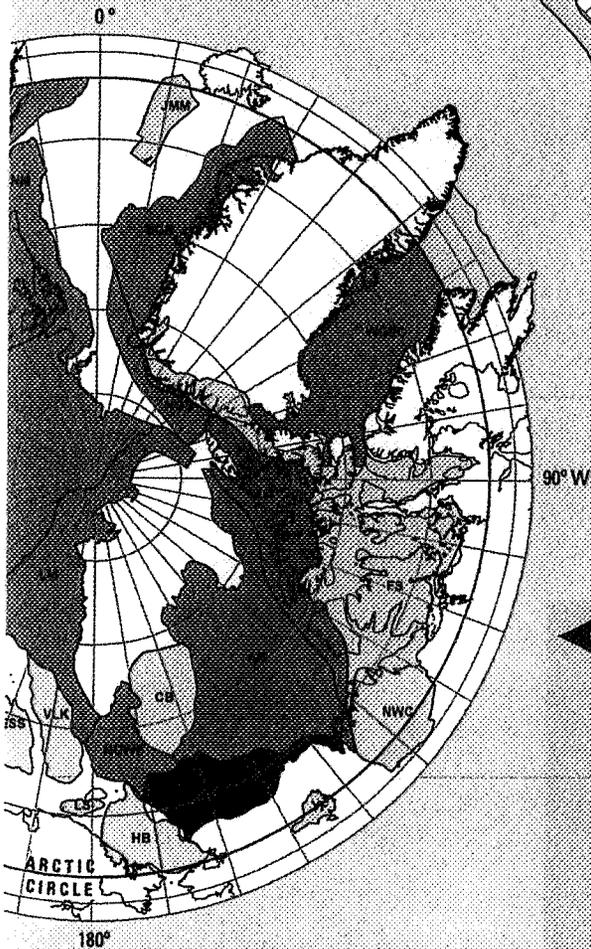
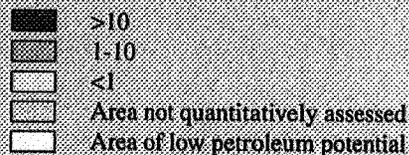
PROBABILITY (percent)





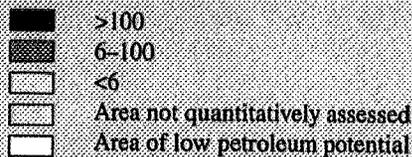
▲ Figure 3. Provinces in the Circum-Arctic Resource Appraisal (CARA) color-coded for mean estimated undiscovered oil in oil fields. Only areas north of the Arctic Circle are included in the estimates. Province labels are the same as in table 1.

UNDISCOVERED OIL
(billion barrels)



▲ Figure 2. Provinces in the Circum-Arctic Resource Appraisal (CARA) color-coded for mean estimated undiscovered gas. Only areas north of the Arctic Circle are included in the estimates. Province labels are the same as in table 1.

UNDISCOVERED GAS
(trillion cubic feet)



[Continued from front page]

The database includes areas that account for more than 95 percent of the world's known oil and gas resources outside the United States.

For each assessment unit, the CARA team assessed the probability (AU probability) that a significant oil or gas accumulation was present. This evaluation of AU probability was based on three geologic elements: (1) charge (including source rocks and thermal maturity), (2) rocks (including reservoirs, traps, and seals), and (3) timing (including the relative ages of migration and trap formation, as well as preservation). Each assessment unit was ranked according to its AU probability; those AUs judged to have less than a 10-percent probability of a significant accumulation were not quantitatively assessed.

In addition to the AU probability, the number of accumulations, the size-frequency distribution of accumulations, and the relative likelihood of oil versus gas were assessed for each AU and combined by means of a Monte Carlo simulation. The probabilistic results reflect the wide range of uncertainty inherent in frontier geological provinces such as those of the Arctic.

Results—Resource Summary

Within the area of the CARA, 25 provinces were quantitatively assessed; 8 provinces were judged to have less than a 10-percent probability of at least one significant accumulation in any AU and were, therefore, not assessed. Results of individual AU assess-

ments are not reported here, but the AUs are shown as mapped areas on figure 1, where they are color-coded for the probability of at least one undiscovered accumulation of minimum size. The provinces are listed in table 1, in ranked order of total mean estimated oil-equivalent volumes of undiscovered oil, gas, and natural gas liquids (NGL). The provinces are shown in figures 2 and 3, where they have been color-coded with respect to fully risked (including AU probabilities) potential for gas and oil, respectively.

More than 70 percent of the mean undiscovered oil resources is estimated to occur in five provinces: Arctic Alaska, Amerasia Basin, East Greenland Rift Basins, East Barents Basins, and West Greenland–East Canada. More than 70 percent of the undiscovered natural gas is estimated to occur in three provinces, the West Siberian Basin, the East Barents Basins, and Arctic Alaska. It is further estimated that approximately 84 percent of the undiscovered oil and gas occurs offshore. The total mean undiscovered conventional oil and gas resources of the Arctic are estimated to be approximately 90 billion barrels of oil, 1,669 trillion cubic feet of natural gas, and 44 billion barrels of natural gas liquids.

Table 1. Summary of Results of the Circum-Arctic Resource Appraisal

(MMBO, million barrels of oil; BCFG, billion cubic feet of natural gas; MMBNGL, million barrels of natural gas liquids; NQA, not quantitatively assessed. Results shown are fully risked mean estimates. For gas accumulations, all liquids are included as NGL (natural gas liquids). Provinces are listed in ranked order of total barrels of oil and oil-equivalent natural gas (BOE).)

Province Code	Province	Oil (MMBO)	Total Gas (BCFG)	NGL (MMBNGL)	BOE (MMBOE)
WSB	West Siberian Basin	3,659.88	651,498.56	20,328.69	132,571.66
AA	Arctic Alaska	29,960.94	221,397.60	5,904.97	72,765.52
EBB	East Barents Basin	7,406.49	317,557.97	1,422.28	61,755.10
EGR	East Greenland Rift Basins	8,902.13	86,180.06	8,121.57	31,387.04
YK	Yenisey-Khatanga Basin	5,583.74	99,984.26	2,675.15	24,919.61
AM	Amerasia Basin	9,723.58	56,891.21	541.89	19,747.14
WGECE	West Greenland-East Canada	7,274.40	51,818.16	1,152.59	17,063.35
LSS	Laptev Sea Shelf	3,115.57	32,562.84	867.16	9,409.87
NM	Norwegian Margin	1,437.29	32,281.01	504.73	7,322.19
BP	Barents Platform	2,055.51	26,218.67	278.71	6,704.00
EB	Eurasia Basin	1,342.15	19,475.43	520.26	5,108.31
NKB	North Kara Basins and Platforms	1,807.26	14,973.58	390.22	4,693.07
TPB	Timan-Pechora Basin	1,667.21	9,062.59	202.80	3,380.44
NGS	North Greenland Sheared Margin	1,349.80	10,207.24	273.09	3,324.09
LM	Lomonosov-Makarov	1,106.78	7,156.25	191.55	2,491.04
SB	Sverdrup Basin	851.11	8,596.36	191.20	2,475.04
LA	Lena-Anabar Basin	1,912.89	2,106.75	56.41	2,320.43
NCWF	North Chukchi-Wrangell Foreland Basin	85.99	6,065.76	106.57	1,203.52
VLK	Vilkitskii Basin	98.03	5,741.87	101.63	1,156.63
NWLS	Northwest Laptev Sea Shelf	172.24	4,488.12	119.63	1,039.90
LV	Lena-Vilyui Basin	376.86	1,335.20	35.66	635.06
ZB	Zyryanka Basin	47.82	1,505.99	40.14	338.95
ESS	East Siberian Sea Basin	19.73	618.83	10.91	133.78
HB	Hope Basin	2.47	648.17	11.37	121.67
NWC	Northwest Canada Interior Basins	23.34	305.34	15.24	89.47
MZB	Mezen' Basin	NQA	NQA	NQA	NQA
NZAA	Novaya Zemlya Basins and Admiralty Arch	NQA	NQA	NQA	NQA
TUN	Tunguska Basin	NQA	NQA	NQA	NQA
CB	Chukchi Borderland	NQA	NQA	NQA	NQA
YF	Yukon Flats (part of Central Alaska Province)	NQA	NQA	NQA	NQA
LS	Long Strait	NQA	NQA	NQA	NQA
JMM	Jan Mayen Microcontinent	NQA	NQA	NQA	NQA
FS	Franklinian Shelf	NQA	NQA	NQA	NQA
Total		89,983.21	1,668,857.84	44,064.24	412,157.69

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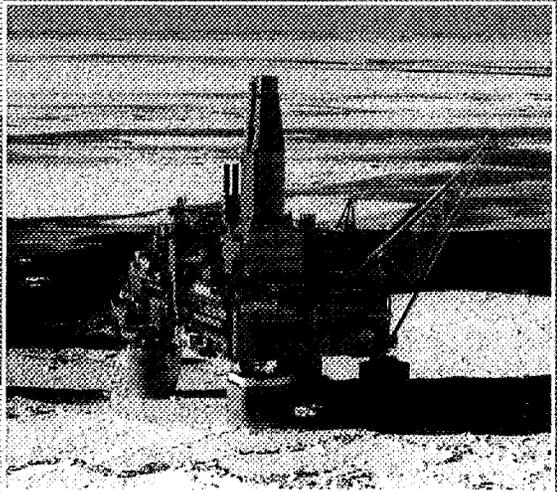
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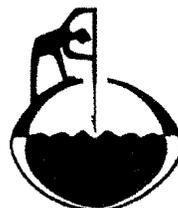
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Prepared for
Shell Exploration and Production
February 2011



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Institute of Social and Economic Research,
University of Alaska Anchorage

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take from corporate income tax receipts, lease revenues, and indirect revenues from new production due to lower tariff and expanded infrastructure, increase with higher market prices for oil and gas.

Table ES-1. Summary of Estimated Cumulative Government Revenues by Entity from Beaufort OCS Development, 2008 to 2057

Category	State of Alaska	North Slope Borough	Federal Government	Other State Governments	Total
(\$2010 Millions)					
Direct Revenues					
Property Tax	94	1,163	-	-	1,257
Corporate Income Tax	236	-	26,684	-	26,919
Lease Revenues	25	-	48,170	-	48,195
Non-Petroleum Revenues					
Personal Income Tax	-	-	5,488	1,447	6,935
Potential Future Income Tax ¹	1,518	-	-	-	1,518
Other Taxes and Fees	440	-	1,590	2,283	4,314
Indirect Revenues²					
Value (Full Oil Pipeline)	3,064	-	1,608	-	4,672
Value (Extend Life of Oil Pipeline)					
Volume (New Production from Lower Tariff)	1,008	14	470		1,492
Volume (New Production from Expanded Infrastructure)	712	9	332	-	1,053
Value (Full Gas Pipeline)	528	-	277	-	805
Total:	7,626	1,185	84,619	3,731	97,161

Source: NEI and ISER estimates, 2010.

Notes:

¹ The state does not currently have either a general sales tax or a personal income tax. However, the non-OCS projection of future state population and public sector demands compared to revenues suggests that a number of adjustments to the state's fiscal structure will be necessary in future years to maintain adequate public services. Two options available to the state, in addition to reducing expenditures, are institution of a broad-based tax, and use of a portion of the earnings of the Permanent Fund. (Additional taxes on other resource industries could generate only very modest revenues.) It is anticipated that both options will be required in the non-OCS case. The value shown above assumes a personal income tax, similar to the tax that was eliminated in 1980, will be phased in between 2022 and 2026. This personal income tax will be the largest source of population-related revenues from OCS development because the tax base will be the entire payroll generated by the OCS development. It is assumed that the alternative of a statewide sales tax would generate an equivalent amount of revenue.

² In the previous study, these sources of indirect or spinoff revenues from petroleum activity in the North Slope were identified. These indirect revenues are generated as a result of lower cost of petroleum production and transportation generated by OCS development.

Potential National-Level Benefits of Alaska OCS Development

Table ES-4. Estimated Cumulative Government Take under Various Price Levels by Category and by Entity, Combined Beaufort and Chukchi OCS Development (in 2010\$ millions)

Category	<u>Base Case</u>	<u>Case 1</u>	<u>Case 2</u>	<u>Case 3</u>
	\$65/barrel \$6.4/mmBtu	\$80/barrel \$7.8/mmBtu	\$100/barrel \$9.8/mmBtu	\$120/barrel \$11.8/mmBtu
Direct Revenues				
Property Tax	3,950	3,950	3,950	3,950
Corporate Income Tax	52,320	59,595	76,759	93,923
Lease Revenues	96,887	109,876	140,525	171,175
Non-Petroleum Revenues				
Personal Income Tax	12,648	12,648	12,648	12,648
Potential Income Tax	2,794	2,794	2,794	2,794
Other Taxes and Fees	7,721	7,721	7,721	7,721
Indirect Revenues				
Value (Full Oil Pipeline)	9,230	9,230	9,230	9,230
Value (Extend Life of Oil Pipeline)	731	731	731	731
Volume (New Production from Lower Tariff)	3,064	3,144	4,019	4,893
Volume (New Production from Expanded Infrastructure)	1,930	1,980	2,532	3,082
Value (Full Gasline)	1,881	1,881	1,881	1,881
Total:	193,156	213,550	262,790	312,028

Source: NEI and ISER estimates, 2010.

Beaufort Scenario

- Exploration drilling occurs over 15 years with one to three drilling rigs per season.
- Development includes construction of seven offshore production platforms, offshore pipelines, on-shore pipelines that connect to the Trans-Alaska Pipeline System (TAPS) and a future gas pipeline, as well as new on-shore facilities.
- Production assumes first oil in 2019 and first gas in 2029, with seven fields producing a total cumulative volume of about five billion barrels of oil through 2045 and seven trillion cubic feet of gas through 2057.

Chukchi Scenario

- Exploration drilling occurs over 24 years with one to two drilling rigs per season.
- Development includes construction of four offshore production platforms, offshore pipelines, on-shore pipelines across the National Petroleum Reserve – Alaska (NPR–A) to connect to the TAPS and a future gas pipeline from the North Slope. A new shore base⁶ on the Chukchi coast is assumed to be constructed to support offshore exploration and development; other on-shore facilities are also assumed to be required to support production activities.
- Production assumes first oil in 2022 and first gas in 2036, with four fields producing a total cumulative volume of 4.8 billion barrels of oil and 7.8 trillion cubic feet of gas through 2057.

Price Assumptions

The long term assumptions about petroleum price were based upon projections from the 2008 Annual Energy Outlook of the Energy Information Administration (EIA) of the US Department of Energy. The Annual Energy Outlook projected the price of crude oil to fall in a range between \$56 and \$83 per barrel (2006\$) and the price of gas to fall in a range between \$5.8 and \$7.4 per mmBtu (2006\$) through 2030. Beyond that time, a growth rate of 0.5 percent per annum (in real \$) was assumed.

A sensitivity analysis considering higher price assumptions was also conducted and is presented in Section 7 of this report.

⁶ A shore base is an on-shore facility that will be used for staging people and equipment during exploration, and later on to support construction and production activities. The base will likely serve as living quarters for industry workers as well as the transportation, storage, and communication hubs for all of the offshore activities.

2 Direct, Non-Petroleum, and Indirect Alaska and Local Government Revenues

The values shown in Table 2 and Table 3 are estimated cumulative state and local government revenues over the 50-year period resulting from the development and commercialization of petroleum resources in the Beaufort and Chukchi OCS.⁷ Table 4 presents the combined results for the Beaufort and the Chukchi OCS. These results are primarily summarized from the 2009 study with adjustments in units from 2007 dollars to 2010 dollars, and additional estimated indirect revenues to local governments.

Direct Revenues

Three categories of direct revenues that would potentially accrue to the State of Alaska and the North Slope Borough are estimated: 1) property taxes, 2) state corporate income taxes, and 3) shared lease revenues.

The State of Alaska collects a property tax on petroleum-related property located onshore and a corporate income tax on a portion of income generated by OCS activities. The state property tax estimate is based on the share of total infrastructure associated with OCS production that is located on shore. Most of the tax is passed through to local jurisdictions within which the infrastructure is located, so the state retains just a small share of the total amount collected.

The state corporate income tax liability is based on the percentage of worldwide corporate profits attributable to activities in Alaska—determined by a three-part allocation formula including the shares of worldwide production, sales, and property based in Alaska. OCS activity would increase worldwide profits for any company. Alaska corporate income tax revenue would increase for a company with no Alaska onshore activity (or no activity elsewhere in the world) since the onshore portion of OCS related property would be attributed to Alaska in the allocation formula and increase the percentage of worldwide corporate profits attributable to activities in Alaska. For a company with existing onshore activity in Alaska, the allocation formula would fall with the addition of mostly offshore OCS production, so the percentage of worldwide profits attributable to activities in Alaska would fall. The Alaska tax liability of such a company would fall or rise depending on whether the percent drop in the Alaska formula was greater or less than the percent increase in worldwide profits. A modest increase in corporate income tax revenues from activities in the Alaska OCS is assumed.

The state also receives a share of bonuses and lease revenues on federal tracts between three and six miles offshore (known as 8(g) common pool lands).

Non-Petroleum Revenues

Non-petroleum revenues are generated from non-petroleum business activity supportive of OCS development as well as household income resulting from OCS development.

Besides the direct corporate income taxes that would be collected by the State of Alaska, various excise taxes on motor fuels, alcohol, and tobacco would also be generated due to increase in economic activity in the state.

Although the state does not currently have a personal income tax or a statewide general sales tax, it is anticipated that based on fiscal projections, the state will be forced to impose one or both in the

⁷ Estimated Chukchi revenues are slightly higher than reported in the original study because of inclusion of state property tax revenues from extended life of the oil pipeline.

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revenue from the production and corporate income taxes as well as from royalties. Federal corporate income tax revenue on that production would increase as well.

Table 2. Estimated Cumulative State of Alaska and North Slope Borough Revenues from Beaufort OCS Development, 2008 to 2057

Category	State of Alaska	North Slope Borough	Total
	(\$2010 Millions)		
Direct Revenues	355	1,163	1,518
Property Tax	94	1,163	1,257
State Corporate Income Tax	236	-	236
Shared Lease Revenues	25	-	25
Non-Petroleum Revenues	1,958	-	1,958
Indirect Revenues	5,312	23	5,335
Value (Full Oil Pipeline)	3,064	-	3,064
Value (Extended Life of Oil Pipeline)	-	-	-
Volume (New Production from Lower Tariff)	1,008	14	1,022
Volume (New Production from Expanded Infrastructure)	712	9	721
Value (Full Gas Pipeline)	528	-	528
Total:	7,626	1,185	8,811

Source: NEI and ISER, 2009 study; and 2010 estimates.

Table 3. Estimated Cumulative State of Alaska and North Slope Borough Revenues from Chukchi OCS Development, 2008 to 2057

Category	State of Alaska	North Slope Borough	Total
	(\$2010 Millions)		
Direct Revenues	813	2,491	3,304
Property Tax	202	2,491	2,693
State Corporate Income Tax	611	-	611
Shared Lease Revenues	-	-	-
Non-Petroleum Revenues	1,637	-	1,637
Indirect Revenues	5,276	287	5,563
Value (Full Oil Pipeline)	2,989	-	2,989
Value (Extended Life of Oil Pipeline)	132	264	396
Volume (New Production from Lower Tariff)	1,062	14	1,077
Volume (New Production from Expanded Infrastructure)	387	9	396
Value (Full Gas Pipeline)	705	-	705
Total:	7,726	2,778	10,504

Source: NEI and ISER, 2009 study; and 2010 estimates.

3 Federal Lease Revenues

OCS leases generate bonus bids, rental payments, and royalty payments to the federal government. A description of each of the various lease revenue types is presented below, followed by an estimate for total federal lease revenues.

Lease Revenue Types

Bonus bids are cash payments paid to the federal government in exchange for the right to explore and develop the petroleum reserves in OCS areas. Companies/explorers participate in a sealed bid auction to lease tracts of land during scheduled area-wide lease sales.

Bonus bids are generated at the time the area-wide lease sales occur. The model estimates bonus bids based on historical patterns. Typically, succeeding lease sales generate fewer bids because the best prospects have been previously leased. In the Chukchi, therefore, it is expected that the next lease sale will generate significantly fewer bonus bids than the 2008 lease sale. Revenues from bonus bids were assumed in the model to follow BOEMRE's planned lease sales in the Beaufort (2009 and 2011), and the Chukchi (2010 and 2012). The results of the recent Chukchi lease sales that generated \$2.66 billion in bonus bids have been incorporated into the model.

A **rental payment** is established in the lease agreement and made to the lessor (BOEMRE) every year. However, there is no rental payment once production begins. BOEMRE does not place a lease back on annual rental status once production has begun, even though production has stopped and the lease is still in its primary term. In such cases, the lessee pays minimum royalty, which for BOEMRE is calculated at the same rate as the rental. Rental rates vary per year and are usually specified in the Final Notice of Sale. The model assumes a flat rental rate of \$7.50 per acre for the Beaufort and Chukchi leases.

A **royalty** is a share of the minerals produced from a lease. It is a percentage of production paid either in money or in kind that a federal lessee is required to pay. On the Alaska OCS, typically a 12.5 percent royalty rate is applied for OCS leases that are in production. A minimum royalty payment is typically established as part of the lease agreement. The lessee pays BOEMRE a minimum royalty at the expiration of each lease year with a credit applied for actual royalty paid during the lease year.

Under certain circumstances, a royalty relief or suspension is granted by the Secretary of the Interior to promote increased oil and gas production. The royalty suspension is prorated by lease acreage and is subject to price thresholds. This analysis assumes, given the projected oil and gas prices, that no royalty suspension would apply to any of the Alaska OCS leases.

For the purpose of this analysis, royalties were estimated based on projected oil prices fluctuating around \$65 per barrel in constant dollars and natural gas (Henry Hub) prices fluctuating around \$6.40 per mmBtu for the period between 2008 and 2030, and then increasing at one-half of one percent per year through 2057. The price assumptions through 2030 are based on publicly available long-term price projections for oil and natural gas generated by the EIA (Annual Energy Outlook 2008). The Annual Energy Outlook presents a projection and analysis of U.S. energy supply, demand, and prices through 2030. The projections are based on results from the EIA's National Energy Modeling System. The implications of higher prices on the potential revenue effects are discussed in Section 7. To calculate the royalties, netback prices for oil and gas were used. The netback price reflects the price of the resource at the point of production (market price less transportation costs).

4 U.S. Federal Corporate Income Tax Revenues

Table 5 shows the estimated cumulative and annual average federal corporate income tax payments directly generated from the Beaufort and Chukchi OCS development.

Table 5. Estimated Potential Federal Government Take from Corporate Income Tax Payments

Category	Beaufort OCS	Chukchi OCS	Both OCS Areas
	(\$2010 Millions)		
Cumulative Total : 2008 to 2057	26,684	24,790	51,474
Annual Average	684	689	1,373

Source: NEI estimates, 2010.

These estimates are based on the following data sources and approach:

- The EIA data on offshore petroleum acquisition, exploration, development, and production costs for 2008 (Source data: Financial Reporting System⁸ S5211: Refining, Exploration & Production Operations, Expenditures & Operating Expense Detail).
- EIA data on offshore production volumes for oil and gas in 2008 (Source data: Financial Reporting System T-21: Exploration and Development Expenditures, Reserves, and Production by Region).
- 2008 average West Texas Intermediate (WTI) crude oil price and 2008 average Henry Hub natural gas price as reported by the Energy Information Administration.

Net income as a percentage of total revenues was determined using the above data. The costs of exploration, development, and production in the Beaufort and Chukchi OCS areas are anticipated to be double the current costs of operating in the Gulf of Mexico OCS, which is the basis for most of the 2008 EIA data. This higher cost assumption is based on BOEMRE's 2006 analysis of economically recoverable resources in the different OCS areas. Given higher costs in Alaska OCS areas, oil and gas companies' net operating income is estimated to be 20 percent of total revenues.

Using the Beaufort and Chukchi production scenarios and oil and gas price assumptions from the March 2009 study, the amount of taxable income (net operating income) was derived and a 35 percent federal corporate income tax rate was applied.

⁸ The Financial Reporting System (FRS) is designed to permit review of the functional performance of the major U.S. energy-producing companies in total, as well as by specific functions and geographic areas of operation. The financial reporting schedules obtain data on revenues, costs, and profits, thereby indicating financial flows and performance characteristics. In addition, Form EIA-28 collects balance sheet data (i.e., accumulated property, plant, and equipment, etc.), along with data on new investment in these accounts. To complement the financial data, a series of statistical schedules are included to trace physical activity patterns and to evaluate several physical/financial relationships.

6 Additional Federal and State Tax Revenues

Additional federal and state tax revenues arise from corporate income taxes associated with extending the life of the oil pipeline, federal corporate income taxes on indirect effects of OCS activity, federal royalty payments from incremental marginal oil field development in the NPR-A, taxes and revenues from non-petroleum associated business activity, and non-Alaska state sales, personal income, and corporate income taxes.

Additional Revenues from Extending Life of Oil Pipeline

The oil pipeline was assumed to cease operation in 2045 under the No OCS development case in the 2009 study, with remaining North Slope oil transported to market by more expensive tankers. That study also estimated the state production tax, income tax, and royalty revenues that a full or fuller pipeline resulting from OCS production would generate because of a lower tariff (Both higher revenues from existing production and incremental production.) However, if the pipeline were to remain operational beyond 2045, it would also continue to generate property taxes for the State of Alaska, which would be shared with the North Slope Borough and other local governments in which TAPS is located. In addition, the state would capture some revenues through the corporate income tax on the pipeline itself because, as property, the pipeline increases the share of worldwide oil company income to Alaska (compared to an offshore marine transit system). Federal corporate income tax revenues would also be higher because the total return on pipeline operations would be greater than the return on marine transportation because the higher tariff of marine transportation would result in lower oil production.

Table 9. Summary of Estimated Cumulative Property and Income Tax Receipts from Extension of Oil Pipeline Life, (Millions of 2010\$), 2008 to 2057

OCS Area	State Property Tax	Local Property Tax	State Income Tax	Federal Income Tax
Beaufort	-	-	-	-
Chukchi	29	264	103	335
Total: Both Areas	29	264	103	335

Source: ISER estimates, 2010.

Note: Beaufort Sea OCS production in the March 2009 report was assumed to cease in 2045, the same year as the oil pipeline would cease operating; hence, Beaufort OCS production would not contribute to extending the life of the oil pipeline.

Additional Federal Revenues from OCS Development

The federal government would collect revenues from three additional sources associated with OCS development. The first would be corporate income taxes on the income generated in Alaska from the indirect effects of OCS activity—the reduction of the oil pipeline and gas pipe line tariffs (Value) and the incremental production from marginal oil fields stimulated by the higher wellhead oil price and the additional infrastructure (Volume). This estimated additional federal corporate income tax is determined based on indirect state revenue calculated in the 2009 study.

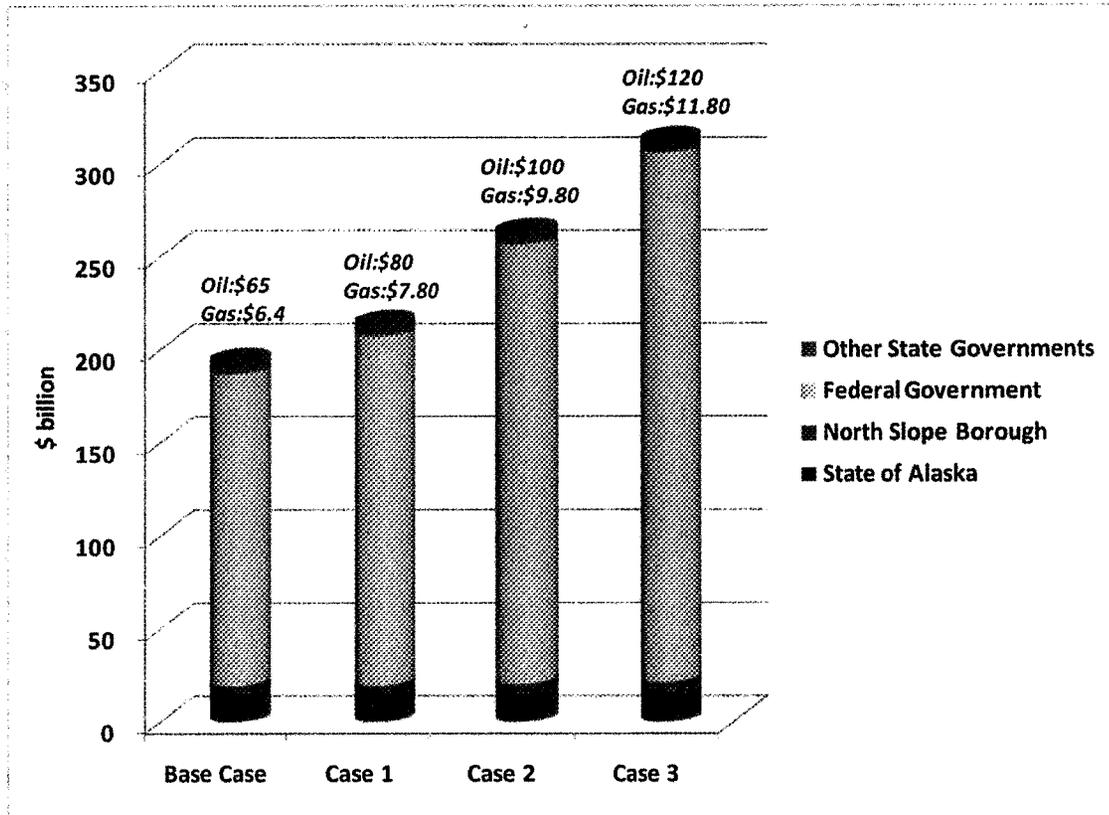
Table 12. Summary of Estimated Cumulative Non Alaska State Personal Income and Sales Tax Receipts from OCS Activity, (Millions of 2010\$), 2008 to 2057

OCS Area	Amount
Beaufort	3,731
Chukchi	2,847
Total: Both Areas	6,578

Source: NEI and ISER estimates, 2010.

impact of additional throughput on pipeline tariffs (the difference in the pipeline tariff due to additional throughput does not change with higher petroleum market prices). Similarly, indirect effects associated with the extended life of TAPS are not affected by changes in prices since higher price scenarios do not result in greater volumes of oil and gas production.

Figure 1. Estimated Cumulative Government Take by Entity under Different Petroleum Price Levels, Combined Beaufort and Chukchi OCS Development (in 2010\$)



Source: NEI and ISER estimates, 2010.

Potential National-Level Benefits of Alaska OCS Development

Table 13 summarizes the results of the sensitivity analysis by revenue category under the different price level assumptions. As shown in the table, estimated government take from property taxes, non-petroleum taxes, and indirect revenues from full oil pipeline effect, extended life of oil pipeline effect, and full gas pipeline effect are not significantly affected by changes in market prices and remain unchanged from base case estimates. On the other hand, estimated government take from corporate income tax receipts, lease revenues, and indirect revenues from new production due to lower tariff and expanded infrastructure increases with higher market prices for oil and gas.

Table 13. Estimated Cumulative Federal, State, and Local Government Take under Various Price Levels by Category and by Entity, Combined Beaufort and Chukchi OCS Development (in 2010\$ millions)

Category	Base Case \$65/barrel \$6.4/mmBtu	Case 1 \$80/barrel \$7.8/mmBtu	Case 2 \$100/barrel \$9.8/mmBtu	Case 3 \$120/barrel \$11.8/mmBtu
Direct Revenues				
Property Tax	3,950	3,950	3,950	3,950
Corporate Income Tax	52,320	59,595	76,759	93,923
Lease Revenues	96,887	109,876	140,525	171,175
Non-Petroleum Revenues				
Personal Income Tax	12,648	12,648	12,648	12,648
Potential Income Tax	2,794	2,794	2,794	2,794
Other Taxes and Fees	7,721	7,721	7,721	7,721
Indirect Revenues				
Value (Full Oil Pipeline)	9,230	9,230	9,230	9,230
Value (Extend Life of Oil Pipeline)	731	731	731	731
Volume (New Production from Lower Tariff)	3,064	3,144	4,019	4,893
Volume (New Production from Expanded Infrastructure)	1,930	1,980	2,532	3,082
Value (Full Gasline)	1,881	1,881	1,881	1,881
Total:	193,156	213,550	262,790	312,028

Source: NEI and ISER estimates, 2010.

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National Federation of Regional Associations for Coastal and Ocean Observing

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To: National Ocean Council
 From: The National Federation of Regional Associations
 for Coastal and Ocean Observing

April 29, 2011

We thank the Council for inviting comments on the actions plans for implementing the National Ocean Council. We look forward to working with you on the implementation of the National Ocean Policy.

Sincerely,

Josie Quintrell, Executive Director
 On behalf of the NFRA Board of Directors

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Ocean, Coastal, and Great Lakes Observations, Mapping, and Infrastructure: Strengthen and integrate Federal and non-Federal ocean observing systems, sensors, data collection platforms, data management, and mapping capabilities into a national system and integrate that system into international observation efforts.

NFRA strongly endorses this goal, which is essentially a reiteration of the purposes and intent of the Integrated Coastal Ocean Observing System Act (ICOOS) and the Ocean and Coastal Mapping Integration Act signed into law by President Obama in 2009.

The ICOOS Act established NOAA as the lead federal agency and created an inter-agency Integrated Ocean Observing Committee to oversee the federal/non-federal partnership. A central element of this program is the creation and implementation of a robust data management and communication system that allows for the rapid and seamless integration of dispersed federal and non-federal data.

Already, the program has been successful in bringing non-federal data into the system: currently, over 50% of the data served by NOAA's National Buoy Data Center is from non-federal sources made possible by the IOOS data management system.

Recommended near-term action: The NOC should endorse the full implementation of the IOOS as the mechanism for achieving this goal. The NOC should work closely with the Integrated Ocean Observing Committee to ensure that the IOOS program priorities align with the NOC priorities and that the limited resources are allocated in the most productive and effective manner.

Recommended near-term action: Develop a National *In-situ* Observation Plan. The need to enhance the nation's ability to monitoring the environment conditions of our nation's coasts and Great Lakes has been recognized in the National Ocean Policy. To move forward, the national plan needs to set forth the existing capacity and the needs for both fixed assets and remotely operated vehicles such as gliders. The plan should work with the IOOS Regional Associations and federal agencies to identify priority needs. The Plan should include the scientific rationale for the observations (oceanographic features such major currents, upwellings, biologically active zones, hypoxic zones, etc.), the temporal and spatial scale requirements and the technical options for gathering the observations (fixed platforms such as buoys, or remote vehicles such as gliders), and include the priorities for filling gaps.

Obstacles:

The lack of priorities for a national observing system and to focus the energy on making practical and real steps in address the nation's observing needs.

Milestones:

By the end 2011, regional priorities needs for *in-situ* observations have been identified with extensive input from regional associations and other experts.

By 2012, A National Plan for *In-Situ* Observations is completed. The Plan highlights the products that will be supported by the observations, the critical gaps and a list of realistic priority needs.



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Ecosystem-Based Management: *Adopt ecosystem-based management as a foundational principle for the comprehensive management of the ocean, our coasts, and the Great Lakes.*

Recommended near-term action: Establish the IOOS RAs are forums for coordinating regional expertise on ecosystem science and information needs.

Ecosystem-based management must be implemented on multiple scales, including regional management. The IOOS RAs can serve an important role in coordinating and facilitating the technical and scientific expertise at the regional level in support of those managers responsible for ecosystem-based management decisions. The IOOS RAs align with the 9 Regional Ocean Planning Bodies (the 3 West Coast RAs have a signed agreement to coordinate in providing technical support for the California Coastal Current LME) and provide a logical forum for coordinating regional expertise.

Recommended long-term action: The development of operational coupled biophysical models for each region (or subregion) to support ecosystem-based management. The development of these models should be coordinated through the IOOS RAs.

Obstacles/Opportunities: The NOC and federal agencies seem to be hesitant to formally recognize the role that existing programs play in implementing the NOP.

Milestones:

By 2012- Agreements in place (MOUs, etc.) in all 9 planning regions articulating the relationship between the planning bodies and the IOOS RAs.

By 2013 – Specific recommendations, based on the input from regional and federal experts, for the development of regional coupled bio-physical models to assist each of the regional planning bodies, including recommended actions for further development of these models and other tools to aid management.





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Coastal and Marine Spatial Planning: *Implement comprehensive, integrated, ecosystem-based coastal and marine spatial planning and management in the United States.*

Coastal and marine spatial planning will need ready access to the most up-to-date and accurate regional coastal and ocean data. This data is likely to come from multiple sources such as federal agencies, state agencies, universities, non-profit organizations and volunteers. The Integrated Ocean Observing System (IOOS) has established a network of Regional Associations and Federal agencies to ensure the seamless access to coastal and marine data. A central function of IOOS is to ensure that distributed data can be easily accessed and integrated. In addition, the IOOS is one of the few sources of sustained information about the conditions below the ocean surface, over time and space.

The Regional Associations are well positioned to assist the Regional Ocean Governance Bodies with regional data. The RAs are creating regional data portals for the integration and dissemination of regional data in support of CMSP and providing critical data on the dynamic nature of the coastal oceans and Great Lakes.

Recommended near-term action: Establish regional data integration centers to support regional coastal and marine spatial planning through partnerships with the IOOS RA and other data providers in the region in support of regional ocean governance efforts.

Recommended near-term action: Implement two regional test beds to explore in detail the type of information needed to support CMSP. Regional data portals and regional data integration centers should be established in each of the IOOS RAs. The test beds would determine the relationship among federal, tribal, local, state and regional entities for supplying key information. The test bed should develop recommendations for how similar systems should be developed in other regions.

Milestones

By 2011, two regions will be selected to serve as testbeds for implementation of CMSP in the regions

By 2012, agreements (e.g., memorandum of understanding, etc) exist in all regions for regional data management and integration support for coastal and marine spatial planning.

By 2014, the testbed will have produced recommendations for other regions on how to address the information needs for CMSP



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Inform Decisions and Improve Understanding: Increase knowledge to continually inform and improve management and policy decisions and the capacity to respond to change and challenges. Better educate the public through formal and informal programs about the ocean, our coasts, and the Great Lakes.

The NOP recommends that the Strategic Action Plan address: “Specific scientific requirements and research needs, including the need for reconciling inconsistent standards, physical infrastructure, research platforms, organizations, and data management, to identify critical gaps, ensure high quality data and provide information necessary to inform management, including mechanisms to transition research results into information products and tools for management.”

Recommended near-term action: The NOC should use the annual regional gap analysis that each RA is required to complete (by the ICOOS Act) as a basis for understanding the above. This regional process, based on the input from the variety of regional scientific and technical experts, managers, and other users would provide the detail needed to ensure that the national plan(s) addresses the scale and diversity of the nation’s ecosystems.

Resiliency and Adaptation to Climate Change and Ocean Acidification: Strengthen resiliency of coastal communities and marine and Great Lakes environments and their abilities to adapt to climate change impacts and ocean acidification.

Recommended near-term action: In collaboration with the Interagency Working Group on Ocean Acidification, the NOC should use IOOS RA observing assets to develop a coastal network of OA observations to track OA that incorporates key areas of our nation’s coastal oceans and estuaries (e.g., Puget Sound, Chesapeake Bay, the Arctic). Involve IOOS RAs in strategic planning by this group, as per 11/2010 Washington DC planning meeting.

Recommended near-term action: The NOC should use the existing observing assets operated by the IOOS RAs to deploy additional pH/pCO₂ sensors on existing assets across a representative diversity of coastal and estuarine locations, especially in areas of marine resource vulnerability (e.g., coral reefs, shellfish beds, etc.). NOAA’s PMEL has initiated such discussions, which need to be implemented.

Recommended near-term action: The NOC should support the recommendation from the 2010 NOAA Sea Grant West Coast Workshop on OA and Shellfish to fund a data exchange that is integrated with IOOS.

Recommended mid-term action: Federal agencies should be required to -involve the coordination and modeling capacities of the IOOS RAs to develop mitigation and adaptation strategies on a local and regional scale in coastal communities. This would include disseminating forecasting conditions using IOOS RA websites and outreach networks.

Recommended mid-term action: NOAA should expand its Climate Reference Network to include coastal and estuarine sites, including key sites identified by IOOS RAs. IOOS RA data from coastal and estuarine sites should be used to help develop regional downscaled climate scenario modeling.



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Regional Ecosystem Protection and Restoration: Establish and implement an integrated ecosystem protection and restoration strategy that is science-based and aligns conservation and restoration goals at the Federal, State, tribal, local, and regional levels.

Recommended near-term action: In the near-term, priority should be given to the restoration efforts in the Gulf of Mexico (in the wake of the hurricanes and the oil spill) and in the Great Lakes where the Great Lakes Restoration Initiative is underway. To be meaningful and sustained, the efforts should be based on sound science and incorporate sentinel observing sites to monitor trends and determine effectiveness of restoration projects.

Recommended mid-term action: In the mid-term, the lessons learned from the ongoing activities in other critical ecosystems such as Chesapeake Bay, Puget Sound, South Florida, San Francisco Bay, and the Gulf of Maine should be used to enhance these systems.

Obstacles/Opportunities: The Gulf Coast Restoration Task Force provides an opportunity (not an obstacle) for developing a comprehensive plan for restoration in the Gulf of Mexico. The NOC should support this effort.

Metrics: Metrics should relate to regionally specific goals.

Water Quality and Sustainable Practices on Land: Enhance water quality in the ocean, along our coasts, and in the Great Lakes by promoting and implementing sustainable practices on land.

Recommended near-term action: Expand the efforts to ensure that EPA’s water quality exchange network and the IOOS data management system are interoperable so that information can flow between the two. This would build on the success that New Hampshire has made in its pilot project.

Recommended mid-term action: The NOC should empower the National Water Quality Monitor Council (NWQMC) to carry out this goal. The NWQMC has been in existence since 1997 and serves as a vehicle for bringing together diverse expertise needed to develop collaborative, comparable, and cost-effective approaches for monitoring and assessing our Nation’s water quality.

Recommended mid-term action: The NOC should encourage development of cumulative impacts tools to aid managers in assessing the impacts of land use practices on water quality.





Changing Conditions in the Arctic: Address environmental stewardship needs in the Arctic Ocean and adjacent coastal areas in the face of climate-induced and other environmental changes.

Recommended near-term action: The NOC should encourage development of a comprehensive plan for monitoring the Arctic ecosystem (biology, chemistry, physical conditions, and human uses) that builds upon and enhances the current federal activities, which are dominated by the needs of potential offshore oil and gas development.

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Recommended near-term action: The NOC should support downscaling of current climate models for the ocean ecosystems in the Beaufort, Chukchi and Bering Seas in order to incorporate climate change into future scenario planning.

Recommended near-term action: The NOC should encourage federal agencies to build upon the data integration efforts of the Alaska Ocean Observing System, one of the 11 IOOS regional systems, to support future CMSP and other planning efforts in the Arctic.

Recommended mid-term action: Priority should be given to fund nested ocean and coupled bio-physical models that for the Arctic at local, regional and basin-wide scales.

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