

Western Governors' Association
Policy Resolution 09-10

Improved Ocean and Coastal Management and Protection

A. BACKGROUND

1. The President of the United States, the U.S. Congress, all coastal states, and two national commissions have recognized the compelling need at the international, national, state, regional, and local levels to improve the protection and management of the nation's ocean and coastal resources. Both the U.S. Commission on Ocean Policy and the Pew Oceans Commission released findings and recommendations calling for a new comprehensive national ocean policy. Both reports concluded that the nation's oceans and coasts are severely threatened. The Joint Ocean Commission Initiative (JOCI) was formed to help implement the mission of both commissions and has found that coastal states, territories and commonwealths are leading the way. JOCI continues to advocate for the incorporation of ecosystem based management, ocean governance reforms, improved fisheries management, increased reliance on science in management decisions, and more funding for ocean and coastal programs.
2. On December 17, 2004, a federal Ocean Action Plan and an Executive Order was released creating a new Cabinet-level Committee on Ocean Policy to coordinate federal ocean policy, and to address the commissions' recommendations. Although advances were made, the latest national assessment by JOCI provided a grade of "A-" to coastal states for their management efforts and a grade of "C" to the efforts of the federal government.
3. Some of the major issues of concern to western states include:
 - *International.* The 1982 Convention on the Law of the Sea enabled the party states to establish 200 nautical mile exclusive economic zones to control the use and conservation of resources. The U.S. exclusive economic zone (EEZ) was established on March 10, 1983, by U.S. Presidential Proclamation No. 5030. The U.S. territorial sea was expanded on December 27, 1988 from three to twelve nautical miles, the maximum breadth permitted under international law, by U.S. Presidential Proclamation No. 5928. The U.S. Senate has never provided its consent for the U.S. accession to the Law of the Sea Treaty despite the call from both national ocean commissions, many coastal Governors (including Alaska, California, Oregon, Washington, Hawaii, and American Samoa), and other national leaders. Lack of ratification also hinders the U.S. when participating in international discussion over claims to the extended continental shelf, which is particularly important in the Arctic. In addition, the extension of the territorial sea was never confirmed by the U.S. Congress which created considerable ambiguity regarding the application

of domestic laws in the waters between three and twelve miles offshore. This is significant because the term "territorial sea" is used in approximately 68 different federal statutes.

- *National:* Ocean management and protection is inextricably linked to the need for accountability and coordination between all levels of government. Frequently the burden of meeting federal objectives falls on coastal states, commonwealths, territories, and local governments, often with insufficient technical or financial support to carry them out. The prevalence of single purpose federal laws and approaches to ocean resource management (and the multitude of agencies charged with their enforcement) has resulted in multi-tiered planning, regulation, and enforcement which is often highly fragmented. This fragmentation results in less efficient and effective approaches for addressing complex legal, policy, and scientific issues relating to the sea. Although the U.S. Commission on Ocean Policy provided 220 recommendations to address these national concerns, most implementation to date continues to occur through regional and state actions, and not through actions led at the federal level.
- *State and Regional:* Coastal states have developed ocean action plans, created new action oriented ocean councils, and passed new state legislation aimed at moving forward with the implementation of many of the recommendations of both the U.S and Pew Ocean Commissions. In addition, new multi-state regional partnerships have been formed to address ocean and coastal management. Examples include the recent West Coast Governors' Agreement on Ocean Health, the Pacific Coast Collaborative, as well as the Pacific Island regional leadership through the Coral Reef Task Force and the All Pacific Islands summits that have been held to help coordinate inter-island initiatives.

B. GOVERNORS' POLICY STATEMENT

1. The Western Governors assert that congressional action for greater federal interagency coordination is needed to ensure comprehensive and coordinated management, conservation and enhancement of ocean resources for their intrinsic value and for the benefit of current and future generations. This action must provide more efficient and effective means to achieve the following goals:
 - a. Stewardship - To assess, conserve, restore, and sustainably manage ocean resources and the ocean ecosystem.
 - b. Economic Sustainability - To encourage environmentally sound, sustainable, and economically beneficial ocean resource development activities.
 - c. Research, Education and Technology - To advance research, sound science, education programs, and technology developments to meet future needs and uses of the ocean.

- d. Jurisdiction and Ownership - To maximize interests of states, commonwealths, and territories, within State Tidelands, the territorial sea, and the exclusive economic zone.
2. The Western Governors believe that key management questions regarding ocean and coastal habitats, water quality, coastal hazards, maritime commerce, tourism, and research can be better addressed by the federal government through a more coordinated and accountable approach with full participation and cooperation with the coastal states.
3. The Western Governors commend the U.S. Commission on Ocean Policy for their report and call on Congress and the Administration to thoroughly examine and implement those recommendations supported by states' Governors, and thereby ensuring that states' ocean and coastal needs are met. In acting on future legislation regarding ocean and coastal management, Congress should address the following issues:
 - a. Ratification of the Law of the Sea Treaty. Provide consent through the U.S. Senate to the United States accession to the Law of the Sea Treaty. In addition, the Congress should clarify ownership and jurisdiction issues within the exclusive economic zone and the territorial sea addressing at a minimum: joint research initiatives, enhanced revenue sharing with states, commonwealths and territories and legal questions regarding the use of the term "territorial sea" in over 68 federal statutes; and
 - b. Revise and Re-authorize the Coastal Zone Management Act. Pursue the revision and reauthorization of the Coastal Zone Management Act, often referred to as the "constitution" for the management of the nation's coastlines. Our nation's oceans and coasts are facing a more complex suite of social, environmental, technological, and governance challenges than ever before. It is necessary to re-authorize the CZMA to address these issues accordingly. The Coastal States Organization worked cooperatively with NOAA on a two year "visioning" process soliciting comments and ideas for re-authorization in coastal states throughout the nation. As a result the CSO has identified four focus areas which include:
 - i. focusing state, local, and federal programs on four priority areas ranging from restoring coastal ecosystems to maintaining healthy and resilient coastal communities;
 - ii. preparing 5-year Coastal Action Plans per coastal zone state;
 - iii. increasing the funding scope for coastal planning; and
 - iv. improving federal agency coordination and cooperation. A revised CZMA will retain all 35 state coastal programs already approved by NOAA, maintain approved coastal zone boundaries, and keep existing authority to review federal activities for consistency with approved state programs.
 - c. Address Global Climate Change and Sea Level Rise. Urge the federal government and Congress to pursue administrative processes and/or legislation to cut green house gas emissions to reduce future impacts (such

as developing standards to lower carbon content in fuels) and to dedicate a percentage of any revenues generated from mitigation programs (such as cap and trade programs) to the implementation of adaptation strategies within the states. Such approaches should be part of a national strategy to ensure intergovernmental coordination. That strategy should clearly define the roles of various agencies, and identify the mechanisms by which federal programs will coordinate with states. The federal government should also provide technical assistance (or direct financial aid) to coastal states to collect critical information to implement climate change adaptation strategies, in particular the collection of high resolution topographic and bathymetric data to identify hazards such as coastal inundation. Specifically, the Federal Emergency Management Agency (FEMA) should produce flood maps based on likely climate change scenarios in addition to their existing historical maps. The federal government (particularly NOAA) needs to work closely with coastal states to develop tools for states and local governments to use to assess future impacts.

- d. Funding and Technical Assistance. Establish a permanent Ocean Trust Fund to provide new fiscal support for ocean and coastal management. This fund should have a dedicated source of revenues eventually reaching \$4 billion annually to support the management, protection, and understanding of the natural and economic resources along our nation's coasts, oceans, Great Lakes, and islands. The establishment of such a fund was recommended by both national ocean commissions and most recently was included in the Coastal States Organization "Call for Action" that was endorsed by government, private sector, and environmental organizations throughout the United States. Coastal states also require technical assistance to address the many complex ocean and coastal management problems facing them now and in the coming years.
- e. Support Regional Ocean Governance Partnerships. Pass federal legislation to facilitate federal agencies' participation in regional ocean partnerships and to provide short and long term funding to coastal states to support these efforts. These partnerships should create and implement strategic plans to solve priority problems identified within each region. These regional partnerships should be voluntary, flexible, and state-driven.
- f. Provide sufficient funding and technical guidance for states, commonwealths and territories to realistically address important ocean management concerns regarding ocean habitats, water quality, maritime commerce, tourism, and research, and to support existing and new efforts to create regional approaches to ocean and coastal collaboration and coordination;
- g. Acknowledge and support the emulation of environmentally sound development and sustainable resource harvest where it already exists through sufficient funding for necessary research and management tools; and

- h. Respond to changing sea ice extents with the construction and maintenance of necessary ice breaker capabilities to conduct research and provide for needed patrol and enforcement duties. Also support the expansion of US Coast Guard search and rescue operations to all coastal areas.
4. The Western Governors also believe that the U.S. needs to recognize that American Flag Pacific Island commonwealths and territories have inherent jurisdictional rights and responsibilities pertaining to the conservation, exploration, and development of the resources in their EEZs that stem from traditional rights, federally approved covenants, international law, and customs and conventions.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Western Governors' Association (WGA) shall convey this resolution to the President of the United States, the Secretaries of the Departments of Commerce, Interior, Justice, and State, and to relevant committees and subcommittees of Congress.
2. This resolution shall serve as a basis for organizing the positions of Western states, commonwealths, and territories for any applicable legislation or administrative action.