

Ms. Nancy Sutley, Chair and Members of
The Interagency Ocean Policy Task Force
c/o Council on Environmental Quality
722 Jackson Place, NW
Washington, DC 20503

Submitted via internet

Dear Chair Sutley and Members of the Interagency Ocean Policy Task Force:

We are a network of fishermen; fishing community members; scientists, social scientists, and other experts who support fishing communities; and seafood consumers. We are pleased to submit comments to the Ocean Policy Task Force on the draft Coastal and Marine Spatial Planning Framework, and we thank the Task Force for the obvious time and effort spent in developing the CMSP Framework as part of the National Ocean Policy. Given the importance of the ocean in buffering our climate, providing resources, contributing to healthy regional food systems, and supporting local communities, the maintenance of a healthy ocean and marine ecosystems has become more critical than ever. In fact, done right the CMSP can balance if not bolster the Administration's priorities of job creation, innovation, regional food systems and resource conservation as they apply to our ocean.

We all rely on a healthy ocean with healthy living resources. We wish to add our support to that of so many other organizations and individuals appreciative of the President's decision to form a Task Force charged with developing a comprehensive national ocean policy grounded in conservation and fostering economically sustainable and ecologically responsible development. We commend placement of ecosystem-based management at the core of CMSP, and we wish to emphasize the importance of recognizing that locally based coastal users of living marine resources and ecosystem services constitute an integral part of the marine ecosystem.

We appreciate the attention you obviously gave to the many preliminary comments that were submitted early in the development of the Framework. We strongly support the precautionary approach as a core principle; the recognition of cumulative impacts of a variety of stressors of ecosystem health, such as toxic chemicals, pollution and climate change, the importance of using the best scientific information available and research to provide missing data; the importance of monitoring and adaptability in implementing spatial planning; and the inclusion of important socio-economic considerations. We also support the definition of Coastal and Marine Spatial Planning as "a comprehensive, adaptive, integrated, ecosystem-based, and transparent spatial planning process, based on sound science, for analyzing current and anticipated uses of the ocean, coastal, and Great Lakes areas."

Implementing a responsible national policy for economically and ecologically sustainable development and regulation of ocean resources is not for the faint of heart. There will be major conflicts among stakeholders and likely among authorities with different responsibilities. Throughout the process of Coastal and Marine Spatial Planning, it will be essential to ensure that the health of the ecosystem--and hence human welfare over the long term--takes highest priority, while remembering that there are also immediate human needs that sorely tempt us to unwisely forestall or foreclose future options. As such, the human role in the ecosystem should

be taken into consideration, including their duties as stewards as well as their needs as responsible users.

The suggestions below primarily are designed to fill gaps we see and to avoid predictable conflicts to the extent possible. We believe that these suggestions will provide additional assurance that the implementation of Coastal and Marine Spatial Planning will be done in harmony with the conservation of marine ecosystems and ecosystem services with the understanding that humans who rely on these services will benefit.

The CMSP Framework should include an expanded description of the principles to guide the dispute resolution process. While the Framework assigns the NOC the task of developing a dispute resolution process at the national level with implementation to be determined at the regional level (p. 18), the Framework should establish principles or a framework upon which such a process is based. For instance, how does the NOC decide which use takes priority? We suggest that to ensure sound ecosystem-based management, resolution of conflicts must ensure that the health of the ecosystem takes highest priority

A recently accepted paper¹ lists four clearly defined attributes of healthy functioning marine ecosystems, which could be adopted as criteria in dispute resolution:

- Maintaining or restoring native species diversity;
- Maintaining habitat diversity and heterogeneity;
- Ensuring connectivity (including coastal and estuarine connectivity to offshore areas); and,
- Maintaining key species.
- Additional attributes that should be considered include ensuring the maintenance of key oceanographic processes such as upwelling, and areas of naturally occurring high primary productivity (e.g., Rapport et al., 1980).

Another mechanism for resolving disputes is to apply the public trust doctrine, already widely established in state waters, to federal waters. A recent Science paper² suggests that establishing a public trust doctrine for federal waters could be an effective and ethical solution to regulating and managing ocean activities. It would support sustainable ocean uses while protecting marine species and habitats in the interest of citizens and in recognition of the needs of future generations.

The CMSP Framework should provide standards for identifying uses of the ocean that are incompatible with maintaining the health of marine ecosystems and ecosystem services regionally or nationally. There needs to be a clear pathway to a “no” determination for activities that are incompatible with the maintenance of healthy marine ecosystems. Proposed activities should be expected to meet specific criteria of low impact on the marine ecosystem,

¹ Foley, M., Halpern, B.S., Micheli, F., Armsby, M.H., Caldwell, M. R., Prahler, E., Silvas, D., Crain, C. M., Rohr, Beck, M. W., Carr, M. H., Crowder, L. B., Duffy, E., Hacker, S., D., McLeod, K., Peterson, C. H., Regan, H. M., Sandifer, P. A., Steneck, R. S., 2010 Guiding scientific principles for marine spatial planning. *Marine Policy*. In press

² Mary Turnipseed, Larry B. Crowder, Raphael D. Sagarin, and Stephen E. Roady. **OCEANS: Legal Bedrock for Rebuilding America's Ocean Ecosystems.** *Science*, 2009; 324 (5924): 183 DOI: 10.1126/science.1170889

and if they cannot, they should not be permitted.

The draft Framework lists existing uses and anticipated future uses of the ocean as if they are automatically acceptable and need only be assessed for appropriate locations and conditions. It is reasonable to expect CMSP to include the option of prohibition of certain activities on a regional or national level. There is precedent for such action in the ocean because of strong likelihood of negative environmental impact. For example the burial of radioactive wastes at sea has been prohibited globally, as has the dumping of garbage and chemical wastes. Oil and gas development has been the subject of moratoria in some offshore areas.

The CMSP Framework should provide a description of the process for adaptive management to be developed by the NOC. We laud the mention of the need for performance measures (pg. 21). What happens, however, when these performance measures are not met or show a decline in ecosystem health? A national plan of action is needed for declining or substandard performance measures to ensure that the regional MSP plans are not paper plans only. Public review of performance measures is integral to this process.

The CMSP Framework should recommend stakeholder analysis to account for the diversity of stakeholders that may participate in coastal and marine spatial planning process and to encourage their full involvement. The Framework should encourage stakeholder participation at key steps in the process including the very earliest stages, should acknowledge differences among stakeholders, and should direct the NOC to develop guidance on ensuring and accounting for the input of information into the stakeholder process by those most connected to the marine ecosystem and its resources. Pomeroy and Douvere³ suggest an analysis approach, which may be used to weight the various stakeholders according to their interest and connection to the area or its resources. This analysis allows stakeholders to be involved in the process in a way that reflects the complexity of the decisions being made. Furthermore it ensures that stakeholders who often feel the greatest impact from a variety of activities in ocean and coastal areas, including local community-based fishermen and coastal communities, are not ignored.

The CMSP Framework should more explicitly incorporate the following ecological considerations:

- a. For a variety of uses of living marine resources the scales of the operations, management and associated research and monitoring must be well matched to the critical scales of the ecosystem, both spatially and temporally. Appropriate scaling is also critical for conservation measures and area designations, and for the assessment of ecological impacts for other uses of coastal and marine areas. This is important to both the initial spatial planning and to adaptive management. Too often a single broad scale is applied to management decisions while the biology operates at multiple scales. The demographics of species distribution and ecology may be overlooked. Appropriate scales may vary from region to region, and they may be defined, for example, by topographical features, current patterns, upwelling features, migration and breeding patterns, distribution of distinct population segments, etc.

³ R. Pomeroy and F. Douvere (2008) The engagement of stakeholders in the marine spatial planning process. *Marine Policy*. 32:816-822

- b. The Framework should include guidelines on how to effectively incorporate environmental variability in both the spatial planning and the adaptive management processes. Such variability includes both seasonal and inter-annual fluctuations in physical and biological characteristics as well as long-term changes due to climate change.

The Framework should include recommendations and guidance for incorporating data and information from a variety of sources: e.g. information from history, anthropology, and sociology research; knowledgeable stakeholders; and a variety of governmental and academic sources. While the Framework provides guidance for the handling of scientific information, the Framework should provide similar guidance for the collection, evaluation, and incorporation of a variety of other types of information and data that provides useful information for effective spatial planning and adaptive management decisions. This includes among others: socio-economic information; traditional knowledge of tribes, fishermen, and other multigenerational users of ocean resources; historical knowledge; and a variety of long-term data sets and natural history observations. The inclusion of tribal advisors and authorities in the CMSP process regionally and nationally (e.g. p 5) should encourage the incorporation of traditional knowledge, with its recognition of the oceans as a true commons and with stewardship as the core of the human use of the ocean's resources.

We thank you again for all the hard work and deliberations that went into the drafting of the CMSP framework, and we look forward to the final version. Thank you for your time in considering our suggestions.

Sincerely,

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