# Public Comments
# on the U.S. Commission on Ocean Policy's Preliminary Report

## *Topic Area: Multiple Topics*

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- **Comments Submitted by:**

- John Heyning, President, Natural Science Collections Alliance
- David L. Evans, Smithsonian Institution
- Dennis L. Schornack, United States Section, International Joint Commission
- Derrick Crandall, American Recreation Coalition
- Sheila O'Keefe, Corvallis, Oregon
- Mark Davis, Coalition to Restore Coastal Louisiana
- Susanne Kynast, The Ocean School
- Luis E. Rodríguez –Rivera, San Juan, Puerto Rico
- Kathleen DeLeuw, Santa Barbara, California
- Walter L. McLeod, President, Clean Beaches Council
- Richard A. Anthes, University Corporation for Atmospheric Research
- James A. Donofrio, The Recreational Fishing Alliance
- Ray Ban, Co-Chair of the Weather Coalition and Executive Vice President of The Weather Channel, Inc.
- John Snow, Co-Chair of the Weather Coalition, Director of the Oklahoma Weather Center, and Dean of the College of Geosciences, University of Oklahoma
- Eli Weissman, The Ocean Conservancy
- Gerald Leape, National Environmental Trust
- Doug Hobbs Sport Fishing & Boating Partnership Council
- Brion BlackWelder, Shepard Broad Law Center
- Carrie Wall, University of South Florida
- Todd Ambs, Wisconsin Department of Natural Resources
- Jim Ellis, Boat Owners Association of the United States
- Kathy Fletcher, People for Puget Sound; Christopher J. Evans, The Surfrider Foundation; William J. Chandler, Marine Conservation Biology Institute; Cha Smith, KAHEA: The Hawaiian Environmental Alliance; Dana Beach, The Coastal Conservation League; Sarah Chasis, Natural Resources Defense Council; Dawn Hamilton, Coast Alliance; Larry Fahn, Sierra Club
- Susan B. McAllister, La Jolla, California
- Bev Minn
- Christopher J. Evans, Surfrider Foundation
- Mike Nussman, American Sportfishing Association; Monita Fontaine, National Marine Manufacturers Association; Ryck Lydecker, Boat Owners Association of the United States (BoatU.S.); Liz Hamilton, Northwest Sport Fishing Industry Association; David Cummins, Coastal Conservation Association; Bob Fletcher, Sportfishing Association of California; Rob Kramer, International Game Fish Association; Tom Raftican, United Anglers of Southern California

***Comment Submitted by John Heyning, Ph.D., President, Natural Science Collections Alliance***

June 7, 2004

The Natural Science Collections Alliance is an organization representing over 100 museums, university and govermental collections, and affilate professional societies. The information held within these collections represent the primary evidence of our understaning of present and past biodiverity. Thus, museums play a vital role in oceans research and education. Museum collections and science are not mentioned in the report. But collections and museum scientists are needed for better policy and management-museums hold the vouchers of historic and contemporary biodiversity and are fundamental data sources for successful ocean policy and management, including the identifications of the organisms of the coastal and marine realms and as indicators of ecosystem change over time. The well known exhibitions in the nation's natural history museums, including the new Oceans Hall at the NY American Museum of Natural History, are the end-product of collections-based research.

Museum research is generally on fundamental research in biodiversity, systematics, taxonomy, and ecosystem processes rather than management or policy work. Our work provides baselines and tools needed for management and tests key cutting edge scientific questions on areas ranging from evolution, systems dynamics, and modeling impacts of environmental change. Museum researchers work cooperatively across museums and nations to develop the datasets, information bases and knowledge necessary for better science-based policy.

The report rightly states that biodiversity research is needed, but understates its importance-on page 6 it states that the ocean "is home to millions of species, with perhaps as many more yet to be discovered." The best estimate is that we only know about 1/10, not ½ of the organisms of the oceans. This difference clearly identifies the crucial importance of getting the systematics and taxonomy work of the museums community highlighted more strongly in the report and its recommendations.

Clearly museums play a role in many of the key recommendations, from Enhanced Opportunities for Regional coordination-reflecting that museums and collections are in every state of the Union; Strengthen Science-collections based science is needed for many aspects of resource management; Meet information needs-the collections community been digitizing its collections and developing web service tools to provide this data to the scientific community and the public through initiatives such as the Global Biodiversity Information Facility and the Ocean Biogeographic Information System to make the specimen collections data of the world interoperable and virtually a single entity; and of course Education-a foundation for the future-the informal and formal educational elements of museums, from exhibitions and their classroom components to post-doctoral research opportunities, make museums a unique resource for this initiative.

I thank you for the opportunity to make these comments and would greatly appreciate the ability to work with you to have the museum community and its contributions effectively reflected in the report and its recommendations.

Specific recommendations:

1. P6: ocean "is home to millions of species, with perhaps as many more yet to be discovered." Change to: "is home to millions of species, of which only a fraction have been discovered and described by science." And add at the end of the paragraph: Enhanced support for the collection, curation and study of the oceans biodiversity will be key to unlocking these opportunities.
2. P 9: "The ocean provides an exciting way to engage…in the nation's schools." Change to: The ocean provides an exciting way to engage…in the nation's schools, museums, zoos and aquaria."
3. At all places there zoos and aquaria are mentioned, please include museums.
4. Chapter 3, section on biodiversity and/or Science for decision-making: Please include language on the importance of museum collections and the need for enhanced taxonomy and systematics work. Mention of the national and global initiatives to marshal biodiversity data in the Global Biodiversity Information Facility (GBIF), the Census of Marine Life (CoML) and the Ocean Biogeographic Information Facility (OBIS) would strengthen these sections.
5. Page 85, please add museums and perhaps the Census of Marine Life in the list of professional societies.
6. Page 101: In the text under Recommendation 8-12: the endowed chairs should also be at natural history museums, many of which are at universities and free-standing museums, like the Smithsonian and the American Museum of Natural History in New York having close links with universities, pre-and post doctoral programs..
7. Recommendation 8-13: In the text, please add: Substantially increasing our knowledge of the biodiversity of the oceans will be critical. NSF cooperative programs should strengthen their support for biodiversity educational opportunities at the Smithsonian, the national museums and universities.
8. Page 103. Add museums. Also add, informal education on the oceans needs to be encouraged in the private sector, specifically in the tourism industry.
9. Chapter 27: Infrastructure. The role of collections and voucher specimens as needed infrastructure for oceans science and policy is needed here, either as a stand-alone section or as part of Laboratories and instrumentation.
10. Page 344: Recommendation 27-4: Add a bullet: the enhancement and ongoing operations, maintenance and modernization of the biological collections, laboratory facilities for their research and analysis and the digitization of associated data.
11. Chapter 28. Needs mentions of biodiversity data. Museums, research centers, and universities around the country are working together through OBIS (the Ocean Biogeographic Information System) to make these databases interoperable and virtually one.

***Comment Submitted by David L. Evans, Under Secretary for Science, Smithsonian Institution***

June 4, 2004

U.S. Commission on Ocean Policy
1120 20th Street, NW
Suite 200 North
Washington, DC 20036

Dear Admiral Watkins,

The enormous amount of work and thought entailed with putting together the report of the US Commission on Ocean Policy is clearly evident. We have examined the report and have some comments both factually and in framing that we believe will strengthen the report and its utility.

The Smithsonian Institution stands ready to help and believes that it is well positioned to do so. The mission of the Smithsonian is "the increase and diffusion of knowledge." The diffusion side, exemplified by the public museum exhibitions is the best known, but undergirding those outreach programs is a robust and extraordinary research enterprise. Researchers from the National Museum of Natural History, the Smithsonian Tropical Research Institute, the Smithsonian Environmental Research Center and the National Zoo all work on elements of oceans science. Additionally, one of the most successful partnerships (and successfully hidden secrets in Washington) is the housing of NOAA's Marine Systematics Laboratory at the Natural History Museum where NOAA scientists work along side of Smithsonian scientists, sharing key infrastructure elements such as the collections, libraries and equipment. In addition, NOAA and the Natural History Museum are partnering to develop a new Oceans Hall at the museum. As you can see, both the elements of education and research highlighted in the report fall within the purview of the Smithsonian.

However, there are some omissions in the report that will limit our ability to fully engage in the important activities considered. The Smithsonian, as an instrumentality of the United States is partially federally funded and quite unique. Perhaps, due to its unique standing, its programs are not included throughout the report. I would like to suggest a few locations where limited changes could both reflect the Smithsonian's contribution, and equally importantly, strengthen the reports impact for many research institutions and museums.

Smithsonian stresses fundamental research in biodiversity, systematics, taxonomy, and ecosystem processes rather than management or policy work. Our work provides baselines and

tools needed for management and tests key cutting edge scientific questions on areas ranging from evolution, systems dynamics, and modeling impacts of environmental change. Our researchers represent the world's largest team dedicated to documenting marine biodiversity, and the Museum's collection of more than 33 million marine specimens is unmatched in size and scope. But the importance and need for collections (Smithsonian and in other museums in the country) for their role in the scientific enterprise, including the identifications of the biodiversity of the coastal and marine realms and as key vouchers of ecosystem change over time, is not reflected in the report.

The report rightly states that biodiversity research is needed, but understates its importance—on page 6 it states that the ocean "is home to millions of species, with perhaps as many more yet to be discovered." The best estimate is that we only know about 1/10, not ½ of the organisms of the oceans.[1] This difference clearly identifies the crucial importance of getting the systematics and taxonomy work of the Smithsonian and other museums highlighted more strongly in the report and its recommendations.

For each of the key conclusions in the Executive Summary, the Smithsonian plays its part:

- **Strengthened Federal Agency Structure**: The Smithsonian is participating in the Joint Subcommittee on Oceans and should be included in the new structures, with key interest in research and education components.
- **Enhanced Opportunities for Regional coordination**: The Smithsonian Marine Station in Ft. Pierce Florida does important work on the land-sea interface in the Indian River Lagoon and could play an important coordinating role in that region. The Smithsonian Tropical Research Institute, with facilities on both the Atlantic and Pacific coasts is an important research, education, and coordination focus for Panama and the Caribbean. The long-term Smithsonian Research Station in Belize could further enhance coordination and research strength to wider Caribbean initiatives.
- **Strengthen Science**: Smithsonian research is fundamental for much of the knowledge, management and monitoring needs. While we house one of the largest communities of marine systematists, over the last 15 years, we have lost 10 marine scientist positions leaving key taxa uncovered. The National Museum of Natural History has just initiated a long-term Ocean Science Initiative which will provide leadership by creating a scholarly Center for Ocean Science to promote collaboration among Museum researchers and to share their knowledge with other scientists, the broader research community, and policymakers. The initiative includes an endowed chair to be held by a marine scientist of the highest caliber to guide the development of this innovative, interdisciplinary center. A key role of this leadership position will be to link Museum research projects within a conservation framework. Additional core staff will be needed to facilitate

[1] O'Dor, Ronald K., 2003. The Unknown Ocean: The Baseline Report of the Census of Marine Life Research Program.
Consortium for Oceanographic Research and Education: Washington DC, 28pp.

coastal research, deep-sea exploration, expanded fellowship opportunities and an annual symposium.

- **Meet information needs**: The Smithsonian has been digitizing its collections and developing web service tools to provide this data to the scientific community and the public. We have been at the forefront of the development of the Global Biodiversity Information Facility to make the specimen collections data of the world interoperable and virtually a single entity. This work has already created new tools for the utilization and visualization of important data. The aforementioned Ocean Science Initiative will develop an Ocean Web Portal with extensive links to related sites. The site will include a virtual exhibition tour, online educational materials, digitized collections, and electronic field guides. The Smithsonian Environmental Research Center houses the National Ballast-Water Clearinghouse for invasives species, as cited so frequently in the report. We believe that these resources need continued support.
- **Education—a foundation for the future**: The Smithsonian plays a key role in formal and informal education in Washington, the country and abroad. From the development of curricula and teaching modules at the Natural History Museum, the Smithsonian Environmental Research Center, the Tropical Research Institute, the Zoo and the joint National Academy of Science-Smithsonian National Science Resource Center (for K-12 curriculum development), the Smithsonian has decades of experience in engaging the public. The Ocean Science Initiative is developing, in partnership with NOAA, a new Ocean Hall which will be a one-of-a-kind interpretive exhibition, extraordinary in scale and presenting the oceans as never before: over time and in three dimensions. When complete it will spread over more than 26,000 square feet, making it the Museum's most prominent hall. This centerpiece for informal education in Washington DC can play a prominent role for centering an informal education initiative, convening high level policy fora and through its temporary exhibit spaces, highlight key issues of current concern and debate.

The importance of museums is missing from the report—on both the research and the education sides. The vital role of museum collections, creating vouchers and the basic information for much of the biodiversity and ecological work needs to be added. On the education side, the new and excellent exhibition at the American Museum of Natural History, and the hundreds of other exhibits around the country play a vital role in the drive for increased educational opportunities on this topic.

Finally, Smithsonian scientists work in all of the world's oceans—from being the repository of NSF Arctic explorations to studies in the islands of Tierra del Fuego. We train taxonomists, ecologists, geologists, and paleontologists from around the world. Together we work to better our understanding of the oceans, its components, and dynamics. However, the international framing of the report does not adequately reflect the needs of science to solve key problems. In all of this work, research is needed globally to answer questions that impact US waters. For example, to identify invasive species, one needs to have researched them in their native habitat, but many federal agencies have limited mandate to do this. A clear articulation of the need to study

biodiversity, geological processes and the long-history of paleontology globally is needed somewhere in the report.

I thank you for the opportunity to make these comments and would greatly appreciate the ability to work with you to have the Smithsonian and its unique status and contributions effectively reflected in the report and its recommendations.

Specific recommendations:

1. P6: ocean "is home to millions of species, with perhaps as many more yet to be discovered." Change to: "is home to millions of species, of which only a fraction have been discovered and described by science." And add at the end of the paragraph: Enhanced support for the collection, curation and study of the oceans biodiversity will be key to unlocking these opportunities.
2. P 9: "The ocean provides an exciting way to engage…in the nation's schools." Change to: The ocean provides an exciting way to engage…in the nation's schools, museums, zoos and aquaria."
3. At all places there zoos and aquaria are mentioned, please include museums.
4. Chapter 3, section on biodiversity and/or Science for decision-making: Please include language on the importance of museum collections and the need for enhanced taxonomy and systematics work. Mention of the national and global initiatives to marshal biodiversity data in the Global Biodiversity Information Facility (GBIF), the Census of Marine Life (CoML) and the Ocean Biogeographic Information Facility (OBIS) would strengthen these sections.
5. Chapter 4: Making improvements at the National Level: Include mention of the Smithsonian and its contributions, reflecting our unique status.
6. Recommendation 4-2: The Smithsonian should be on the National Ocean Council and its subsidiary bodies (especially the Committee on Ocean Science, Education, Technology, and Operations (COSETO).
7. Chapter 8: Participants in Ocean Education. Please include the Smithsonian in the list, and a short paragraph on the new National Museum of Natural History Ocean Science Initiative, with a major new exhibition jointly developed with NOAA.
8. Page 85, please add museums and perhaps the Census of Marine Life in the list of professional societies.
9. Recommendation 8-3: Please include the Smithsonian in the list for support of education.
10. Recommendation 8-7: Please include the Smithsonian in the teacher education work.
11. Page 97: The Smithsonian graduate and post-graduate fellowships should be noted.
12. Page 101: In the text under Recommendation 8-12: the endowed chairs should also be at natural history museums, many of which are at universities and free-standing museums, like the Smithsonian and the American Museum of Natural History in New York having close links with universities, pre-and post doctoral programs..

13. Recommendation 8-13: In the text, please add: Substantially increasing our knowledge of the biodiversity of the oceans will be critical. NSF cooperative programs should strengthen their support for biodiversity educational opportunities at the Smithsonian, the national museums and universities.
14. Page 103. Add museums. Also add, informal education on the oceans needs to be encouraged in the private sector, specifically in the tourism industry.
15. Page 176: Under Federal program: The Smithsonian Environmental Research Center uses an ecosystem approach to develop basic scientific models of water quality and impacts in the Chesapeake Bay.
16. Page 203: Please add: The National Ballast Water Information Clearinghouse (hereafter Clearinghouse) was established in 1997 at the Smithsonian Environmental Research Center in conjunction with the NISC for the synthesis, analysis, and interpretation of national data concerning ballast water management and ballast-mediated invasions.
17. Page 206: In the text of Recommendation 17-4, include the Smithsonian in the second bullet.
18. Page 266, in understanding of coral ecosystems. Please add a new paragraph. Long-term research sites, such as the Smithsonian work at Carrie Bow Cay in Belize, provide important biological, geological, and ecological time series data fundamental for our understanding of coral dynamics. Such programs need strong support.
19. Page 284: Please add the Smithsonian to the list of organizations.
20. Page 314: Recommendation 25-4: Please include the Smithsonian in the additional involvement list.
21. Page 25: Box, please title: Primary Federal Agencies and Organizations that Conduct...” and please include the Smithsonian in the list.
22. Chapter 27: Infrastructure. The role of collections and voucher specimens as needed infrastructure for oceans science and policy is needed here, either as a stand-alone section or as part of Laboratories and instrumentation.
23. Page 344: Recommendation 27-4: Add a bullet: the enhancement and ongoing operations, maintenance and modernization of the biological collections, laboratory facilities for their research and analysis and the digitization of associated data.
24. Chapter 28. Needs mentions of biodiversity data. The Smithsonian has perhaps the largest repository, but museums, research centers, and universities around the country are working together through OBIS (the Ocean Biogeographic Information System) to make these databases interoperable and virtually one.
25. Page 364: International Ocean Science Programs. Please add the Smithsonian to the list of other institutions.
26. Add a summary for the Smithsonian in Chapter 31.

***Comment Submitted by Dennis L. Schornack, Chair, United States Section, International Joint Commission***

June 6, 2004

Admiral James D. Watkins, Chairman
U.S. Commission on Ocean Policy
1120 20th Street, NW
Washington, D.C. 20036

Dear Admiral Watkins:

Thank you for making the Preliminary Report of the U.S. Commission on Ocean Policy available for comment. I commend and congratulate you for producing an excellent, timely, and visionary document to guide future ocean policy in the United States. Indeed, from the perspective of both of my roles – as chairman of the U.S. Section of the International Joint Commission (IJC) and as U.S. Commissioner of the International Boundary Commission (IBC) – your report has will undoubtedly have a major, positive impact on government policy making.

**Overall, I heartily concur with the direction, principles, and recommendations contained in the Preliminary Report, particularly those focused on the Great Lakes.**

The IJC is a bilateral, U.S./Canada organization formed under the Boundary Waters Treaty of 1909 that resolves disputes, manages levels and flows, and conducts scientific investigations called "references" concerning boundary and transboundary waters shared by the two countries. While the jurisdiction of the IJC stretches from coast to coast, the Great Lakes are the largest and most significant boundary waters shared by the U.S. and Canada, and the IJC operates control structures on the connecting channels formed by the St. Mary's and St. Lawrence Rivers.

The first IBC was created by the Jay Treaty of 1794 while the current IBC was founded in 1925 to reestablish and map of the boundary between the U.S. and Canada from the Atlantic Ocean to the Pacific Ocean. Our agency maintains the boundary in an effective state of demarcation through regular inspections, repairing, relocating or rebuilding damaged monuments or buoys; keeping the vista cleared, and erecting new boundary markers at such locations as new road crossings.

The IJC also plays an oversight role with respect to the Great Lakes Water Quality Agreement (GLWQA) of 1978 – a binational executive agreement that was the first major international agreement to adopt an ecosystem approach to the management of shared waters. **GLWQA committed the U.S. and Canada to restore the chemical, physical, and biological integrity of the waters of the Great Lakes. This landmark agreement is up for review and potential revision by the governments of the United States and Canada in 2005. The Preliminary Report should mention this key**

**opportunity to enhance ecosystem-based management of the Great Lakes.** That said, the Commission's vision to use ecosystem-based management to integrate multi-jurisdictional and multi-agency efforts to restore, protect, and sustain the beneficial human use of our coastal marine and freshwater resources is welcome and in accordance with previous IJC recommendations.

The following detailed comments are provided from my perspective as a policy maker who has devoted more than 20 years of attention to what U.S. law defines as the "Fourth Seacoast"- the Great Lakes. Key comments are in bold type.

**The "Fourth" but not Forgotten Seacoast**

The Preliminary Report correctly defines the marine environment and coastal areas to include the Great Lakes. These inland, "sweetwater seas" have more coastline than any of the three ocean coasts and one of every six Americans lives in the basin. Many of the impairments to the beneficial and sustainable use of marine resources identified by the Commission, were first identified and addressed in the Great Lakes basin.

Similarly, the Commission includes the Great Lakes in the definitions of coastal zone counties, coastal watershed counties, and the near-shore area. In fact, it is noted that of the 673 coastal watershed counties, 159 front the Great Lakes. The Commission also rightly adopted NOAA's definition of a "coastal watershed." In the Great Lakes region, "coastal watershed" includes the entire geographic area that drains into one of the lakes, and thus, the entire basin is one interconnected watershed. The Commission's recommendation that the watershed be the geographical unit in which ecosystem-based management is applied to integrate planning, programs and projects is appropriate.

However, many around the basin expressed dismay that the Great Lakes are not mentioned in the Executive Summary and that many opportunities to use Great Lakes examples to illustrate problems and potential solutions throughout the text of the Preliminary Report have been missed. At a time when Great Lakes policy-makers, practitioners, and the public are pushing for a major initiative to restore and sustain the many beneficial uses of the Great Lakes, this oversight strikes a sensitive nerve and fails to give readers a sense of the full scope of the Commission's work. **Therefore, the Commission is urged to incorporate the Great Lakes into the Executive Summary and to incorporate Great Lakes examples throughout the text.** For example, including the Lake Erie dead zone in chapter 14 along with the Gulf of Mexico dead zone discussion would demonstrate the complex nature of the problem and how it may be linked to invasive species.

Indeed, a strong case can be made that the "Fourth Seacoast" deserves not just better recognition, but very special attention because fresh water has several important beneficial uses above and beyond those for salt water. For example:

- Drinking Water – nearly 40 million U.S. and Canadian citizens get their drinking water from ground water, surface waters, and tributaries of the

Great Lakes. Chapter 23 contains no reference to the potential health implications from drinking water contamination despite recent incidents like Walkerton, Ontario and the 1993 cryptosporidium contamination of Milwaukee's drinking water that made thousands of people ill and exacted nearly $100 million in economic costs. **The Commission should expand upon the drinking water challenges in both the Great Lakes and marine coastal environments.**

- Out-of-basin Water Demand – because they contain such a vast quantity of fresh water, communities lying just outside of the basin divide often seek access to water from the Great Lakes by way of out-of-basin diversions. An agreement between the eight Great Lakes states and the Canadian provinces of Ontario and Quebec known as the Great Lakes Charter of 1985, established a "prior notice and consultation" process between state and provincial leaders concerning any large new diversion or consumptive use planned within any of their jurisdictions. Moreover, U.S. federal law (the Water Resources Development Act of 1986) puts Great Lakes state governors in charge of managing diversions by requiring that they be unanimously approved by each of the eight governors. Great Lakes governors and premiers hope to complete work by mid-2004 on a new set of binding agreements to manage diversions and consumptive water uses within the Great Lakes basin under an amendment to the Great Lakes Charter known as Annex 2001. This challenge is unique to the Great Lakes basin and unique agreements, laws, and organizations have evolved to deal with it (see additional comments under the heading "Governance"). The Preliminary Report does not mention out-of-basin demand for Great Lakes water or the mechanisms that have been developed to meet this unique challenge. **The Commission should include a discussion of out-of-basin demand for Great Lakes water and its implications for governance.**

- Industrial Use – Many heavy industries and power utilities have located in the near-shore areas of the lakes, tributaries, and connecting channels. While practices have improved dramatically since the Clean Water Act, decades of point-source pollution discharges have left a legacy of sediment contaminated with multiple toxic substances. Some of these contaminants, like PCBs and mercury, bio-accumulate up the fish-to-human food chain and have led to fish consumption advisories. In 1987, the governments of the U.S. and Canada designated 42 Areas of Concern (AOCs) in the Great Lakes where ecosystems were degraded, largely because of contaminated sediment. Subsequently, one AOC was added to the list and only 2 AOCs, both in Canada, have been restored in the past 17 years. A new $270 million/5 year EPA program – the Great Lakes Legacy Act – has begun to address this problem in the 26 U.S. AOCs, primarily through dredging and on-land disposal. While the Commission's recommendations in Chapter 23 of the Preliminary Report are on target, **a**

**discussion of the special problem of contaminated sediment in the Great Lakes, the excessive costs associated with confined disposal, and the prospects for the beneficial reuse of sediment should be included in the final report.**

- Hydropower – distinct from the pendulum like ebb and flow of the ocean tides, the Great Lakes/St. Lawrence River system has a steady, linear flow of water through several significant elevation drops that enable substantial use for hydropower generation. Hydrological flows are the "master variable" in the Great Lakes and have implications for sediment transport, coastal erosion, riparian uses, recreational boating, marina operations, and wetlands habitat. The IJC manages dams at the outflows of Lake Superior and Lake Ontario in accord with its obligations under the Boundary Waters Treaty, and is in the midst of a $20 million, 5-year study of its orders for operating the 32-gate Moses Saunders dam on the St. Lawrence River. This "lower lakes" study has produced a wealth of data and models on coastal processes, wetlands, bathymetry and topography that is likely far ahead of any such data sets for any of our ocean coasts. Moreover, the study may be the most advanced use of the "Shared Vision Model" – a sophisticated computer simulation that incorporates the views of multiple interest groups in helping to develop regulation plans. In addition, a plan of study has been approved but not yet funded for the "upper lakes" which would greatly improve the data set and models for the basin. **The final report should highlight the importance of hydrological flows and hydropower usage in the Great Lakes/St. Lawrence River system, the binational role of the IJC in managing these flows, and the extensive studies underway to review and improve flow management to the benefit of a broader range of users.**

There are also more subtle distinctions that could add to the scope and stature of the Commission's report. For example, groundwater is used extensively for drinking and irrigation, and the connection of ground to surface water has important implications for the protection of recharge areas – similar to concerns regarding saltwater infiltration of groundwater in the other coasts. In addition, the chemistry and biology of fresh water differs significantly from that of saltwater, raising important issues in the cycling of contaminants. At the same time, such distinctions make stormwater management a much thornier issue in the Great Lakes than on the other coasts. These features warrant mention in the final report.

Last but not least, there are no U.S. federal waters in the Great Lakes, only state waters that are subject to certain federal regulations such as those for free navigation, water pollution and diversions. The Primer on Ocean Jurisdictions in Chapter 3 of the Preliminary Report is particularly enlightening; however, it does not apply to the Great Lakes, **making the development of a similar primer for the "Fourth Coast" a good idea**. Jurisdictional differences are important because they bear directly on the Commission's vision for governance.

**Governance**

A central feature of the National Ocean Policy Framework recommended by the Commission is the establishment within the Executive Office of the President of a National Ocean Council, chaired by an Assistant to the President and composed of all the cabinet secretaries and independent agency directors with ocean-related responsibilities. The Presidential Council of Advisors on Ocean Policy would add input from nonfederal interests, including the states. Regional Ocean Councils are also recommended to improve non-regulatory state, local, and tribal participation in policy-making. This framework will produce strong, high-level leadership, and improve programmatic coordination, priority setting, and data synthesis. Ultimately, it will result in better decision-making and effectuate the application of ecosystem-based management. The National Ocean Policy Framework proposed in the Preliminary Report is the right approach; indeed it is the key to the sustainable management of our ocean resources. However, there are some unique features of governance in the Great Lakes that bear mention and may suggest adaptation of the framework proposed by the Commission.

The Great Lakes are blessed with an abundance of existing multi-jurisdictional organizations, many of which have binational (U.S. and Canada) representation. Examples include the International Joint Commission, the Great Lakes Fishery Commission, the Great Lakes Cities Initiative and the International Association of Great Lakes and St. Lawrence Mayors**.** In addition, the Great Lakes Commission (GLC), the Council of Great Lakes Governors (CGLG), and their Great Lakes Protection Fund bring together the leadership of eight states to protect and sustain the Great Lakes. Moreover, while the GLC and CGLG do not have a formal binational component, they do grant "associate" member status to Ontario and Quebec and both provinces participate in the work of those organizations. Nongovernmental organizations like Great Lakes United (GLU) also address the challenges confronted within the basin. However, despite this abundance of such organizations, the Great Lakes suffer from the same lack of coordination and accountability identified for our other three coasts because there is no single entity with the authority and responsibility for the entire basin.

Last year, the U.S. General Accounting Office issued a report that identified 148 federal and 51 state programs funding environmental restoration activities in the Great Lakes basin. Most of the programs involve localized application of national or state environmental initiatives and do not focus on basin-wide concerns, however, the GAO did identify 33 Great Lakes specific federal programs administered by a dozen different agencies, and 17 additional state programs addressing unique Great Lakes concerns. In short, these programs and strategies were found to be uncoordinated and lacking the leadership necessary to establish priorities, assess progress, and apply ecosystem based management in the Great Lakes watershed. In a hearing on the topic conducted by Ohio Senator George Voinovich, the Senator likened Great Lakes governance to an "orchestra without a conductor."

On May 18, 2004, President Bush issued an Executive Order establishing the Great Lakes Interagency Task Force to Promote Collaboration of National Significance for the Great Lakes. The Task Force is chaired by the EPA Administrator who reports to the President through a Presidential Assistant – the chair of the Council on Environmental Quality – and consists of all federal agency secretaries with Great Lakes responsibilities. Simultaneously, Governor Taft (chair of the Council of Great Lakes Governors) and Chicago Major Richard Daley (co-chair of the International Great Lakes Mayors Association) committed to develop a regional entity to work with the federal Task Force.

The parallels between the new National Ocean Policy Framework proposed in the Preliminary Report and the framework recently established by the President's Executive Order are striking. The following recommendations to reconcile the Commission's recommendation and the President's recent action might be helpful:

- The Commission should **immediately consult with the Council on Environmental Quality** to determine whether the Task Force created by the President's Executive Order should be amended to incorporate the broader membership and scope recommended for the National Ocean Commission.
- The National Ocean Council is currently envisioned as a federal-only organization. **The Commission should consider adding Great Lakes gubernatorial and mayoral representation on the National Ocean Commission** because of the direct and prominent role that states and cities have in implementing both state and federal programs and regulations in the basin.
- The Commission should **ensure that the binational perspective that is so important to the Great Lakes is represented on the National Ocean Commission, the Presidential Council of Advisors on Ocean Policy and on any Regional Ocean Council** that is developed for the Great Lakes.
- The Commission should **consult with state governors and mayors to determine whether the entities being developed in accord with the President's Executive Order for the Great Lakes can be transformed into the Regional Ocean Council** envisioned in the Preliminary Report.
- **The fact that states and localities are directly engaged in regulation and restoration activities needs to be reconciled with the lesser "advisory role" envisioned for Regional Ocean Councils** – the federal-state-local linkage in the Great Lakes is critical to the application of a coordinated ecosystem-based management approach for the entire watershed. It is especially important that Canadian provincial and municipal participation on any Great Lakes Regional Ocean Council be included because of the shared, binational nature of the resource and responsibilities. The Executive Order provides the opportunity for federal state and local authorities to develop a task force that would support the review and implementation of the Great Lakes Water Quality Agreement as the guiding blueprint for Great Lakes management and restoration.

Clearly, the organizations around the Great Lakes are already positioned to participate in the new policy framework envisioned in the Preliminary Report. Creating a duplicative organizational structure would defeat the noble purpose of improving coordination and communication. **Therefore it is imperative that a single policy framework emerges, and that it includes prominent Great Lakes representation and particularly, the binational perspective.**

**Role of Science**

The recommendations in Chapter 7 and Chapter 25 to enhance and strengthen NOAA and to increase dramatically federal investment in ocean research are key steps to further restoration efforts nationwide and especially in the Great Lakes. There is no doubt in my mind that it is good science that leads to good policy. In this regard, it should be noted that with respect to the Great Lakes, much of the best science is being done in Ann Arbor, Michigan especially at the Great Lakes Environmental Research Laboratory. Indeed, Ann Arbor is the scientific heart of the basin because it is home to so many university, state, federal and international organizations devoted to Great Lakes research.

Such research could benefit from the co-location of these many agencies on one campus and plans for such a facility have been in development for several years. In addition, this facility would be a perfect home for the Regional Ocean Council. It might even be a good repository for the wealth of data collected in the St. Lawrence-Lake Ontario study mentioned earlier. **Therefore, the final report should recommend the construction of a unified Great Lakes Center in Ann Arbor**.

**Marine Commerce and Transportation**

Recommendations 13-3 through 13-6 calling for a comprehensive analysis of all modes of transporting goods and the development of a national transportation strategy are welcome and timely. **The final report should emphasize that such studies must include ecosystem costs and the potential environmental benefits of short sea shipping linking with other modes of transportation.** This may be particularly relevant to the future of the St. Lawrence Seaway and provide options that benefit both the economy and the environment.

**Fisheries Management**

The Preliminary Report (Chapter 19) recommends the retention of the highly successful fishery management process in the Great Lakes that is facilitated by the Great Lakes Fishery Commission. In so doing, the Commission recognized that fisheries management in the Great Lakes occurs in a very different context that that found on the other three coasts because there are no federal waters in the Great Lakes. Regional Fishery Management Councils do not exist in this region; rather, federal, state, provincial,

and tribal agencies cooperate through a *Joint Strategic Plan for Management of Great Lakes Fisheries*. This non-binding agreement enables managing agencies to collaborate on the development and implementation of fishery objectives, and it works exceedingly well. **Therefore, recommendation 19-11 should explicitly recognize the *Joint Strategic Plan* and this process for the Great Lakes.**

**Aquatic Invasive Species**

The Preliminary Report prominently addresses the threat posed by aquatic invasive species to the economy and ecology of our oceans by devoting an entire chapter (Chapter 17) to this issue and mentioning it in the first paragraph of the Executive Summary. Unpublished research by Dr. David Pimentel will soon report a $3 billion annual economic impact – $500 million per year in the Great Lakes – due to damages and control costs for aquatic invasive species like the sea lamprey, zebra mussel, and round goby among many others. The prominent attention paid to this problem and the emphasis placed upon prevention of further introductions as "the first line of defense" is appropriate and appreciated. Recommendations 17 – 2, 3, 4, 5, and 6 are key steps forward; however, **it should be noted that areas of focus for recommendation 17-7 must include provisions for binational coordination of research conducted in the boundary waters and information exchange throughout the region**.

The Preliminary Report did not mention the opportunity posed by the impending reauthorization of the National Aquatic Invasive Species Act (NAISA) to set a biologically protective national standard for ballast water discharges. Additionally, the Preliminary Report did not mention the recent International Convention for the Control and Management of Ships' Ballast Water and Sediments prepared under the auspices of the United Nation's International Maritime Organization (IMO). The IMO convention was recently adopted and is awaiting ratification by member states – a process that may take many years. The IMO Convention provides for regional agreements to adopt a more stringent ballast water discharge standard, and to adopt it sooner than the standard and time frame contained in the Convention. This is particularly relevant to the Great Lakes.

The reauthorization of NAISA is a key component of the strategy to prevent further introductions of aquatic invasive species into our ocean coasts by enactment of a biologically protective standard for ballast water discharge. Because the U.S. is the foremost port state in the world, the opportunity to exert leadership is obvious – if the U.S. adopts a biologically protective ballast water discharge standard via NAISA, then the world will follow because it must. **The final report should address NAISA and note the opportunity it presents to provide a comprehensive response to what is arguably the most solvable problem in the Great Lakes today.**

The Preliminary Report, in Recommendation 17-1, appears to discount regional approaches to preventing aquatic invasive species introductions in favor of "national standards." However, there are unique features of the Great Lakes region that present a special opportunity to lead in achieving a solution to what may be the top threat to aquatic biodiversity and biological integrity in the basin.

The Great Lakes are a single enclosed freshwater ecosystem with a single shipping entrance through the St. Lawrence River that is controlled by two nations. The number of ships, ship designs, customers, and commodities, ports of origin and destination, and carriers plying the lakes are limited and manageable relative to the situation on our other ocean coasts. Given this limited and manageable universe of variables, the application of ship or shore-based treatment technologies is eminently feasible and potentially cost-effective. In addition, the possibility of using transshipment (from ocean-going to Great Lakes only freighters) or alternative transportation modes like railroads to move cargo instead of creatures presents possibilities for advancing a regional solution. The Preliminary Report appropriately recognizes the advanced knowledge, planning, and leadership in the Great Lakes region, but fails to consider that it may be one region where a solution can be developed that would not interfere with national or international approaches. **Recommendation 17-1 should be revised to include the potential for a regional approach to preventing further invasions in the Great Lakes**.

Finally, the IJC is uniquely positioned to assist in developing a binational (U.S.-Canada) approach to preventing further introduction of aquatic invasive species into the Great Lakes. In this regard, pursuant to Article IX of the Boundary Waters Treaty of 1909, the **final report should ask that a reference be given by the governments of Canada and the U.S. to the IJC to study and recommend a common, binational approach to preventing aquatic invasive species introductions into the Great Lakes via all vectors, but particularly with respect to ballast water discharges from ocean-going vessels.**

**Integrated Ocean Observing System**

The Commission recommends a strong commitment to support, indeed double, our nation's investment in basic research in developing the enhanced technology needed to integrate data and support management decisions. The Integrated Ocean Observing System (IOOS) is the critical infrastructure for achieving this worthy goal – an interconnected network of ocean observing systems linked to the international Global Ocean Observing System. When fully operational, the IOOS will substantially advance the ability to observe, monitor, and ultimately, forecast ocean conditions. The economic, societal, and ecological benefits, including improved warnings of coastal and health hazards clearly justify this investment and it has our strong support.

A Great Lakes coastal component will directly benefit users of these waters in at least two ways. First, storm events arise quickly and violently on the Great Lakes where there are approximately 4.5 million registered pleasure craft. Improved forecasting and warning systems will enhance boating safety. Second, beach closures due to contamination events like combined sewer overflows and harmful algal blooms can be made more timely and efficient, thereby avoiding human illness. **With respect to the latter, we note that Chapter 23 should include the development of better models and the development of more rapid diagnostic tests for bacterial contamination, as well**

**as better monitoring to improve the accuracy and timing of beach closures and public health advisories.**

In short, the recommended investment in IOOS and its Great Lakes coastal component is an appropriate step. Additionally, Recommendation 7-1 to strengthen NOAA and its role in implementing IOOS and its Great Lakes component is the right approach. **Moreover, it might be helpful for a binational institution to facilitate the Great Lakes Observing System in conjunction with NOAA and appropriate Canadian federal, regional and academic institutions**.

**International Cooperation**

At the seams of the U.S. borders with Canada and Mexico where issues of fishing rights, pollution and other concerns have flared over the years, many special agreements between the nations have developed. Throughout the Preliminary Report, some of these arrangements are noted, but the importance of international cooperation and the key role played by the U.S. State Department is not emphasized appropriately. From the Gulf of Mexico to the Taku River watershed that Alaska shares with British Columbia, these issues are complicated and controversial and have great impacts, especially with respect to the concerns of native peoples. **Therefore, the final report should focus in more detail on the need for international cooperation and the importance of developing watershed-based arrangements for the management, restoration and protection of such ecologically important areas.**

**Ocean Policy Trust Fund**

The Commission's recommendation to establish an Ocean Policy Trust Fund to receive revenues from offshore oil and gas development and other new and emerging offshore uses to pay for implementing the recommendations in the report makes sense and is an appropriate use of those resources. It should be noted, however, that the Fund would share these resources with the Fourth Coast even though there are no federal leases for oil or gas development in the Great Lakes. All offshore oil, gas, and other use development falls under state and provincial jurisdiction in the Great Lakes, although there is currently a U.S. federal ban on oil and gas development both offshore and from directional drilling operations.

**Summary**

The Preliminary Report is a landmark document that sets a clear course for the nation to develop and implement new ocean policy framework based on a coordinated and comprehensive ecosystem-based approach to protecting and managing our marine resources. It is a plan worthy of immediate execution at the highest levels of government. In so doing, decision-making will be dramatically improved, scientific knowledge will be advanced, and a new ethic of stewardship will evolve to guide the sustainable use of our vast and vulnerable marine and fresh water resources for the benefit of present and future generations.

Congratulations to you and your fellow commissioners on producing an important, timely, and scientifically sound document. I very much appreciated a recent opportunity to meet with Malcolm Williams, Jr., from your staff and hope that the forgoing comments and recommendations will enhance the report's particular relevance to the unique features of the "Fourth Coast." I stand ready to assist in the implementation of the Commission's recommendations and would be happy to meet with you or your staff to answer any questions.

Sincerely,

Dennis L. Schornack, Chair
United States Section
International Joint Commission
U.S. Commissioner
International Boundary Commission

*Comment Submitted by Derrick Crandall, President, American Recreation Coalition*

**American Recreation Coalition**

*Dedicated to the protection and enhancement of everyone's right to health and happiness through recreation.*

June 4, 2004

Public Comment on Preliminary Report
U.S. Commission on Ocean Policy
1120 20th Street, NW
Suite 200 North
Washington, DC 20036

Dear Sir/Madam,

The American Recreation Coalition (ARC) is pleased to submit these comments on the Preliminary Report of the U.S. Commission on Ocean Policy (Governors' Draft, April 2004). ARC applauds the U.S. Commission Report for recognizing the significant contributions of the recreation community to the economic vitality and enjoyment of the nation's coasts and oceans.

ARC is a Washington-based non-profit organization formed in 1979. Since its inception, ARC has sought to catalyze public/private partnerships to enhance and protect outdoor recreational opportunities and the resources upon which such experiences are based. ARC monitors legislative and regulatory proposals that influence recreation and works with government agencies and the U.S. Congress to study public policy issues that will shape future recreational opportunities.

Coastal recreation and tourism are a significant sector of the U.S. economy that depends on good environmental conditions to thrive. Every year, approximately 180 million Americans make 2 billion visits to ocean, gulf, and inland beaches, contributing more than $257 billion to the national economy. An estimated 75% of all recreational activity occurs in the half mile corridor entered on our nation's ocean, river and lake shorelines.

Given the large number of recreational visitors to the coastal zone, and the substantial income derived thereof, any policies effecting ocean and coastal recreation must take into account the views of the recreation community. ARC has reviewed the U.S. Commission Report chosen to focus its comments on three "critical actions" that most impact the recreation community.

**ACTION 1:** Establish a National Ocean Council (NOC), chaired by an Assistant to the President, and create a Presidential Council of Advisors (PCA) on Ocean Policy in the Executive Office of the President.

**ARC POSITION:** ARC supports establishment of a NOC. ARC further supports creation of the PCA with a standing appointment for the recreation community.

**ACTION 6:** Increase attention to ocean education through coordinated and effective formal and informal programs.

**ARC POSITION:** ARC supports efforts to educate and engage the public about ocean and coastal recreation through collaborations and partnerships with the recreation community.

**ACTION 12:** Establish an Ocean Policy Trust Fund based on revenue from offshore oil and gas development and other new and emerging offshore uses to pay for implementing the recommendations.

**ARC POSITION:** ARC supports the use of royalties derived from ocean resources to fund programs that support enhanced recreation opportunities and improved public access to and use of oceans and coasts.

These comments are submitted on behalf of the undersigned organizations as well as the ARC general membership. Thank you for considering our comments. ARC welcomes the opportunity to work with the Commission in the development of its final report. If you have any questions regarding this letter, please contact me at dcrandall@funoutdoors.com or 202-682-9530.

Sincerely,
American Recreation Coalition
Clean Beaches Council
Government Solutions Group
Marina Operators Association of America
National Association of RV Parks and Campgrounds
National Forest Recreation Association
Professional Paddlesports Association
Recreation Roundtable
Recreation Vehicle Dealers Association
Recreation Vehicle Industry Association

***Comment Submitted by Sheila O'Keefe, Corvallis, Oregon***

June 4, 2004

I commend the US Commission on Ocean Policy on a thorough review of the status of US ocean policy. There are many excellent recommendations contained in the report, as well as a few areas I would like to see strengthened.

General Comments:

I strongly support the creation of a National Ocean Council, regional councils, and better inter-agency coordination of ocean policy. This will increase the visibility of ocean issues and lead to better-thought-out and more consistent ocean policies.

I strongly support the recommendation for ecosystem-based management, using sound science and a precautionary approach.

Conservation-related Comments

I was disappointed by the report's shortage of recommendations for conservation actions. The report acknowledges ongoing serious loss of marine diversity, but makes only vague recommendations to address this problem. I would like to see a strong recommendation to implement marine protected areas and particularly marine reserves. Networks of marine reserves have been shown to prevent loss of biodiversity and to act as an insurance policy against unforeseen future loss (see the National Research Council's 2001 report). I ask you to include a recommendation to implement a representative national system of marine reserves in your final report.

Fishery Comments:

The report contains several good recommendations to improve the nation's fishery management system. I strongly support recommendation 19-1 through 19-6 to require fishery councils to rely on their Scientific and Statistical Committees (SSCs), to prevent SSC members from having financial interests in the fishery, to require SSCs to provide timely maximum biological catch limits, and most importantly to require the fishery councils to set catch limits at or below the maximum biological catch.

Recommendation 19-6 is a perfect example of the precautionary approach in action, preventing all fishing of a stock if a management plan is not in place.

I support the attempt to broaden membership on the fishery councils put forth in recommendation 19-12. I do not, however, feel it goes far enough. Why require the submission of only two each from the commercial fishing industry, recreational fishing industry, and general public? I would like to see a requirement for additional submission of at least one each from natural science, social science, and environmental non-governmental organizations. I also question the wisdom of allowing council members to have an economic interest in the fisheries they manage. It's a bit too much the fox guarding the hen house and has led to over-fishing of many stocks. I would recommend fishery councils have no members with financial conflicts of interest. Each fishery council could have an associated fisher advisory council to ensure input from stakeholders with a financial interest in the fishery.

I was disappointed the report did not address destructive fishing practices. Examples include bottom trawling, which can be extremely damaging to benthic habitats, and long-line fishing, which can lead to significant bycatch of turtles and birds. The commission should recommend study of different fishing practices with a goal of regulating the appropriate use (if any) of each practice.

Conclusion:

Thank you for the opportunity to comment on this report, and thank you for undertaking the mammoth task of reviewing current ocean policy and making recommendations to improve future ocean policy.

The report contains many good recommendations which I had inadequate time to discuss here. I commend the over-all effort and look forward to a strengthened final report.

***Comment Submitted by Mark Davis, Executive Director, Coalition to Restore Coastal Louisiana***

I would like to commend the Commission for the fine work that is presented in its Preliminary Report. It represents a much needed revisiting of our nation's policies and programs the deal with our precious marine resources. The state of Louisiana in so many ways is dependent on the sustainable stewardship of those resources and we welcome this opportunity to help shape a new era of improved management, learning and stewardship.

Overall we are very pleased by the breadth and depth of the report and in particular it's clear and direct tone. We are particularly pleased to see the prominent consideration given to the collapse of the Mississippi River's delta and coastal plain. Simply put, unless the collapse of that wetland and estuarine system is stemmed, the prospects for a healthy and sustainable Gulf of Mexico and broader marine environment is dim. The report for the first time links such issues as that and watershed scale nutrient management clearly into the fabric of ocean policy. Indeed, the report makes the case for a more effective stewardship driven approach to understanding and managing our oceans.

As well crafted as the report is there are a few points that we believe could be enhanced to improve the report and any ensuing policy and programs.

1. **Specifically recognize the importance of estuaries and coastal wetlands to the health of our oceans.** The preliminary report correctly identifies the importance of wetlands, watersheds, coral reefs and water quality to the health and vitality of our oceans. There is not however a clear enough recognition of the critical role that estuaries and coastal wetlands play in this picture. These areas are vital nurseries, filters, and storm buffers for the habitats that supply much of the bounty of our oceans. They also support and protect our communities and traditional ways of life, facts that are undeniable in coastal Louisiana, which is home to many of our nation's greatest wetland and estuarine resources. Though wetlands, reefs and water quality are vital components of estuarine health they are not themselves coextensive with the ingredients necessary to sustain the estuaries that sustain our oceans. Estuaries deserve specific emphasis and the variety of programs dealing with them (the National Estuary Program, National Estuarine Research Reserves, the Coastal Wetlands Planning, Protection and Restoration Act and the Estuary Restoration Act to name a few) need to be specifically highlighted for coordination and refinement to ensure that those areas in which we have the jurisdiction and the constituencies to make a real and positive contribution to ocean health are not left to play second fiddle to blue water programs. We need to focus on both.
2. **Specifically recognize the importance of restoring and conserving oceanic, estuarine and wetland habitats**. Simply put, the health and abundance of these habitats determine the viability of our oceans, our fisheries and for many of us, our way of life. The report in several places notes the importance of restoration activities and programs, but we believe it is essential to not only to recognize this as a priority but

as a high priority. . Estuarine restoration, particularly that in coastal Louisiana is a matter of national concern.From oysters to shrimp to fin fish, many species rely on restoration of these essential habitats in order to continue existence in our coastal areas. Simply conserving what remains is not sufficient enough to sustain our fisheries, our recreation, our infrastructure and our way of life. Restoration of estuaries will help enhance coastal ocean health. We urge that the report unequivocally declare the restoration of coastal habitats, particularly those of coastal Louisiana to be matter of urgent priority.

3. **Linking Sustainable Fisheries to Sustainable Communities**. Perhaps no part of the report is more challenging than the provisions dealing with the need to manage our fisheries for sustainability. Even with the best science and information the establishment of effective programs will be difficult. The prospect of a growing mariculture industry also presents a number of opportunities and challenges as well. The draft does a good job of identify many of these issues but is largely silent on how new policies will address the communities and industries that currently depend on our natural fisheries. It is essential that in the course of managing for sustainable fisheries, which we must do, that we not lose sight of the fact that real people and real communities are affected by any policies and programs. For example, the adoption of a mariculture policy that puts a thousand small shrimpers out of work (in the absence of a compelling reason) is not our idea of sustainable fisheries management. There clearly is a place for mariculture in our marine stewardship but it, like all fisheries management, needs to be based on a sound understanding of the ecology of the resource and the social and economic implications of whatever policy or program is being pursued.

4. **Enhancing Our Knowledge Base for Ocean Stewardship.** Education and use of knowledge is encouraged in the report. We cannot urge strongly enough the need to update and expand our knowledge base. At this time far too many decisions are based on information that is too narrow or too old to serve as a firm basis for good stewardship. We believe this report should stress this need. We also believe that expanding and using this knowledge base could and should serve to educate the public about importance of improving the health of our oceans, estuaries and coastal wetlands and where they fit in their stewardship—regardless of whether they live up stream or on the coast.

5. **Improving Program Governance**. Establishing new policies and improving our science will profit us little if we do not improve the governance of our resource management and education efforts. The health of our oceans affects and it will take a true national effort to ensure that we pass on these resources in better condition than we found them. To be effective it will take a concerted, but flexible effort at the federal, state and local levels and one that includes both the

public and private sectors. We strongly urge that the Commission recognize this key truth in its recommendations. We also could not help but notice that, despite the call for more regional coordination, the only existing regional coordinating vehicle for the Gulf of Mexico—EPA's Gulf of Mexico Program (GOMP) was not even mentioned in the report (at least we could not find it). This seems to be a glaring oversight. We would be the first to say that GOMP does not rise to the level of a true coordinating body but its history, its strengths and weakness, and its potential should be specifically addressed in this report. Indeed, if GOMP is not the best coordinating vehicle what is? If something else is needed, what role if any should GOMP play? Are there lessons taught by GOMP that can inform the coordination efforts suggested by the report? To downplay a regional player of such long standing is a serious weakness that we hope the final report corrects. We also urge that there be explicit discussion of how the Gulf Mexico/Mississippi River Hypoxia Action Plan can be integrated into the plans and polices for restoring the wetland and estuarine habitats of the watershed and coastal Louisiana and with overall programs dealing expressly with the marine environment.

We believe the inclusion or fuller treatment of these topics will add a focus and depth to the report that will help it become a true foundation for a new era of ocean stewardship.

We appreciate the opportunity to provide these comments and look forward seeing the final report.

***Comment Submitted by Susanne Kynast, Director of Science, The Ocean School***

June 4, 2004

Science increasingly shows that global oceanic systems are collapsing. Widespread coral bleaching, pollution leading to immunosupression, reproductive failures, and death of marine organisms and even the formation of entire dead zones, the dramatic decimation of our fish, marine mammal, and marine reptile species with current and predicted extinctions through direct exploitation, bycatch, and derelict fishing gear, and atmospheric pollution leading to global warming and the disintegration of the ozone layer are just a few examples. The ocean is not only directly interconnected with all life on earth – most clearly through the production of the majority of the world's oxygen – but it also serves as an indicator and a warning of the health of the earth. Pollutants which accumulate in marine life will inevitably accumulate in humans as well, killing us just as certainly as we are killing the oceans.

A comprehensive review of US ocean policy is a great opportunity to bring existing issues to the forefront and to affect necessary change. This report is to be commended for pointing out many of the issues affecting the oceanic environment today. However, the report falls sadly short in six specific areas:

1. It fails to make clear, specific recommendations which need to be implemented in order to arrest or reverse the degradation of oceanic systems. Certain types of pollution, over-exploitation, bycatch, marine debris, and derelict fishing gear all clearly cannot exist in a healthy oceanic environment. Both necessary actions and desirable endpoints should be clearly stated.

2. While it recommends a structure for affecting change, it fails to specify the amount of change which needs to be affected over a certain time frame. The report is elastic in almost all areas, allowing for changes to follow the pace of socioeconomic factors. The ocean environment however is not elastic. Many oceanic ecosystems are rapidly approaching the point of no return and cannot wait. Decisions on preservation have to be made now, debate on re-opening certain activities can follow later.

3. It recommends applying the *precautionary approach* rather than the *precautionary principle*. However, in decisions affecting exploitation of living oceanic resources the *precautionary principle* should clearly be the necessary standard since scientific uncertainty most definitely must prevent consumptive uses of the marine species. The biological literature is full of examples where species where exploited before information was available, only to cause collapse and necessitate expensive, and often fruitless, restoration efforts later.

4. It includes socioeconomic factors and economic costs as a central element of all recommendations but fails to propose criteria for calculating the true economic cost of all activities based on their effects on the ocean environment. In the current system private

enterprise reaps the benefits of exploitation, manufacturing, and services, while the public bears the cost of environmental degradation, loss of biomass, extinction, and lately climate change. Economically, three major cost factors have to be considered: the true cost of the damage to the species, habitat, or system including all dependent reactions throughout the system, the cost of necessary species and habitat restoration which may transcend generations, and the loss of revenue that could have been generated from non-exploitative uses of that same resource over the full time frame for which the resource will not be available. The true cost may in some cases be enormous. The manufacturer of a persistent organic pollutant (POP) would for example have to bear the costs of lost revenue in fisheries and aquaculture due to seafood contamination, the cost of species restoration efforts for sea turtles and marine mammals dying from the effects of the POP, and the loss of revenue for whale-watching companies, to name just a few. Having to pay the true cost for a product would then allow for a meaningful debate involving socioeconomic factors. The cost-benefit ratio continues to diverge especially in the area of fossil fuel emissions where climate change is causing direct damages of billions of dollars annually.

5. It emphasizes continued support for all current ocean uses. However, this concept neglects to address the true issue of public resources held in public trust. Every individual on this planet – present and future – has the right to enjoy all of its public resources. Any one individual, interest group, association of interest groups, or even society therefore cannot be allowed to use up public resources – living or non-living. Especially extinction is unacceptable and its cost immeasurable. No activity potentially leading to the extinction of any species on this planet should be tolerated by any civilized society. The traditional view which regards consumptive uses of natural resources as more legitimate than non-consumptive uses needs to be reversed, especially considering recent reports which found that non-consumptive uses generate more direct revenue that consumptive uses. Why for example should any fishing vessel have the right to kill a sea turtle to make a profit of swordfish steaks, if that same sea turtle would have generated thousands of dollars in turtle watching revenue, and if that same sea turtle cost tens of thousands of dollars for a non-profit organization to replace? Many current ocean uses will not be compatible with a policy of no loss and will have to be discontinued.

6. It proposes a system where socioeconomic factors are integrated into and driving scientific decision-making. This violates the key principle that true science must be unbiased. Decisions about the ocean environment need to be made based on science alone, with scientific entities separate from, not influenced, and not directed by stakeholders and stakeholder interests. If science shows an activity to be non-sustainable, no stakeholder interest will make it sustainable, and no scientist should be asked to find ways to justify those activities.

In the end the ocean environment does not follow our expectations of what would be economically or socially fair, or of how long a transition to better management should take. The ocean and the life in it are dying here and today. We should have learned a long time ago that we cannot use any system as both a larder and a sewer, and that life on this

earth does not exist just to feed us. To truly save the oceans – and the world – will take a commitment to arriving at the following principles:

- An end to the loss of biodiversity. If any species is found to be threatened or endangered, all activities affecting this species must be discontinued until methods can be found to assure that the activity will not cause any further loss.
- An end to the loss of genetic diversity. Sustainable levels of a species must be based on genetic diversity. If genetic diversity drops, consumptive use has to be stopped.
- An end to the loss of biomass. Human biomass cannot continue to increase at the cost of the biomass of other species. All consumptive use must be sustained by replacement. Population mining, i.e. the reduction of the biomass of a species from pre-exploitation levels, is not sustainable use and in most cases unbalances the food chain.
- An end to the loss of marine and coastal habitat. The majority of human development does not need to take place along shorelines. Fishing practices which destroy habitat are not only non-sustainable but destroy other resources as well.
- An end to bycatch. Bycatch is simply discarded catch since the animal is returned to the ocean dead or dying. Bycatch therefore must be factored into catch quotas as catch. If species which cannot sustain exploitation are in fact caught as bycatch, the fishing activity must be stopped until the problem can be resolved.
- An end to derelict fishing gear. Fishing vessels have to return to port with the gear they set out with. If they do not, they have to bear the cost of retrieving it instead of society bearing the cost of that gear ghost-fishing for the next millennium.
- Far less non-point-source pollutants. Pollutants need to be evaluated from the viewpoint of their true economic cost and necessity. Many chemicals including pesticides, herbicides, chemicals in personal care products, and VOCs in paints and glues, as well as many plastic materials are unnecessary for consumers and should be limited in commercial applications as well. Pollution should not be considered from a viewpoint of how polluted a body of water is, but from what amount of reduction can be achieved.
- A reduction of point-source pollution to practically zero emissions. Point-source polluters must be required to install the best available technology and to employ only processes which do not produce non-removable emissions. The installation of clean technology should be financed using government funding which is far cheaper than bearing the cost of environmental degradation.
- A reduction in sediment flow by eliminating all anthropogenic sources. Non-sustainable forestry and agricultural practices should be discontinued, as should be destructive construction practices.
- A dramatic reduction in marine debris. Biodegradable and inert non-plastic materials should replace plastics especially in disposable applications wherever possible. Recycling programs need to be increased worldwide.
- An end to the reliance on fossil fuels. Fossil fuels contribute to degradation of the oceanic environment through point and non-point source pollution and emissions.
- A change from industrial to organic agricultural practices. Besides degrading the oceanic environment, industrial agriculture also negatively affects human health.

- Trade restrictions which allow only products into the US which have been produced following US laws and guidelines. Trade agreements which do not allow this sort of discrimination should not be ratified.

Thank you very much for allowing me to comment on the Preliminary Report on U.S. Ocean Policy. I sincerely hope that you find my comments helpful and will be able to integrate them into your final report. Please do not hesitate to contact me if I can be of further assistance.

***Comment Submitted by Russell A. Mittermeier, Ph.D., President, Conservation International***

June 4, 2004

Conservation International's Response to the Preliminary Report of the U.S. Commission on Ocean Policy

Conservation International (CI) commends the Commission for its work on the Report thus far, and we appreciate the opportunity to provide comments. CI is an international non-profit organization with a mission to protect global biodiversity. For more information about CI, please visit our website at: www.conservation.org.

CI strongly supports U.S. ratification of the United Nations' Convention on the Law of the Sea (UNCLOS) (*Recommendation 29-1*), as well as the doubling of the current research budget for ocean science (*Recommendation 25-1*).

However, we would like to suggest stronger and expanded wording in some of your recommendations, as outlined below.

*Concerning Marine Protected Areas (MPAs):*
Recommendations 6-3 and 6-4: CI is encouraged by the discussion of marine protected areas (MPAs), but suggests that the Commission strengthen its support on this issue. MPAs are not just "one type of management tool", but may be the only effective mechanism for sustaining certain vulnerable populations, breeding areas, and nursery grounds. We propose that the **recommendations be expanded to include explicitly that**:

- The selection of marine protected areas **must be science-based**;
- **The National Ocean Council (NOC) should play a role** in analyzing and recommending where MPAs should ideally be located to **create a national system of MPAs** as part of a globally representative network.
- MPAs should often be designed as parts of **larger networks, corridors, or "seascapes"**.
- In the establishment of MPAs, the designation of **"no-take" and/or "no-use"zones** should be considered.

*Concerning Fisheries:*
Recommendation 19-2: CI encourages the Commission to include the need for **detailed analysis and a critical assessment of the methodologies used to determine allowable biological catch** in the context of ecosystem-based management, including the protection of endangered and threatened species.
Recommendation 19-16: While we strongly support capacity reductions in US waters, we are extremely concerned that excess US boats are not exported to other nations facing their own fisheries management challenges. Permanent decommissioning of vessels is key.

Recommendations 19-17 through 19-20: We suggest adding that the US Coast Guard and other enforcement agencies should support the enforcement efforts of international bodies and other nations to protect threatened highly migratory species that spend part of their time outside US waters. The species of concern include marine reptiles, mammals and seabirds, as well as fish. This support should include training and the export of appropriate technology such as VMS. If these species are not effectively protected internationally, then it is unlikely that the ecosystem approach will be successful in US waters.

Recommendation 19-21: CI strongly endorses the move to ecosystem-based approaches highlighted throughout this report, including in this recommendation, which outlines the transition of Essential Fish Habitat (EFH) designation away from a species-by-species classification scheme approach. We suggest, however, that this recommendation be expanded to include gap analysis to determine if **some endangered or highly vulnerable species may require continued species-specific oversight**. Additionally, declines in non-commercial species can have direct impacts on ecosystem function and therefore on commercial fisheries as well, so a **broad representation of commercial and non-commercial species must be considered.**

Recommendations 19-23 to 19-26: We strongly support these recommendations, which urge a greater US role in managing international fisheries. In particular, we support recommended efforts to expand compliance with the UN Code of Conduct. We would also suggest the following additions:

- The US should condition more than just access to their own marine resources in return for other countries' ratification of the UN Fish Stocks and Compliance agreements. The US should strongly urge the major distant water fishing nations who are not yet signatories, to sign (Recommendation 19-23).
- We suggest the inclusion of a recommendation that the US seeks a way to implement trade actions as a means to stop imports of certain products from countries that fail to protect endangered species, given that the WTO affirmed that such bans "served a legitimate conservation objectives under GATT" (p248, Chapter 19).

*Concerning Marine Turtles:*

Recommendations 20-1thru 20-6: CI endorses the recommendations for marine mammal protection, but suggests the addition of a recommendation that supports the Marine Turtle Conservation Act, currently pending in Congress, which addresses by-catch reduction methods for both U.S. vessels and vessels importing into the U.S. Additionally, we propose expansion of the MPA recommendations to include critical turtle nesting sites.

*Concerning Coral Reefs:*

Recommendation 21-1: Although the need to protect deep-sea corals is mentioned in the text of Chapter 21, this is not specified in the recommendations. We suggest that the recommendation be **reworded to include explicitly the need for education and protection of deep-sea corals and seamount ecosystems as well.**

Recommendation 21-2**:** The U.S. Coral Reef Task Force should be strengthened as a leader in the international protection and research of coral reefs. Membership should include representation from the NGO community.

Recommendation 21-3: We suggest **rephrasing this in a manner that encourages a transition away from the wild harvest** of coral reef products in favor of cultured ornamentals. Trade of corals in particular should be highly restricted.
Recommendation 21-4: **We suggest that this recommendation specify research and exploration of deep-sea coral and seamount ecosystems as well.**

*Concerning Emerging International Management Challenges:*
Recommendation 29-4: With regard to carbon sequestration, many ocean scientists warn that iron fertilization would significantly alter oceanic food webs and biogeochemical cycles. As worded, the recommendation notes the need for a management regime, thus implying that this practice should be allowed. We suggest that the recommendation be reworded to **state explicitly the need for further scientific review before any management regime for these practices will be considered.**
**CI endorses the need for the U.S. to take a strong stance in the protection of seamounts and other deep-sea coral communities and demonstrate this through active support within the United Nations General Assembly. We propose the addition of a recommendation calling for an immediate UNGA moratorium on high seas bottom trawling until an adequate management regime can be established.

*Concerning International Scientific Study:*
Recommendations 29-6 thru 29-8: CI suggests that the recommendations reflect the need to focus some of the global ocean science support on identifying important areas of marine biodiversity and productivity, and to support local science capacity building efforts in those areas.

***Comment Submitted by Kathleen DeLeuw, Master's Student, Bren School of Environmental Science and Management, University of California, Santa Barbara***

June 4, 2004

I am currently a Master's student, pursuing a graduate degree in Environmental Science and Management at the Donald Bren School at the University of California, Santa Barbara, specializing in Coastal Marine Resources Management. I would like to comment on your recommendations for increasing the focus on nonpoint sources of pollution, in Chapter 14 of the Preliminary Report.

I applaud your recommendation for the establishment of a National Ocean Council to represent all agencies with ocean-related responsibilities, and emphasize the necessity for this Council to enhance interagency collaboration.2[1] The diversity and inadequate coordination of policies regarding nonpoint source pollution has inhibited the effectiveness of individual programs.

As you suggested in Recommendation 14-8, the National Ocean Council should align federal nonpoint pollution programs and goals, and establish a national goal of nonpoint source pollution reduction.3[2] The National Ocean Council can address recommendations regarding the coordination of the USDA, EPA and NOAA (Recommendation 14-7), as well as the amendments to the Clean Water Act (Recommendations 14-9 and 14-10).4[3]

While the recommendations you have made are vital for water quality improvements, I would also like you to include specific actions that federal agencies can implement for immediate reductions in nonpoint source pollution. I am sure you are aware of the Pew Commission's report entitled "America's Living Oceans." The Pew Commission recommends management strategies similar to those you have recommended, and provides direct actions for pollution law revision to focus on watershed-based nonpoint source pollution reduction. These actions include establishing a baseline for best management practices within the Clean Water Act, establishing ambient water quality standards for nitrogen and other nutrients, and requiring implementation of best management practices as a condition for federal agricultural subsidies.5[4]

In addition to these changes, I also suggest that you address the following issues:

1. **Impervious Surfaces**. Your report acknowledges that "aquatic ecosystem health becomes seriously impaired when more than 10 percent of the watershed is covered by impervious surfaces. Impervious surfaces cover 25-60 percent of the area in medium-density residential areas, and can exceed 90 percent in strip malls or other commercial sites."6[5] However, no recommendation addresses this problem or the strategies that could be used to abate the effects of impervious surfaces, such as using gravel driveways, sand or pebble sidewalks, vegetated filter strips, and detention basins.

**2. Over-irrigation**. While excessive fertilizer application significantly contributes to NPS pollution of marine waters through nutrient contamination, over-irrigating crops exacerbate this problem by

washing nutrients out of the root zone and into receiving water bodies.7[6] While you encourage reduction of nutrients to reduce polluted runoff from agriculture, you do not mention an overall reduction in water-use despite the fact that irrigation is a recognized in your report as a contributor to polluted coastal waters. 8[7] A combination of irrigation and fertilizer reduction could greatly improve water quality in watersheds and coastal waters by diminishing nutrient transport from agricultural activities.

**3. Federal Subsidies**. In your final report, you should address current price support programs in the agriculture industry regarded as environmentally harmful, as they relate to water quality issues. Subsidies on sugarcane production, for example, have afforded sugarcane farmers the luxury of excessive water, fertilizer, and pesticide application to maximize production.9[8] Participants in agriculture subsidy programs are given financial incentives to maximize their yields, encouraging them to increase production through chemical and fertilizer use.

A Competitive Enterprise Institute study in six states with considerable quantities of subsidized crops revealed a significant correlation between subsidies and chemical use, as well as between subsidies and fertilizer use.10[9] This study also shows that "a fifty percent reduction in subsidies would decrease per acre chemical use by an estimated 17 percent and fertilizer use by an estimated 14 percent. The complete elimination of subsidies could result in a 35 percent reduction in chemical use per acre and a 29 percent reduction in fertilizer use per acre."11[10] This pesticide and fertilizer reduction, combined with reductions in irrigation, could significantly abate water pollution problems from agricultural runoff.

Thank you for allowing me the opportunity to comment on your Preliminary Report.

***Comment Submitted by Luis E. Rodríguez–Rivera, Department of Natural and Environmental Resources***

**Re: Comments to the Ocean Policy Report**

Recently, the Governor, Hon. Sila M. Caledrón, sent me the Preliminary Report of the US Commission on Ocean Policy (Ocean Policy Report), so that the Department of Natural and Environmental Resources (DNERS) could evaluate it and give its expert and scientific comments on its content. The DNER is the Government Agency responsible for the protection and conservation of all natural resources, including the oceans and its ecosystems. After a thorough review of said document we present our comments to those recommendations that we consider to be more relevant.

1. **Chapter 8- Promoting lifelong ocean education**

   In general terms, the Report stresses the need of increasing the participation of minority groups in graduate programs related to the oceans. There are many "MSI" institutions (Minority Service Institutions) that offer graduate programs in marine sciences. In Puerto Rico, the one that stands out is the University of Puerto Rico's PhD Studies Graduate Program. We agree with the need of encouraging and promoting the cultural diversity in postgraduate programs in marine sciences and related subjects.

2. **Chapter 14 – Addressing Coastal Water Pollution**

   The Report makes reference to the Second National Costal Conditions Report of 2004, released by the Environmental Protection Agency (EPA). In this last report, the EPA designated most of the coastal waters of the US as of fair condition. Nonetheless, the Northeastern regions of the US and Puerto Rico, were designated as of poor conditions. Among the given recommendations one finds that the EPA, the states and other territories, should require tertiary treatments, that is to say, the advance removal of nutrients, for the discharges of wastewater treatment plants into nutrient impacted waters.

   On this regards, we recommend that a formal opinion from the Puerto Rico's Environment Quality Board and the EPA be sought. This is due to the high operational costs that the renovation of wastewater treatment plants could represent, considering the differences between Puerto Rico and other US jurisdictions. From our Agency's point of view and for the conservation of the marine life, we agree on the adoption of mechanisms that guarantee the quality of our oceans, promoting the conservation of the marine life. Nevertheless, it should be pointed out that Puerto Rico has different geomorphological conditions, distinct from other jurisdictions which are used as reference for comparison, and this fact, in relation to the discharges of wastewater to the sea, places Puerto Rico in an advantage position over the

Northeastern area of the US, particularly due to the short extension of our insular platform.

### 3. Chapter 17 – Preventing the spread of invasive species

The report mentions that lots of invasive species come from the ballast of ships that navigate international waters. Nonetheless, we consider that the threat of indiscriminate liberation of marine aquariums organisms by their owners is particularly relevant. This issue, even though its importance, it's briefly mentioned in the report. The experience in Puerto Rico is that every time the impact of fish from fresh water aquariums into inland waters is more evident. As an example, we can name the finding, in waters near to Humacao, of a lion fish, venomous specie without natural enemies in Puerto Rico, native to the Pacific Ocean. These invasive species are the result of the ornamental fish industry. The truth is that contrary to other types of pollution that can be reduced through time, this issue could have the aggravating aspect of lasting, increasing and extending its distribution.

### 4. Chapter 19- Achieving Sustainable Fisheries

In this chapter the importance of sustaining the decisions of management with scientific investigations is highlighted. Moreover, strengthening of the fisheries management councils system is recommended. Our Agency agrees with both recommendations.

As to the first aspect, we should mention that thanks to the collaboration of scientific and academic institutions in Puerto Rico, along with the Fisheries Research Laboratory, which is assigned to our Agency, the DNER recently adopted the Puerto Rico Fisheries Regulation, perhaps one of the most effective tools for achieving an adequate fishery management and for the conservation of the marine life. Furthermore, the management will allow us to monitor the activities that affect marine life for developing more efficient conservation strategies.

The new Fisheries Regulation contains the scientific community's concerns about fisheries health. Itt was updated on a scientific basis and it was adjusted to the federal regulations, the new legislation and the hemispherical trends.

Specifically, the sound concerns of the National Ocean and Atmospheric Administration (NOAA), the US Fish and Wildlife Service and also of the Caribbean Fisheries Council and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, better known as CITES, were taken cared of.

This scientific debate is due to the fact that the key problem that Puerto Rico's Fisheries face is the uncontrolled exploitation, the unmendable loss of coastal habitats and the deterioration of water quality as a result of pollution and erosion. We have statistics that confirm that our marine resources have suffered a significant deterioration during the last few decades. At present time, population growth and

coastal development have increased the pressure over these resources to the point of putting many species in threat. In view of this deterioration, the DNER's strategy is aim at the integrated ecosystems management, the rule making process, the public education and the fulfillment of the laws. The educational component is vital for stopping deterioration. Notwithstanding this, the whole population's commitment is needed, not only from the concerned agencies but from the scientific community.

As to the fisheries management councils, we must say that one of the problems that the Caribbean Fisheries Council undergoes is the fact that it doesn't have recurring Stock Assessments as scientific support for the management decisions. This Council works from a condition known as "Data Poor", despite of efforts made by the Fisheries Research Laboratory. Nevertheless, there is a significant need for having a larger budget for research purposes. This is particularly important, considering the need for continuing the monitoring and research for more than 170 aquatic species that are captured and managed.

Among other issues, this chapter proposes an increase of the economical support for the implementation of Joint Enforcement Agreements between the states and the territories. This initiative has all our endorsement, since it will provide additional funding to the Rangers Corps, and that translates into an effective tool for executing our regulations.

**5. Chapter 21: Preserving Coral Reefs and Other Coral Communities**

This chapter must be strengthened by emphasizing on the need for collaboration and funding for monitoring and management, to the state agencies in which jurisdictions most corral reefs can be found.

**6. Chapter 22: Setting a course for sustainable marine aquaculture**

It should be mentioned among the examples of marine aquaculture projects outside of the coast, our Snapperfarm project in the Municipality of Culebra. This marine aquaculture project is one of the most famous in the US. We support recommendation No. 22-2 that proposes the development of a regulatory program for marine aquaculture.

It is right to say that the run aground of a ship and their impact on coral reefs is a thing that deserves attention. Notwithstanding, this problem is not mentioned in the report, limiting it to acknowledging its impact on navigation and safety.

We appreciate the opportunity given for expressing our comments and we hope that they are of some use for you. If you have any doubts or need more information, do not hesitate to contact us at 787-723-3090.

***Comment Submitted by Walter L. McLeod, President, Clean Beaches Council***

June 4, 2004

Clean Beaches Council (CBC) is pleased to submit these comments on the Preliminary Report of the U.S. Commission on Ocean Policy (Governors' Draft, April 2004). CBC applauds the U.S. Commission Report for acknowledging the importance of beaches to the economic vitality and enjoyment of the nation's coasts and oceans.

Clean Beaches Council is a 501 (c) (3) not-for-profit organization devoted to preserving the earth's coastal environment. The mission of the Council is to promote sustainability through public awareness and voluntary programs, while ensuring a legacy of clean beaches for generations to come.

In March 2004, CBC held the first national Sustainable Beaches Summit. Beach practitioners from coastal states and U.S. territories gathered to discuss the state of our nation's beaches. The timely nature of the Summit comes on the heels of the U.S. Commission Report, which has brought heightened attention to ocean and coastal issues. The U.S. Commission report, however, does not adequately address the myriad of issues related to beaches and their impacts.

To strengthen the importance of beaches in our Nation's ocean and coastal policy, CBC has developed four recommendations for consideration by the Commission:

1. Allocate federal funding for a biennial report on the economic value of beaches – including analysis of the related but distinct impacts of tourism and recreation.

2. Strengthen the link between watershed and beach management by encouraging smart growth, sustainable development and source tracking for recreational waters.

3. Establish and implement regional sediment management strategies that engage the public and all levels of government.

4. Conduct integrated science research to inform local beach decision-makers and increase science literacy of the beach going public.

**Recommendation 1: Allocate federal funding for a biennial report on the economic value of beaches – including analysis of the related but distinct impacts of recreation and tourism.**

Coastal recreation and tourism are significant sectors of the U.S. economy that depend on good environmental conditions to thrive. Consider the following statistics[12]:

- U.S. beaches contributed approximately $257 billion to the national economy.
- Each year approximately 180 million Americans make 2 billion visits to ocean, gulf, and inland beaches.
- Seventy-five percent (75%) of summer travelers plan to visit beaches.
- Coastal states receive about 85% of tourist-related revenues in the U.S.

Given the large number of people frequenting America's beaches and the substantial income derived thereof, assessing the economic value of beaches must become a national priority. While the U.S. Ocean Commission report acknowledges the economic contributions of the coastal tourism and recreation sector, it does not provide a quantitative measure of the economic value of beaches. This is a significant gap in the U.S. Commission report that needs to be addressed.

Furthermore, a national economics report on beaches must address the related but distinct impacts of recreation and tourism. For example, boating may be the most popular recreational activity in the U.S. coastal zone. However, recreational boaters tend not to be tourists. On the other hand, beach goers tend to be tourists. Any analysis of the recreation and tourism sectors, must take into account the different markets and populations served (e.g., visitors vs. residents).

An economic analysis of beaches must include the costs and benefits associated with keeping beaches clean and healthy. A recent public survey conducted by National Geographic Traveler magazine and Yahoo! Travel that found, "cleanliness was the most important factor in picking which beach to go to." [13] Notable research efforts are beginning to quantify the value of clean beaches,[14] though more comprehensive work needs to be done. This work will not be accomplished unless we make understanding the market and non-market value of beaches a national priority.

Therefore, CBC is calling on the Commission to recommend allocation of federal funding for a biennial report on the economic value of beaches.

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[12] "The Economic Value of Beaches," presented by Dr. James Houston, USACE, at Sustainable Beaches Summit, Sandestin, FL, March 30, 2004.
[13] The Associated Press, June 2003.
[14] "Determining the Economic Impacts of Coastal Pollution," presented by Dr. Linwood Pendleton, UCLA, at Sustainable Beaches Summit, Sandestin, FL, March 30, 2004.

**Recommendation 2: Strengthen the link between watershed and beach management by encouraging smart growth, sustainable development and source tracking for recreational waters.**

The continental U.S. is a vast, interconnected network of watersheds. As water passes through these watersheds, the likelihood of contamination by pollutants, toxins and other harmful substances increases. Such contamination adversely affects the quality of our nation's recreational and coastal waters. To improve the link between watershed and beach management, we must address the following three areas: (1) inadequate pollution-control infrastructure; (2) coastal sprawl, and (3) contributions from non-point sources of bacteria and pollutants.

Much of the U.S. coastal zone suffers from an aging and antiquated infrastructure. From understaffed, over-utilized wastewater treatment plants to eighteenth century storm water systems to storm-induced sewage overflows to leaking septic systems - the infrastructure concerns of the coastal zone are alarming. With coastal populations rising, these problems will continue to worsen.

Coastal sprawl has created a disproportionate impact on local resources. The Pew Ocean Commission states that, "coastal development and associated sprawl destroy and endanger coastal wetlands and estuaries that serve as nurseries for valuable fishery species."[15] Current runoff mitigation strategies and best management practices alone will not solve the problems of our coastal waters.[16] Better land use management, through smart growth and sustainable development, is needed to address the adverse impacts created by sprawl and wanton coastal development.

A third area of concern is non-point source contamination of recreational waters. Upstream, non-point source pollutants are having significant impacts on beach waters. Agricultural and urban runoff produces nutrient and pollutant loadings that impair the quality of recreational water at beaches. Certain household chemical waste streams (i.e., insecticides, antibiotics, over-the-counter drugs) pass through wastewater treatment plants unaltered, directly impacting open water beaches such as rivers, lakes and oceans.

The U.S. Commission Report addresses some of these concerns in Chapter 14 and 15, suggesting that watershed management and "ecosystem-based management" should be a guiding principle for ocean and coastal policy.[17] CBC concurs with the Commission.

Therefore, CBC is calling on the Commission to recommend strengthening the link between watershed and beach management by encouraging smart growth, sustainable development and source tracking for recreational waters.

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[15] Pew Oceans Commission, "America's Living Oceans: Charting a Course for Sea Change," June 2003, Arlington, VA.
[16] "Coastal Sprawl and Water Quality," presented by Dana Beach, South Carolina Center for Coastal Conservation at Sustainable Beaches Summit 2004, March 30, 2004, Sandestin, FL.
[17] U.S. Commission on Ocean Policy, "Preliminary Report of the U.S. Commission on Ocean Policy – Governors' Draft," April 2004, Washington, DC, p 32, 379.

**Recommendation 3: Establish and implement regional sediment management strategies that engage the public and all levels of government**.

Sand and sediments provide a buffer between coastal waters and coastal development and contribute significant economic benefit to coastal economies (see Recommendation #1). Beaches also create unique habitats for a variety of animals and species. Sediments often shift and cause buildup of excess material in some locations and significant erosion in others. Therefore, the considerations needed for sediment management are not limited to the priorities of one town, one community, or even one state, but must address the needs of the entire affected region or watershed.

Sediment management practices to-date are designed and conducted on a project-by-project basis. Problems may occur when multiple, independent projects, occurring in the same region or watershed, inadvertently effect each other, leading to resource duplication, unforeseen costs, and angry stakeholders.

The U.S. Army Corps of Engineers created the Regional Sediment Management (RSM) Program to address these problems. The program has undergone six pilot projects, which has yielded many successful results. The USACE, states, and local beach communities should work together to make RSM the standard way of doing business. The U.S. Commission Report makes similar recommendations in its report, calling for a "national strategy for managing sediments on a regional basis, taking into account both the economic and ecosystem needs."[18] CBC concurs with the U.S. Commission on this point.

To accomplish this goal, RSM needs to be mainstreamed and all activities around sediment management should engage the public. The public is getting mixed messages about federal oversight of sediment management projects. Recent media reports imply that several federal agencies, including the Federal Emergency Management Agency (FEMA), may have authority to fund beach nourishment projects. Clearly, there needs to be a unified federal strategy for managing this natural resource, along with an increased effort to educate and engage the public about sediment management practices.

Therefore, CBC is calling on the Commission to recommend the establishment and implementation of regional sediment management strategies that engage the public and all levels of government.

[18] U.S. Commission on Ocean Policy, "Preliminary Report of the U.S. Commission on Ocean Policy – Governors' Draft," April 2004, Washington, DC, p. 139.

**Recommendation 4: Conduct integrated science research to inform local beach decision-makers and increase science literacy of the beach going public.**

Many beaches and recreational waters in the U.S., including public lands owned and operated by the federal government have world-renowned reputations. However, the scientific assessment and protection of beaches in the U.S. has lagged behind many other environmental problems, and public health concerns remain a serious concern. Scientific studies have been minimal and therefore policies are fragmented and archaic. A focused, science-based effort is needed to address a national program for protection of beaches. And as we work to understand the science behind beaches, we also need to translate that science into information for public consumption.

Integrated science is a strategy that combines understanding of diverse scientific disciplines in order to gain knowledge of natural systems and their responses, to apply expertise to priority problems without defined jurisdictional borders, and to inform decision-making on regulatory and policy issues. Integrated science also involves long-term commitments to issues and tasks.

An integrated science approach to clean and healthy beaches is critical to understand the processes that create sustainable beaches. This approach should be part of a comprehensive understanding of ocean science because what happens at beaches affects oceans and vice versa. Beaches are a way to engage local and state leaders, who have an economic investment in ensuring that beaches remain healthy and viable. Enhancing the science literacy of local decision-makers will lead to the development of more scientifically valid coastal policies and approaches.

Furthermore, education around beaches is an underutilized opportunity to engage the public. Millions of Americans visit U.S. beaches each year, yet educational strategies have largely missed this opportunity to mainstream science literacy.

To date, beach education (e.g., signage) is largely passive in nature – or is provided only after a disaster (i.e., storms, contamination). While primary and secondary education, specifically K-12, is important, we must consider other non-traditional, hands-on and experiential learning approaches. The public needs to be engaged and involved to establish an eco-ethic for the coast.

While the U.S. Commission Report acknowledges the importance of ocean education and ocean research in two of its twelve "critical actions" and in Chapters 8 and 25 of its report, it does not adequately address the role of beaches in either.

Therefore, CBC is calling on the Commission to recommend support for integrated science research to inform local beach decision-makers and increase science literacy of the beach going public.

Thank you for considering our comments. CBC welcomes the opportunity to work with the Commission in the development of its final report.

***Comment Submitted by Dr. Richard A. Anthes, University Corporation for Atmospheric Research***

June 4, 2004

On behalf of the University Corporation for Atmospheric Research, a consortium of 68 research universities (list follows) in North America, I would like to compliment the Commissioners and staff on the comprehensive and thoughtful preliminary report issued recently on the manner in which this country is addressing critical issues relating to the state of the planet's oceans. In calling attention to improvements that can be made in the nation's related policies; federal agency infrastructure; program management at federal, state and local levels; observing systems; and research and education programs, the Commission has already done the nation a great service. Those of us in academia appreciate the Commission's good efforts to solicit input to the process from all stakeholders.

The atmospheric sciences research community applauds the Commission for the Guiding Principle, *Ocean—Land—Atmosphere Connections*, which states that, "Ocean policies should be based on the recognition that the oceans, land, and atmosphere are inextricably intertwined and that actions that affect one Earth system component are likely to affect another." In order to achieve optimum research results, it is certainly clear that the Earth *system* needs to be observed and addressed, and that the collaboration of scientists specializing in land-sea-air focus areas is of critical importance to our enhanced understanding of our changing environment. We urge the Ocean Commission to use its considerable influence to recommend in the final report that a follow-on study be conducted, perhaps under the auspices of the National Research Council, to promote a more thorough integration across ocean, land, and atmospheric U.S. research and research-related programs.

The UCAR community would also like to commend the Commission for the attention drawn to the importance of making available the best scientific information for policy decisions, for the recommendations pertaining to strengthening the nation's research infrastructure and competitive grants program, and for promoting the participation of traditionally underrepresented and underserved groups in the ocean-related workforce through ample access to graduate programs. The emphasis on enhanced collaboration among federal agencies is commendable, although we believe that it is an area of potential weakness in the implementation phase given the strong tendency for agencies to operate independently. If the Commission's work results in enhancing substantive interagency cooperation, it will be a great service to the country.

The desire to improve the nation's ocean-related education at all levels is explicit and implicit in many parts of the preliminary report, so much so that we believe a Guiding Principle of the Commission is that U.S. scientific education should be the best in the world. This statement is missing in print, but could certainly be added to your excellent list. Within the section, *Building a Collaborative Ocean Education Network*, we believe that the nation's new science digital libraries should be called out as major resources in

the provision of access to and the broad dissemination of ocean-related materials for both education and research. Specifically, the digital libraries being funded now by the National Science Foundation (NSF) should be mentioned in the report as critical assets for the improvement of ocean-related education at all levels. The National Science Digital Library (NSDL) is the nation's promising Science, Technology, Engineering, and Mathematics (STEM) resource serving all scientific disciplines including oceanography, and the Digital Library for Earth System Education (DLESE) is the component of NSDL serving the geosciences community in particular, including of course, the ocean-related sciences. These digital libraries are making possible the broadest possible dissemination, use, and assessment of the nation's scientific classroom materials and data collections. We would appreciate it if these important national resources could be mentioned in the report.

The preliminary report addresses the strengthening of the National Oceanic and Atmospheric Administration (NOAA) in a number of constructive ways. NOAA's mission is critical to the safety of U.S. citizens and the environmental and economic health of the country and this community stands willing to do what it can to help strengthen NOAA. We would suggest that transfers of any major observing or research programs into NOAA, as suggested in the preliminary report, be delayed until the agency has an opportunity to establish appropriate infrastructure and program leadership.

As the Commission proceeds with the Ocean Policy Report process, I would ask you to call on the atmospheric sciences community at any time for any assistance that is needed to help support, strengthen, and implement your good work.

***Comment Submitted by James A. Donofrio, The Recreational Fishing Alliance***

June 4, 2004

The Recreational Fishing Alliance [19] appreciates the opportunity to comment on the U.S. Commission on Ocean Policy preliminary report. We acknowledge the considerable commitment on behalf of the commissioners to provide relevant and substantive perspective on our current ocean policy. The product of this commission will initiate necessary debate about the future management of the marine fisheries, marine fishing industries, and the entire marine resource on a national scale.

The preliminary report has generated much discussion concerning the far reaching and monumental recommendations set forth for the current system. With such large scale changes we feel that it is most prudent to fully debate this document and explore the possible outcomes and impacts. Without a doubt, progress must be careful and done in a thorough manner and with the grassroots interests driving the process. Throughout this process, it is an absolute necessity that the recreational fishing community along with the regional fishery management councils be fully involved.

Clearly, the overall health of the marine resources and their effective management are absolute concerns for all fishermen. Recreational anglers have a long history in the fisheries management process and have a vested interest to improve upon this process. The simple act of dropping a line in the water for the purpose of providing a meal or for the pure enjoyment of catching and releasing a fish is still the foundation of the recreational fishing sector. This pursuit has spurred a thriving industry that contributes significantly to state and national economies that is wholly dependant upon well-managed and sustainable fisheries being available to the anglers. Fishing is an extremely popular past time in the US with just over 35 million participants[20] and with such large numbers of participants, significant local, national, and international businesses have emerged to fill the demands of this user group. The magnitude of the recreational fishing industry enforces the need of agencies and stakeholders to manage this resource in the most comprehensive, holistic, and informed manner.

Recreational fishing is unique in the sense that the pursuit of saltwater fishing and the enjoyment of the sport is what drives the industry. Catch and release in becoming more and more popular among recreational anglers, for instance, over 90%[21] of all striped bass and white marlin are released alive. These actions are voluntary and reflect the

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[19] The Recreational Fishing Alliance (RFA) is a national, grassroots political action organization representing individual recreational fishermen and the recreational fishing industry. The RFA Mission is to safeguard the rights of saltwater anglers, protect marine, boat and tackle industry jobs and ensure the long-term sustainability of U.S. saltwater fisheries. RFA members include individual anglers, boat builders, fishing tackle manufacturers, party and charter boat businesses, bait and tackle retailers, marinas, and many other businesses in fishing communities.

[20] U.S. Fish and Wildlife. 2001 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation. October 2002. FHW/01-NAT

[21] National Marine Fisheries Service, personal communication

sound conservation ethic and true commitment of this sector to promote longterm sustainability.

Management of the marine fisheries is in a state of relative infancy. The language and definitions of the Magnuson-Stevens Fishery Conservation and Management Act, as amended in 1996, outlines definitive goals and objectives for how the fisheries should be managed. It defines when action needs to be initiated and the targets that these actions should work to achieve. While the RFA has noted in the past that there are some problems with the language of the Act, we believe that the intent of the Act has been successful in restoring fish stocks and correcting overfishing in the majority of fisheries under its jurisdiction correcting overfishing 26 times since 1997.[22] Further, it mandates the recognition of social and economic considerations during the decision making process. We applaud the Commission for pointing out the many positive features and achievement of the current management regime and for portraying the marine environment in a pragmatic manner without including headline catching rhetoric illustrating a doom and gloom status of our oceans.

The RFA believes that the management of the US fisheries, for the most part, is a success but clearly there are areas of concern. Currently, not all fisheries are at sustainable levels as mandated by respective fishery management plans. Despite the ability to control fishermen's behavior and impact on the stocks, councils are dealing with fisheries that are slow to respond to rebuilding plans. Several fisheries, cod[23] and menhaden[24] for example, are experiencing reduced numbers of fish recruiting back into the stock. In the case of cod, there are severe harvest restrictions in place and with menhaden, the biomass is well above target thresholds. This disconnect between fishing pressure and fishery production has lead many to speculate that environmental conditions are not allowing us to meet some of our management goals. Stressors not under the control of the regional councils nor under the jurisdiction of federal and state agencies are having tremendous impacts on our fisheries. Sources of these variables can include large scale ocean or atmospheric changes to chemical and nutrient changes stemming from pollution to predator prey imbalances and disease. Approaching these large ecological processes with a single species framework is proving difficult and outdated.[25] Moreover, land based activities that increase natural mortality is currently not addressing. We believe that the far reaching philosophy of mulitspecies and ecosystem based management, with humans playing a critical role, as recommended will prove to be a more efficient and ecologically sound method of management.

The overall magnitude of this report reinforces the need to address all stressors effecting the marine environment. Fishermen, having extensive time observing ocean conditions, have long speculated about the link between environmental conditions and

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[22] NOAA Fisheries, 2002 Report to Congress. The Status of the U.S. Fisheries. April 2003
[23] Harald Loeng, 2003. Abrupt climate change and impact on cod, Nordic Arctic Research Programme
[24] Atlantic States Marine Fisheries Commission. Atlantic Menhaden 2003 Stock Assessment Report. August 2003
[25] Link, J.S. et al. 2002. Marine ecosystem assessment in a fishery management context. Canadian Journal or Fisheries and Aquatic Science. 59: 1429-1440

fish they were targeting. Clearly, there is an obvious need with anadromous, such as salmon, and coastal spawning species to account for all activities that alter habitat but the same is necessary for all marine species. Researchers have indicated that climate change in the past 20 years has displayed a trend that varies considerably from past records.[26] Such changes are having an impact on fisheries recruitment and production but to what extent, we are not certain. Scientific research that will provide stakeholders and policy makers with these answers must be a priority and funded as such.

Considering the size of the preliminary report and the numerous recommendations there within, we will provide comments on the critical action recommended and only on specific recommendations that will have direct impacts on the recreational fishing community. We believe by commenting on these challenging actions we will provide useful perspective from the recreational fishermen and the recreational fishing industry on the major themes of this report.

*Critical Action #1 Recommendation regarding the establishment of a National Ocean Council.*

The RFA has long advocated that the recreational fishing industry generates significant economic contribution to both the local and national economies. Recreational saltwater fishing is estimated to produce $85.4 million in state taxes and $1.3 billion in federal taxes[27]. We have also noted that recreational fishing, despite being a major industry in the US, is relatively a non-issue in the upper levels of the Executive Branch. On both the domestic and international fronts, we need stronger representation for the recreational fisheries to ensure the continued sustainability and traditional access to the marine resources. Further, the recreational fishing industry needs protection from mismanagement and radical agenda driven campaigns that serve to disrupt the nearly 350,000[28] jobs directly resulting from recreational fishing. Recreational fishing truly has an impact on the entire national economy and this impact can not be taken lightly nor should it be.

While the RFA believes that the intent of this recommendation to provide a more directly link to the White House, will convey the magnitude and importance of the recreational fishing to higher levels in the government, we have some concerns about creation of another governmental agency. Increasing the bureaucracy associated with the decision making process could slow the ability of the regional councils to provide timely management. We support the portion of recommendation 4-1 that describes the creation of a nonfederal Presidential Council of Advisors of Ocean Policy. This advisory group should be composed of leaders in the recreational and commercial fishing community from representative parts of the nation. This will allow the needs and concerns of the industry to be presented directly to White House staff.

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Nakagawa, T., et al. 2003. Asynchronous climate changes in the North Atlantic and Japan during the last termination. Science 31 january 2003 299: 688-691

[27] Southwick Associates. 2002 Sportfishing in America: Values of our Traditional Pastime

[28] National Oceanographic and Atmospheric Administration. 2004. The economic importance of marine angler expenditures in the United States. NOAA Professional Paper NMFS 2

*Critical Action #2 Recommendation to strengthen NOAA and improve federal agency structure.*

The RFA supports the intent of critical action #2 and recommendation 4-3 to move forward with the principle of ecosystem based management approach driving fisheries management. Clearly, this approach has advantages over single-species schemes, yet moving ahead with an ecosystem approach is demanding and must not be done in haste. The effective management of the US and international marine fisheries requires significant support from federal and state agencies and as we move towards a more ecosystem based style of management, these demands are going to increase. Data from wide ranging agencies (terrestrial, atmospheric, and ocean based) will need to be incorporated into management processes. We believe the National Marine Fisheries Service must become the lead agency and clearing house to facilitate this information burden as it is applied towards ecosystem or multispecies management schemes. Increased funding should correlate to these increased responsibilities.

*Critical Action 3# Implementing the Regional Ocean Council System.*

We believe that it is unnecessary to create regional ocean councils in addition to the current regional fisheries management councils. However, we do believe the regional fisheries management council framework could use revamping. We have long advocated for parity, on a national level, on behalf of the recreational fishing industry. And while we do not believe that any stakeholder groups or interested parties should be excluded from the process, we believe that it is in the best interest of all users that only highly qualified persons with intimate knowledge of marine fisheries and marine processes be considered for the council appointments. As the councils, state and federal agencies more towards an ecosystem based management regime, council members will need to be knowledgeable in aspects of such a far reaching regime.

The US fisheries management process can be considered a very public institution. Nearly every action take must be reviewed and commented on by the public before the action can become regulation. However, the councils are not bound to follow the wishes expressed by the public and the make up of interests represented on the council becomes critically important when issues such as allocations and setting harvest limits are voted upon. For this reason, we suggest that for each regional fisheries management council, a minimum number of seats are assigned to particular interest groups. As recommended in 19-12, we support exploring the idea of establishing 2 seats for commercial fishing industry, 2 seats for recreational fishing industry and 2 seats for the general public on all regional fishery management councils. It is assumed that candidates from the general public will have to meet the same qualification criteria that all council members are held. The remainder of the voting seats can be filled by the governors with respect to the value or level of participation of the fishing groups in their state to be represented.

Currently, the regional council members and council staff are fully engaged in issues concerning fisheries management, which demand considerable time and resources. We have concerns about increasing the responsibilities and/or authority of the council spanning all activities that impact the marine environment and marine fisheries. Such an all encompassing jurisdiction may over burden the capacity of the councils. We suggest that a pilot ocean council program be implemented in the Gulf of Mexico to govern over the Mississippi-Atchafalaya River Basin and specifically address the annual occurrence of the 'dead zone' in the Gulf. Tremendous amounts of nitrogen enter the water system through the use of agricultural fertilizers that wash into the river system and eventually into the Gulf. Increased wetlands destruction and runoff in recent years has exacerbated this problem. Excessive nutrients cause algal blooms which reduces dissolves oxygen to levels that cannot support marine life, in turn, a 12,000 square mile dead zone results on an annual basis.[29] To effectively address this serious issue, the pilot ocean council will work with local, state, federal, industry, and interested entities that operate in the nearly 1.2 million square mile river drainage. The pilot ocean council, serving the lead party, must coordinate the activities in the river basin for a solution to be successful. This pilot ocean council can be evaluated during this process and the findings can be applied to other regions that could benefit from this type of broad management. Recommendation 5-2 can be applied to facilitating this pilot council. We believe that recommendations 5-1, 5-3, 5-4, 5-5, and 5-6 can also benefit such a pilot program in the Gulf.

*Critical Action #4 Increasing the national investment in ocean research.*

The RFA believes that to move forward with ecosystem and multispecies management, the nation needs to commit significant investment in ocean research. The National Marine Fisheries Service, Regional Councils, and stakeholder all have expressed interest in managing fisheries on a more holistic approach by including fisheries dependant, fisheries independent and environmental data into stock assessments. Several models have been developed which incorporate large scale indicators into assessing the status of a stock and its future management needs. For these models to run effectively and to provide results that are usable despite the great deal of variability inherent in marine ecosystems, they require a tremendous amount of information. Improve scientific understand about the oceans will also allow to reassess some previous goals and/or reference points that happen to be based on incomplete data.

*Critical Action #5 Implementation of the National Integrated Ocean Observing System.*

Creating a national ocean observing system clearly has benefits for many user groups and agencies. We liken the creation of this system to that of the National Weather Service that compiles massive amounts of observations and data from which it produces forecasts and predictions. Similar to the National Weather Service, archiving of data sets can be used to perform retrospective analysis of abnormalities in fisheries performance and will aid in linking weather conditions to participation. We can foresee such a system

[29] National Ocean Service. Hypoxia in the Gulf of Mexico: Progress towards the completion of an integrated assessment.

aiding fisheries population dynamists in estimating natural mortality rates, stock assessments, and in predicting production levels in coming fishing years. More importantly, this project may enable ocean forecast to prevent weather related loss of life while at sea. In the event of a disaster situation, this ocean observing system can aid the rescue efforts of the Coast Guard. This will serve as an invaluable tool, well worth the operating costs of this program.

The RFA and the recreational fishing community anticipate the creation of an ocean observing system. More and better information regarding the oceans will only foster greater understand and allow for more informed management decisions. Providing this information will also facilitate the mover towards ecosystem based management.

*Critical Action #6 Increasing attention to ocean education through outreach programs*

Informing people of the intimate connection between activities that occur on or over land and their impacts on the oceans will undoubtedly raise people's awareness regarding the critical link between marine fisheries and land based activities. Efforts should be made to ensure that the common knowledge of the public includes the basic understandings of the marine environment and the multiple stressors affecting it. This campaign should include all regions and not be limited to coastal areas.

Marine research is the main driver that has spurred better management in the past 50 years. Learning about life history needs of fish enables managers to make more informed decisions, maximizing specific measures to certain associated with different species.

*Critical Action #7 Strengthen the link between coastal and watershed management.*

The RFA believes that for the most effective management of our marine fisheries and marine resources, we can not overlook the ecological link between coastal and watershed activities. The recreational fishing sector historically has been very receptive to voluntarily implementing actions that will have positive effects on the marine environment or marine fisheries. Outreach and educational programs have been very successful in catch and release and circle hook campaign. [30] Through the use of similar campaigns, we believe the recreational fishing sector can be well informed about the link be coastal and watershed management. This will spur greater involvement on behalf of the recreational fishing community into the watershed management. We also support NOAA or NMFS playing a greater role in coastal area and watershed development and management.

*Critical action #8 Creation of a coordinated management regime for federal waters*

[30] Atlantic States Marine Fisheries Commission. 2003. ASMFC investigates the use of circle hooks. Fisheries Focus volume 12 issue 3 May 2003.

A clear management plan is needed for current and emerging activities in US federal waters. Many high value industries, including recreational fishing, currently operate in these waters under a patchwork of regulatory entities. We have concerns that new uses of these waters may lead to conflicts between users groups and lead to environmental impacts if these uses develop rapidly. The RFA suggests that a strong management plan be constructed that will apply to both current and emerging uses.

As a federal waters management plan is develop, the RFA hopes that the plan will establish clear priorities of protecting and ensure the continued use of traditional activities. That any emerging use be evaluated based on its impact to historical users groups and on the environment. Further, we believe that it is necessary to develop a clear and definite permitting process for any projects of considerable size that are undertaken in federal waters. This process should include a lead agency which will draw resources, in terms of environmental impact statements, regulatory impact statements, along with economic and social impact reviews for appropriate agencies. The public must have ample input during all stages of the permitting process.

*Critical Action #9 Establishing measurable water pollution reduction goals and improving incentives, technical assistance, and management tools to reach those goals*.

Water quality degradation due to pollution must be a consideration when attempting to rebuild or investigate why a fish stock is failing. Strong regulatory changes have made a great impact on improving the quality of our coastal bays and rivers and many species, namely striped bass, have benefited from these improvements. However, many species are dependant, reproductively, upon coastal bays and estuaries to complete their life history. This is particularly true with winter flounder, which are demersal, shallow coastal water spawners. Winter flounder recruitment, for the Southern Stock, has not been performing nearly as well are the Georges Banks or Gulf of Maine Stocks. Researchers are looking very critically at the spawning habitats of the Southern Stock and finding water quality to be a very important factor.[31] Winter flounder is not unique in its physically requirements of clean water and health coastal bays, and nearly all commercial and recreationally important species will benefit from strong pollution reduction goals.[32]

The RFA believes the purpose of this critical action is necessary. Regulators need to set standards that can be easily measured by federal and states agencies, along with local and national non-governmental organizations. Further, we suggest that academia and fisheries scientists be provided with federal funding opportunities to investigate water quality effects on marine fisheries. Particular interest should be focused on providing measurable thresholds on a species and pollutant specific levels. Developing such thresholds will aid in setting regulatory criteria for water pollution goals and aid fishery population dynamists interested in retrospective and forward projects of managed fisheries.

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[31] Northeast Fisheries Science Center. 2003. 36th Northeast regional stock assessment workshop

[32] U.S. Environmental Protection Agency. 2001 National Coastal Condition Report EPA #620R01005 Washington DC

*Critical actions #10 Improving Regional Fisheries Management Council system, separation of assessment and allocation decisions, and exploring dedicated access privileges.*

The RFA will entertain improving possibilities to the regional fisheries management council system, yet we do no support dedicated access privileges.

*Critical action #11 Law of the Sea*

The US fisheries can not longer be considered insulated from international activities that are occurring on the high seas. Trade agreement with the intention of establishing joint management over straddling stocks or species with basin wide ranges have had limited success in controlling foreign over fishing. As the US fully complies with these agreements, member and non-member nations alike simply disregard approved management measures. Clearly, the US, being the global leader in fisheries conservation, must take a stronger stance by demanding that all national come under compliance with appropriate international trade treaties. The RFA supports this critical action and believes that ratification of the Law of the Seas is absolutely necessary to protect traditional fishing industries and to secure long term sustainability on a global scale.

*Critical Action #12 Creation of an Ocean Policy Trust Fund*

In its broadest sense, this report represents a wish list for how to better manage our oceans and marine resources. Many of the recommendations have the to potential to result in great improvements in production and efficiency. Needless to say, there is a significant cost that can not be overlooked when attempting to implement such sweeping changes. We are currently in a situation where many state and federal agencies are in severe budgetary constraints. Many agencies are subsidized with just enough funding to carry out the bare minimum in terms of fisheries research and monitoring to comply with fishery management plans. They are in desperate need of increased funding to fully provide the greatest opportunities to their commercial and recreational fishing constituents. Federal agencies are also receiving less funding and many critical programs are being deleted such as the Stallonstall-Kennedy program. This program was set up as a research fund, yet money from this program was not used for research purposes in 2004 but diverted to cover NOAA operating costs resultant from budget shortcomings. Considering this, we have concerns about the financial burden that will be placed on both state and federal agencies charged with implementation of recommendations set forth in this report.

The RFA fully supports the creation of a trust fund that will allow for the finance the these recommendations if implementation agreed upon. The recreational fishing community already has a framework that captures excise tax from fishing expenditures. Money is pooled in a fund then distributed to state agencies and various program with the intention of bettering sportfishing opportunities for all users.[33] Under this system, the recreational anglers contribute to management of their activities. We do not think

[33] US Fish and Wildlife Service, Federal Aid in Sport Fish Restoration

however that the recreational fishing community should be responsible for funding the implementation of these recommendations. However, we do feel that it is appropriate that oil and gas development in the federal waters along with other emerging activities should significantly contribute to the Ocean Policy Trust Fund. If, however, oil and gas development revenues are less than adequate to fund these changes, Congress must be willing to debate these recommendations and fund those they believe require implementation.

**Recommendations Specific to Recreational Fishing**

The comments above are those specific to the critical actions outlined in the Executive Summary. These recommendations alone will require considerable political action and constituent support to allow passage. In addition to these comments, we provide the following comments pertaining to recommendations put forth by the Commission that will have direct impacts on the recreational fishing sector. Specifically we discuss chapters 6 and 19 in greater depth.

*Chapter 6 Coordinating Management in Federal Waters*

Fisheries activities in the federal waters represent some the largest and most valuable fisheries in the US. On the recreational side, fishing in federal waters is limited to those fishing from private vessels for those that pay for passage on a party or charter boat. Obviously, the logistical demands of fishing in federal waters increase the expense of doing so and carry a great financial burden. For example, the recreational highly migratory species fisheries (HMS) that to target fish farther offshore, supports a substantial industry specific to this fishery. Large sportfishing boats with costs upwards of several million dollars per boat are designed and bought specifically to be used for recreational offshore fishing. Similar to vessels used in offshore fishing, the gear utilized in this fishery also has to be of great capabilities which increase the overall expenditures to execute this fishery[34]. Moreover, the potential for oil and gas extraction also makes the federal waters highly valuable and codifies the need for proper management in a proactive sense. It is most important to support the continuation of traditional uses along with the public's best interests in federal waters when developing a clear plan for emerging uses.

The RFA supports recommendation 6-1 to establish a lead federal agency that will oversee all current and emerging uses in the federal waters. Currently, a patchwork of agencies has partial authority over activities in federal waters, which can lead to conflicts between users. At the same time, the lack of a clear authority creates an awkward and cumbersome permitting process. Activities approved by one agency may have dramatic impacts on other activities not under their jurisdiction. An example can be seen in the prospect of operating aquaculture facilities in federal waters, where adverse impacts may

[34] Hammond, D.F. 2001 A Review of the Recreational Fishery for Blue Marlin, *Makaira nigricans*, and White Marlin, *Tetrapturua albidus*, in South Carolina, 1977-2000. South Carolina Department of Natural Resources. Data Report Number 37

result on native fish stocks, navigation may be interrupted, water quality and public safety all become issues. Coordination through a lead agency will ensure that all user groups and interests are represented.

Management in federal waters should take on an ecosystem based approach when balancing user groups along with current and emerging activities. Under this regime, a greater focus on international activities must be addressed and made a priority. Many fish stocks targeted in federal waters have considerable ranges through out their lives. With such extensive home ranges, stocks are subjected to many stressors from international sources, stressors that are under limited control by the US. White marlin is clearly a species that would greatly benefit from an ecosystem based management regime by concentrating on countries with the greatest fishing mortalities and the greatest pressure on the stock. The recreational white marlin fishery in the US is extremely regulated through a 250 fish annual cap, yet bycatch and targeted harvests from domestic and international entities exceeds the conservation benefits on behalf of the recreational fishing community.[35] Ecosystem-based management should be based on a global scale, focusing on the highest level of mortality on a given stock.

Marine Protected Areas

The implementation of marine protected areas has proved to be a very contentious issue in the recreational fishing community for several reasons. While some reserves have shown potential at increasing fish populations, the amount of the science regarding their successes is limited and mostly based on theory. Recreational anglers have historically shown that they are deeply committed to maintaining and improving marine resources. They have accepted drastic regulations when such action was needed and because of this, the recreational fishing sector has played a major role in many of the success stories in fisheries management. The use of an MPA, one that removes all fishing seems very unnecessary to most recreational fishermen. Traditional bag limits, minimum size limits, and size limits have been applied to recreational fisheries and have worked in meeting management goals. For this reason, it seems unnecessary to prohibit fishing in an arbitrarily created area when the above mention tools can be used, be successful and still allow fishing.

The use of wide spread no fishing marine protected areas does not seem to be in line with using an ecosystem based approach that focuses on all stressors effecting the fisheries. In most situations, recreational fishing is a low impact activity that has little or no damage to the fish habitats. When habitat destruction is a concern, it is most logical to remove only the activities that are causing the destruction. In these situations, blanket no-fishing MPAs are not appropriate and the arbitrary nature of such MPAs does not promote the advancement towards a truly ecosystem based approach.

Further, the use of MPAs compared to problem specific management measures, seasonal closures or gear restriction, can not be considered as taking the most efficient action and may cause undue harm to the local and national economies. The regional

[35] National Marine Fisheries Service, 2003. Stock assessment and fishery evaluation report for Atlantic Highly Migratory Species. NOAA

fisheries management councils, when supplemented through NMFS resources, have the means of investigating specific causes of a particular problem affecting the fisheries and can tailor management measures around this information. Unique bottom features that are utilized as a spawning aggregation site should be protected from mobile gear yet a bottom feature is no more protected if trolling is prohibited from the waters above the feature.[36]

Noting the problems, MPA can still have use in the fisheries management setting when clear goals and criteria are established before an MPA is created. MPAs have not been proven to be completely effective in most situations and can not be relied solely on to correct overfishing. For this reason, a full evaluation and periodic monitoring must be in place. Typically, before any management measure is implemented, a full analysis of the expected chance of success at meeting the management goals is completed before the measure becomes regulation. In addition, regulations in place are reevaluated annually based on their performance. The RFA firmly believes that MPAs must be held to the same standard as traditional management measures.

The RFA supports recommendation 6-3 which states that national goals and guidelines are needed for the design and implementation of marine protected areas. Before any MPA created, a clear definition of a marine protected is needed. However, we are concerned that this recommendation infers that MPA are a tried and proven management tool when in fact their effectiveness at meeting management goals is poor. We believe that a very critical step is missing; a pre-evaluation to find even if marine protected areas work and if so, what the expressed purpose for their implementation would be. Implementing a marine protected area may not be the best option noting that the current science finds that MPAs routinely fail to meet management goals[37] while traditional management measures have a strong history of success

The creational of MPAs, by its very nature, will have broad ranging impacts on a wide array of user groups. Shipping, oil/gas exploration, and fishing are just a few activities that stand to be affected. For this reason, it is an absolute necessity to include all user groups and interested parties to the pre-evaluation, design and implementation of any MPAs in federal waters. The RFA supports recommendation 6-4 that includes all appropriate regional entities, stakeholders, and interested parties in the development process regarding the creation of a marine protected area. We expect the evaluation process to be extremely thorough and carefully orchestrated.

*Chapter 19 Achieving Sustainable Fisheries*

Successful management of the US marine fisheries has been realized in the past 7 years. Many will agree that the health and long-term sustainability of the marine fisheries

[36] Shipp, R.L. 2003. A Perspective on Marine Reserves as a Fishery Management Tool. Fisheries vol 28 no 12.

[37] Jameson, S.C. M.H. Tupper, and J.M. Ridley. 2002. The 3 screen doors: Can marine reserves protected be effective. Marine Pollution Bulletin 44 1177-1183.

has been secured with the passage of the sustainable fisheries act in 1996. Since that time, the nation in whole, has greatly improved many stocks and produced a general trend of increase.[38] This success has occurred with the majority of the management decisions being made at the local levels through the regional fisheries management councils. Under this system, the councils have been effective at dealing with overfishing, yet the success rate with all fisheries is not 100%. We believe that fisheries managers and stakeholder understand that the system is not perfect and are continually trying to improve upon the current structure. There is room for improvements to the current system and our comments regarding the recommendations for these improvements follow.

The regional fisheries management councils are fortunate to have access to some of the best fisheries science in the world yet managers have voiced, that even more data is needed to effectively run some of the ecosystem and multispecies models. Current runs have considerable amounts of variability, which is to be expected due the dynamic nature of marine systems, but the high amounts of variability makes the results less meaningful. By increasing the volume and accuracy of the data used to run these models, decisions more in line with an ecosystem based approach can be made. Such data will have to come from federal and state agencies requiring additional funding support.

Recommendation 19-1. The RFA agrees with the intent of this recommendation to incorporate more science into the regional fisheries management council decision-making process but indicate that some caution must be included when relying heavily on science. There will always be a limited amount of uncertainty even when using the best science availability. For this reason, we have some concerns about amending the Magnuson-Stevens Fishery Conservation and Management Act requiring the regional fisheries management councils and commissions to rely exclusively on findings and advice from the scientific and statistical committees (SSC). The SSCs represent some of the best fisheries scientists and their work, without a doubt, is of the highest caliber in the world. Yet, they are limited by the quality and amount of data they have to work with. In some situations, it would be in the best interest of the fishery to refer to their findings but not be bound to it. An example is the monkfish fishery on the Atlantic Coast where the SSC indicated that the stock was severely overfished. Fishermen suggested that the trawl surveys gathering population assessment data on monkfish where missing large portions of the population in deeper water. A supplemental monkfish survey found fishermen to be correct, that the trawl surveys where missing these fish in deeper water and thus adjusted their findings. We maintain that fisheries management requires a level of flexibility.

Recommendation 19-1 also calls for increasing the qualification standards for members of the SSC. Obviously, the RFA supports having the best candidate's filled positions on the SSC but we believe that even members of the industry who meet the qualification requires should be allowed to serve on SSC. We feel that these individuals offer valuable first hand experience on what is occurring in the actual the fisheries and can play critical roles rectifying discrepancy between the scientist and fishermen.

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[38] National Marine Fisheries Service. 2003. Report to Congress, The Status of the Stocks. April 2003.

Moreover, we feel that having scientists that work closely with the commercial and recreational fisheries will increase the trust between scientists and fishermen who often have contradicting views.

Recommendation 19-2 The RFA believes that the actions outlined in this recommendation are already in place. Regional fisheries management councils are presented information from scientific committees, industry advisors, and through public comments. As such, council members base their decisions on this input.

Recommendation 19-3 As mentioned above, even the best scientific information available has an inherent amount of uncertainty. Producing accurate harvest limits on marine fisheries, considering the dynamic nature of the resource and marine environment is extremely difficult[39]. These best estimates produced by the SSC should be viewed with this understanding. Setting a harvest limit above the biological catch determined by the SSC should be allowed when such action does not resulting in overfishing or slows any recovery of a stock.

Recommendation 19-4 The RFA agrees that the National Marine Fisheries Service, along with the regional fisheries management councils and commissions should develop a peer review process all SSC decisions. As long as the peer review process does not interfere with the ability of the councils to produce expeditious management decisions, we see no problem increasing the quality control and confidence in the SSC recommendations.

Recommendation 19-5 We agree that timely decisions for setting biological catch limits and subsequently harvest limits. Setting the harvest limits early allows the councils and commissions to implement fishing regulations with sufficient time before the onset of the fishing season. Making these decisions well before the onset of the fishing season allows the industries to adjust marketing and better make business decisions.

Recommendation 19-8 The recreational fisheries presents a unique challenge for fisheries managers attempting to produce accurate harvest and participation estimates. Unlike the commercial sector that creates a paper trail for every pound of fish sold and every vessel issued a permit, the recreational saltwater anglers, particularly the shore based anglers leave very few markers of their participation. Phone and onsite surveys, collectively known as the Marine Recreational Fisheries Statistics Survey (MRFSS) can provide relative estimates regarding the number of anglers and fish catch landed and discarded.[40] These estimates, on a coast wide basis are fairly accurate. Yet, both managers and anglers have indicated that the estimates produced with the current system

[39] National Academy of Science. 2003. Proceedings of Defining Best Available Science For Fisheries Management Workshop. Washington DC.
[40] National Marine Fisheries Service. Marine Recreational Statistics Survey. Office of Science and Technology

is not as accurate or precise when taken to a state or smaller spatial scale.[41] Anglers often provide actual fishing reports that widely deviate from estimates produced by MRFSS leading to frustration.

Recreational anglers have long shown that they are willing to provide as much information as they can to help increase the accuracy of the recreational catch data. However, there is not a consensus among the recreational fishing community regarding saltwater fishing licenses. It is assumed that introducing a saltwater license will increase the accuracy of the participation developed through the phone survey and that this would produce better estimates on the fishing frequency. This assumption is noted in the preliminary report yet we do not know of any evaluation done to validate this assumption and are uncertain of the benefits resulting from a saltwater license that could not be achieved through voluntary submission of fishing data from recreational anglers.

The RFA is not against exploring the possible benefits that a saltwater license, yet we do believe that it is inappropriate to implement a saltwater licenses with the intent of managing recreational fisheries on an in-season basis as recommendation 19-8 suggests. There is significant and inevitable variability that can not be reduced to a low enough level, even with a license, to allow to in-season or small spatial scale management in the recreational fishing sector.[42] Currently, it takes a minimum of a month working with the data to produce a reasonable estimate. Moreover, the recreational fishing community accounts for over 9 million participants that have varying amounts of knowledge regarding fisheries management and regulations. We believe that the shear magnitude of the recreational fishery severely limits the ability to inform all recreational anglers of regulation changes mid-season. In season management also presents serious issues for party and charter boat operations that typically schedule their fishing trips weeks to months in advance.

The recreational fishing community and the RFA are more than willing to work with NMFS, the regional fishery management councils, and commission to develop ways of improving recreational fishing data collection programs.

The RFA fully supports recommendation 19-9 to expand cooperative research program. We note that numerous opportunities already exist for commercial fishermen to get involved with the research process; very few exist for recreational fishermen. We would suggest that this recommendation be amended to include language that would encourage NOAA to develop specific research programs for the recreational sector. Recreational fishermen are eager to provide input into the management process and address some the information laps and shortcomings affecting this fishery.

RFA believes that reciprocal bills for the Gulf States and Pacific States Fisheries Management Commission be passed based on the language of the Atlantic Coastal

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[41] ORC Macro. 2003. Effects of Increased Sample Size on Precision Estimates Marine Recreational Fisheries Statistics Survey.

[42] Van Voorhees, Dave. Statistical problems with in season quota monitoring. National Marine Fisheries Service.

Fisheries Cooperative Management Act. We support recommendation 19-10 and encourage stakeholder under the jurisdictions of these Commissions to become involved if this recommendation is brought to fruition.

Recommendation 19-11, we feel, is not needed. There are very few new emerging fisheries that are actively fishing without a management plan. When new fisheries have emerged in the past, there have been few problems identifying where the majority of the landings and catch were occurring. We do not foresee any problems identifying which council should assume authority considering the level of landings information state and federal agencies gather. A relatively recent example is the dolphin/wahoo fishery. Landings for these species ranged the entire Atlantic coast with the majority coming from areas south of Cape Hatteras. The South Atlantic Fishery Management Council was the lead agency by NMFS, acting under the authority of the Department of Commerce, to develop and administer a fishery management plan but considerable consultation was given from the New England, Mid-Atlantic, and Gulf of Mexico management councils.[43] We do not believe that Congress should assign fishery management jurisdiction but that such decisions should occur locally or regionally. National Marine Fisheries Service can provide direction when management authority is unclear and cannot be established by the regional councils.

Recommendation 19-12 and 19-13 deal with the appointments and composition for the regional fisheries management councils. The RFA has worked to establish parity on the regional councils. In the past, the commercial interests were the only priority in the fisheries management realm and thus the councils makeup reflected this sentiment. The recreational fishing community and the recreational fishing community is just now being recognized as being composed of over 9 million anglers and producing approximately 30 billion dollars annually. We support recommendation 19-12 which stands to establish a minimum of 2 seats each for the commercial sector, recreational sector, and general public on the regional councils. The remainder of the voting seats can be filled by candidates offered by the governors of states under the jurisdiction of that council. We would prefer that Governors develop a list of possible candidates for the remainder of the voting seats based on the magnitude and importance of the fishing industries in that state.

Recommendation 19-13 The RFA supports giving the administrator of NOAA the responsibility of appointing members to the regional fisheries council. As NOAA assumes the lead responsibility over activities occurring in the marine environment, it is consistent the NOAA administrator also assume the responsibility of appointing council members. We believe that the NOAA administrator, by the very nature of the position, has a great capacity to better understand fisheries issues and be better able to assess candidate's qualifications.

Recommendation 19-14 Fisheries management is very complex. For this reason, it is necessary for members of the regional councils to fully understand the operational

[43] South Atlantic Fishery Management Council. 2003. Fishery management plan for the Dolphin and Wahoo Fisheries of the Atlantic Coast

aspects of the fisheries under the council's jurisdiction as well as all the technical components fisheries population dynamics and stock assessments. The RFA fully supports training for all newly appointed members to the regional fisheries management councils, though we caution that most members to the council are active fishermen that have business responsibilities and suggest that the training be accommodating to their schedules.

Recommendation 19-15. The RFA is against implementing any new dedicated access rights privileges.

Recommendation 19-16 the RFA agrees that congress should repeal all programs encourage the over capitalization in the fisheries. Funds that are freed up from these programs should either be directed to improving fisheries research or put into accounts dedicated for the removal of excess permits and reducing overcapitalization in the fisheries.

National Marine Fisheries Service and the regional councils are having difficulties carrying out the mandates of the essential fish habitats as defined in the Magnuson Act. Such designations of essential fish habitat (EFH) are difficult to identify and require a considerable amount of effort and information. The current approach has a tendency to designate an overly expansive area, resulting in little real protect due to overprotection. We support recommendation 19-21 that will direct EFH identification efforts towards a more ecosystem-based management approach. Such a redirection is more in line with the broad ecosystem-based approach that fisheries management should be taking in the future.

The RFA supports Recommendation 19-22 to increasing effort on part of the National Marine Fisheries Service and the regional council to identify and reduce all sources of bycatch. The recreational fishing industry, through outreach and research programs, can play a critical role in reducing discard mortality resulting from regulator discarding.

International fishing activities must be a high priority for the US. Developing countries with open access fisheries are investing heavily to increase capacity in many fisheries, such as marlin and tuna, which have large ranges including US waters. International trade agreements are in place for common resource fisheries yet developing countries have poor or no enforcement, have little interest in long-term sustainability and have very few options other than fishing to spur their economies so they are disregarded. The fishing pressure by international entities is a serious concern for the US, which is clearly evident in the case of white marlin and bluefin tuna. The US has proven to be a global leader in fisheries conservation but all the strict regulations and good intentions on behalf of fishermen and fisheries managers is ineffective unless excessive foreign fishing pressure is controlled. The RFA support recommendation 19-23 and encourages the US State Department to pressure all countries to ratify the Fish Stocks Agreement and the FAO Compliance Agreement. Furthermore, we support recommendation 19-24-19-26

which would maintain, through dedicated funding, the US's presences in international fishery management.

**Summary**

Recreational fishing is an extremely popular past time with a long history in the United States. Saltwater anglers and recreational fishing industry leaders have proven to be true champions advocating for the long-term sustainability of the marine resources. This report presents some very compelling recommendations that have the potential to have great impacts on the current fishery management regime. To fully implement the recommendations on this report, a considerable political and financial committee will need to be established in this nation. As we have noted through out our comments, we believe that the to current management system, specific to fisheries, is working. And while we do not feel that an entire overhaul, as suggested in this report, is needed, we do believe that current system can use some fine tune. A critical first step in this fine tuning, must be for the recreational fishing community and the recreational fishing industry to be give full recognition based on their economic output. We believe once the recreational sector is value as an equal with industries with similar worth, the political motivation to protect, support, and ensure the long-term viability of the industry can not be over looked. Progress towards meeting the goals of this report can only be realized with the support of the recreational fishing sector.

The RFA appreciates the opportunity to comment of this preliminary report and again, applauds the US Commission of Ocean Policy for providing insightful and practical recommendations for managing our ocean. We look forward to the release of the final report and the ensuing debates.

***Comment Submitted by Ray Ban, Weather Coalition & The Weather Channel, Inc. and John Snow, Weather Coalition & University of Oklahoma***

June 4, 2004

On behalf of the **Weather Coalition**, a diverse group of 32 institutions (full list follows) including the private sector, academia, the research community, and professional associations, we would like to commend the Commissioners and staff on the thoughtful preliminary report that addresses a wide range of issues related to the state of the world's oceans and the manner in which this country addresses those issues. We applaud the significant effort that has gone into the creation of this document.

We appreciate in particular the Guiding Principle, *Ocean—Land—Atmosphere Connections*, which states that, "Ocean policies should be based on the recognition that the oceans, land, and atmosphere are inextricably intertwined and that actions that affect one Earth system component are likely to affect another." Without land-sea-air integration in the area of research, a true understanding of the Earth *system* cannot be achieved. This understanding and the manner in which it is implemented in policy decisions, day-to-day operations across many sectors, and hazard warning systems, affects our economy, the safety of our citizens, and the health of our environment. We would appreciate it if the Commission would use its considerable influence to promote a more thorough integration across ocean, land, and atmospheric research and research applications programs in particular, perhaps through a recommendation that a follow-on study be conducted under the auspices of the National Research Council.

A second Guiding Principle to which we would like to call attention and commend is that of *Best Available Science Information* which states, "Ocean policy decisions should be based on the best available understanding of the natural, social, and economic processes that affect ocean and coastal environments…" As the Commission is fully aware, the best possible research results are arrived at through full participation of the country's best researchers from across the broad community including academia *and* the private and public sectors. We would appreciate it if this fact could be stated in the final report.

In addition, we ask that consideration be given to including a broader version of the excellent recommendation numbered 19-9 that addresses increasing support for research within the National Oceanic and Atmospheric Administration (NOAA). Recommendation 19-9 focuses on collaborations among scientists and commercial and recreational fishermen in particular. For several years, the Weather Coalition has been advocating the creation of a NOAA Collaborations Fund, a competitive grants program focusing on basic and applied research related to weather. Obviously, it would be beneficial if the more inclusive ocean-land-atmosphere integrative aspects addressed above could be applied to such a research fund. Again, it would be extremely helpful if the Commission would use its influence to promote the creation of a competitive, peer-reviewed grants fund that strengthens NOAA's ability to address its research function that supports its broad operations mission. Such a fund should be open for proposals from the broad community including the private sector and should promote collaborative

work across sectors addressing work that provides better understanding of the integrated Earth system.

As the Commission proceeds with the Ocean Policy Report process, we would like to volunteer the members of the Weather Coalition for any assistance that might be of use. Please do not hesitate to call on any of us.

Weather Coalition Membership

University of Alabama at Huntsville
Department of Atmospheric Science
University of Albany, SUNY
Department of Earth and Atmospheric Sciences
American Geophysical Union
American Meteorological Society
University of Arizona
Arizona State University
Atmospheric and Environmental Research (AER), Inc.
University of California at Los Angeles
Cornell University
Atmospheric Science Program
Florida State University
Center for Ocean-Atmospheric Prediction Studies
Department of Meteorology
University of Hawaii
School of Ocean and Earth Sciences & Technology
University of Illinois at Urbana-Champaign
Department of Atmospheric Sciences
Institute for Business and Home Safety
International Association of Emergency Managers
Iowa State University
Office of the Vice Provost for Research
Massachusetts Institute of Technology
Dept. of Earth, Atmospheric and Planetary Sciences
University of Missouri – Columbia
Department of Atmospheric Sciences
National Association of State Universities and
Land-Grant Colleges
North Carolina State University
College of Mathematical & Physical Sciences
University of Oklahoma
Oklahoma Weather Center
Pennsylvania State University
Department of Meteorology

Purdue University
Department of Earth and Atmospheric Sciences
Raytheon Company
Reinsurance Association of America
Saint Louis University
Department of Earth and Atmospheric Science
Cooperative Institute for Precipitation Systems
Science Applications International Corporation (SAIC)
University of Texas at Austin
Department of Geological Sciences
University Corporation for Atmospheric Research
University of Washington
Department of Atmospheric Sciences
Vaisala, Inc.
The Weather Channel, Inc.
**Weathernews, Inc.**

***Comment Submitted by Eli Weissman, Ocean Governance Program Manager, The Ocean Conservancy***

June 4, 2004

The Ocean Conservancy (TOC) is pleased to have this opportunity to provide formal written comments on the U.S. Commission on Ocean Policy's preliminary report and requests that these comments be included as part of the record. TOC applauds the Commission and its staff for its herculean efforts over the last two and a half years to assess the state of our oceans and coasts and to recommend necessary changes to improve the way they are managed. We are very pleased that the Commission's preliminary report comes to many of the same conclusions of the Pew Oceans Commission, that our oceans and coasts are in a serious state of decline and that fundamental changes are necessary to reverse this trend. The following comments identify areas of the report that need to be strengthened to ensure that our nation's oceans and coasts are adequately protected.

**Part II – Blueprint For Change: A New National Ocean Policy Framework**

## Chapter 4: Enhancing Ocean Leadership and Coordination

*Retain:*

TOC supports recommendations 4-1 to establish a National Ocean Council (NOC), 4-3 to adopt the principal of ecosystem-based management and incorporate the preservation of marine biodiversity in management plans, 4-5 to establish a Presidential Council of Advisors on ocean policy and 4-11 to immediately improve federal agency regional coordination.

*Change:*

Recommendation 4-2 should be changed so that the NOC does not develop the nation's ocean policy, but rather is charged with ensuring that it is properly implemented by the federal agencies. Other duties of the NOC should be delegated to Congress and/or the Assistant to the President as identified below. TOC urges in the strongest possible terms the Commission to adopt the Pew Oceans Commission recommendation that Congress enact a national ocean policy act requiring federal, state, and territorial agencies to protect, maintain, and restore marine and coastal ecosystems, and reorient national and regional decision-making bodies to these ends. This legislation should provide clear and measurable goals and standards to govern activities affecting the oceans, establish mechanisms to ensure compliance with the national policy, and establish national and regional institutions capable of carrying out that policy.

TOC supports recommendation 4-4 to appoint an Assistant to the President on ocean and coastal policy but believes that the Assistant should not chair the NOC or co-chair the Presidential Council of Advisors, but rather serve as the federal liaison and advisor. The head of a new independent oceans agency (see Chapter 7) should chair the NOC and should be responsible for issuing guidance to regional ocean councils for complying with the national ocean policy and reviewing the plans to ensure consistency.

TOC opposes recommendation 4-10 that the NOC develop a process with Congress and others for creating voluntary regional ocean councils. As stated above, Congress should enact legislation requiring the establishment of regional councils with clear and measurable goals and standards. Additional comments on regional ocean councils are provided in the following chapter.

*Add:*
Recommendation 4-5 to establish a Presidential Council of Advisors lacks sufficient detail. The Commission's final report should include what the council's role will be vis-à-vis the President and the NOC, how members will be nominated, what mechanisms will be put in place to ensure balanced representation among the various ocean sectors, and how the council will function.

Chapter 5: Advancing a Regional Approach
*Retain:*
TOC supports Recommendation 5-3 that regional ocean information programs should develop regional ecosystem assessments and Recommendation 5-4 that environmental impact statements for ocean and coastal-related activities take these assessments into account.

TOC also supports the Commission's call for regional ocean councils to engage stakeholders in the design and implementation of marine protected areas.

*Change:*
TOC does not support Recommendation 5-1 to establish voluntary regional ocean councils. These councils should be mandatory and charged with developing and

overseeing implementation of enforceable regional ocean governance plans to carry out the national ocean policy to protect, maintain and restore marine ecosystems. These plans must include performance goals and must meet federal standards established under the national ocean policy. As stated in previously testimony, it is unrealistic to expect that regional councils without staff, budgets, mandates, facilities or authority will have more than a token impact on how our oceans are governed.

TOC supports the goal of Recommendation 5-5 to establish boards to administer regional ocean information programs, but has concerns about how its research priorities would be set within each region's comprehensive plan. TOC recommends that the NOC or NOAA engage in ongoing oversight to monitor and guide the regional efforts in formulating and implementing the plans. TOC also recommends that the Commission amend the recommendation to reflect that projects to support resource managers have first priority and that all projects somehow further the national ocean policy to protect, maintain and restore marine ecosystems.

## Chapter 6: Coordinating Management in Federal Waters

*Retain:*

TOC supports Recommendation 6-1 that Congress should establish a lead federal agency to coordinate with other federal agencies with applicable authority and responsibilities over current and foreseeable uses of federal waters. In providing better coordination and a more coherent decision-making process, this recommendation should not be used as a vehicle to restrict the authority and responsibilities of other federal agencies.

TOC strongly supports the Commission's statement that the nation should not wait until technologies are fully developed or scientific information is complete to establish mechanisms for managing new ocean uses.

*Change:*

TOC supports the call in Recommendation 6-2 for reasonable rents to be collected from new offshore commercial activities. The Commission should amend this recommendation to explicitly state that these rents must be set at levels that not only ensure a fair return to the public for the private use of a public resource, but also cover any and all costs associated with monitoring, mitigating, and restoring the marine environment due to impacts of such activities.

*Add:*

Marine protected areas (MPAs) are increasingly recognized as one essential element of sustainable, ecosystem-based approaches to marine resource conservation and management. The U.S. currently lags far behind Australia, New Zealand, South Africa and a host of other countries in implementing an effective national system of MPAs. The National Action Plan on Conserving Coral Reefs and the MPA Executive Order (13158) both envision and commit to increased use of MPAs, including fully protected marine or ecological reserves that are closed to all fishing and other extractive activities.

We are pleased that the report calls for the development of national goals and guidelines to establish a process for the effective design and implementation of MPAs (Recommendation 6-3), but believes the recommendation does not go far enough in calling for the establishment of a substantial national network of MPAs, including marine reserves. The process used to establish this network should provide an appropriate level of consistency without necessitating a "one size fits all" approach, and encourage tailoring individual MPAs and MPA evaluation and designation processes to the local circumstances and objectives.

## Chapter 7: Strengthening the Federal Agency Structure

*Retain:*
TOC supports Recommendation 7-1 that Congress should pass an organic act for NOAA. Including the conservation of natural resources and protection of endangered marine species in the list of agency's primary functions could strengthen this recommendation. TOC also strongly supports Recommendation 7-2 that the Natural Resources Programs of the Office of Management and Budget should review NOAA's annual budget.

*Change:*
TOC strongly opposes Recommendation 7-3 concerning federal agency consolidation. TOC is extremely disappointed that the Commission's report fails to make detailed recommendations to modify the administrative structure of executive agencies as mandated in Section 3 of the Oceans Act. Despite numerous requests by TOC, hearing witnesses, and others to reexamine this topic and seriously reconsider the alternative of establishing an independent ocean agency, the Commission passes the buck to the Assistant to the President and the National Ocean Council. As repeatedly warned, the phased approach envisioned by this proposal will inevitably lead to turf wars between department secretaries, which will result in minimal change or worse, the status quo.

*Add:*
TOC encourages the Commission to recommend changes that will increase NOAA's enforcement capacity. While TOC supports the Commission's efforts to strengthen NOAA and to have the agency apply the principals of ecosystem based management, these efforts will be diminished unless NOAA gains the necessary recourses to fully enforce its federal laws and regulations.

**Part III – Ocean Stewardship: The Importance Of Education And Public Awareness**

## Chapter 8: Promoting Lifelong Ocean Education

*Retain:*

TOC fully supports the Commission's call for a federal commitment to centralize, coordinate and strengthen ocean education at the national level. In particular, we believe there needs to be a more significant focus on education opportunities outside the classroom structure. Opportunities to increase public awareness and understanding of the oceans and threats to it are critical to bringing about change.

*Add:*
TOC has the following suggestions for strengthening the chapter's recommendations: Recommendation 8-1 should explicitly direct Ocean.ED to strengthen and coordinate public education efforts of MPA sites and programs at all levels to enhance effectiveness.

Recommendation 8-3 should explicitly direct NOAA to assess and improve the National Marine Sanctuary's public education programs, in cooperation with Ocean.ED. Interior should be added to the list of agencies, recognizing the work of Fish and Wildlife Service (FWS) and National Park Service (NPS) and calling for a similar assessment and strengthening of MPA public education and outreach at marine components of national parks, wildlife refuges and monuments.

Recommendations 8-6, 8-7, 8-8, 8-9 and 8-13 should all be expanded to explicitly include NOAA's Marine Sanctuary Program and Interior's FWS and NPS to feature appropriate and accessible MPAs in educational materials and examples.

Recommendation 8-16 should explicitly refer to the role MPA sites and agencies should play as outlets and mechanisms for community education programs.

TOC urges the Commission to recommend that Congress pass legislation establishing a National Oceans Awareness Week/Month to help bring ocean issues to the forefront of the national agenda. An annual period of focused attention, education outreach and events would help make the oceans matter to children, students and adults. The week could include educational activities and public events that generate extensive media coverage as well as volunteer opportunities for the general public.

Lastly, states should be encouraged to use the Teacher Quality State Grants program established by the "No Child Left Behind Act" of 2001 to increase the number of prepared ocean science teachers. This program focuses on using practices grounded in scientifically based research to prepare, train, and recruit high-quality teachers.

**Part IV – Living On The Edge: Economic Growth And Conservation Along The Coast**

## Chapter 9: Managing Coasts and their Watersheds

*Retain:*

TOC supports the Commission's overall assessment that our coasts face increased pressures brought by increased development, traffic, and tourism, and strongly supports the chapter's general recommendations. Specifically, TOC supports Recommendation 9-1 that states need stronger capacity to accommodate and shape growth and incorporate a watershed approach to govern coastal and ocean resources. We also agree that better coordination among existing federal area-based coastal programs is needed. We are concerned, however, that by consolidating these programs under one agency, Recommendation 9-2 could lead to a "one size fits all" approach. The unique and complementary roles played by these individual federal programs should be retained while, at the same time, ensuring that each is contributing to both program-specific and national goals.

TOC applauds the Commission's Recommendation 9-3 recommending changes to several federal programs that currently promote poor environmental and economic coastal decision-making and encourages the Commission to go a step further and recommend disincentives, such as a loss of federal highway funding, for states that fail to meet their performance measures or criteria.

Unfortunately, some of the Commission's goals are not well supported by specific recommendations. We urge the following changes to better achieve the chapter's overall goals.

*Change:*

TOC requests further context and detail for improving state coastal programs' capability to address pollution on a watershed basis. EPA's 319 program and NOAA's 6217 nonpoint pollution programs require states to develop and implement "enforceable mechanisms" to address polluted runoff as part of their coastal management plans. It is vital that the Commission acknowledge that this requirement has been almost wholly ignored because of a lack of funding and political will to take regulatory action to address this number one cause of water quality problems on our coasts.

Recommendation 9-4 to amend various federal laws to provide better 'support' for watershed initiatives is vague. The Commission should specifically recommend that Congress strengthen the Coastal Zone Management Act's 6217 nonpoint program and the Clean Water Act's Total Maximum Daily Load program. It should also call for better enforcement of the Clean Water Act's provisions governing point sources, specifically sanitary sewer overflows, combined sewer overflows, and concentrated animal feeding operations.

## Chapter 11: Conserving and Restoring Coastal Habitat

*Retain:*
TOC supports the general recommendations to provide more robust funding and opportunity for the acquisition of sensitive lands, to develop national goals for ocean and coastal habitat conservation and restoration efforts, and to ensure coordination among all related federal activities.

We also support the recommendation for a comprehensive wetlands protection program linked to habitat and watershed management efforts. However, we request further specificity regarding the link between such a program and the existing permitting program under section 404 of the Clean Water Act. We believe that any effort to better protect our nation's wetlands needs to begin with improved implementation and enforcement of existing standards. Moreover, we request that the Commission specifically address the impacts of U.S. Army Corps of Engineers projects and the jurisdictional guidance recently developed by the current Administration. In this context, we urge the Commission to recommend that Congress act to clarify that the Clean Water Act is intended to protect wetlands to the fullest extent of the Constitution.

*Add:*
Although Recommendation 11-3 calls on Congress to amend relevant legislation to allow federal agencies greater discretion in using a portion of habitat conservation and restoration funds for related assessments, monitoring, research and education, we believe this recommendation should be strengthened to require research necessary to guide and evaluate conservation and restoration efforts, tools, and approaches and to require those agencies to objectively evaluate the success of habitat conservation programs in meeting specific habitat conservation goals.

## Chapter 12: Managing Sediment and Shorelines

*Retain:*
TOC supports the concerns of the Commission as to excess, insufficient, or contaminated sediment and its ability to erode beaches, destroy habitats, poison the food chain and endanger lives. We also strongly support the need to promote greater beneficial uses of sediment with less harm to natural resources.

While we support the inclusion of studying environmental impacts and pollution discharges from sediment flows and projects in Recommendation 12-1, this chapter fails to fully acknowledge the fundamentally damaging nature of massive dredge and fill projects and the inability of most federal agencies to find pollution-free fill.

*Change:*
The Commission should correct the glaring inaccuracy that beach nourishment is beneficial in protecting reefs and downstream environments. In fact, most beach renourishment projects are damaging. They bury shallow reefs and negatively affect offshore reefs by sedimentation.

Recommendation 12-1 to manage sediments and shorelines by applying "ecosystem based management principles" needs to consider cumulative impacts of individual projects along the entire coastline. This is particularly true of the Army Corps of Engineers which has many projects, both its own and funded state projects, proceeding at any given time.

TOC does not support Recommendation 12-3 to streamline the permitting process for dredging projects. What are needed are modern, ecologically sensitive sediment standards and management guidelines to assure that such standards are applied before any project proceeds. The process established by the National Environmental Policy Act provides an appropriate framework for considering and addressing the potential environmental impacts of proposed projects.

*Add:*
The Commission's final report should articulate specific regulatory recommendations to limit stormwater and agricultural runoff and pollution. The final report should also call for sediment standards and management guidelines to limit the use of polluted sediment on our coasts and beaches.

**Part V – Clear Waters Ahead: Coastal And Ocean Water Quality**

## Chapter 14: Addressing Coastal Water Pollution

*Retain:*
TOC supports the recommendation to assess water pollutants cumulatively via an ecosystem-based, watershed management approach involving a broad range of agencies,

programs, and individuals and the Commission's recognition that this will require a substantial financial investment.

*Change:*
The report should clearly set forth new solutions to the nation's coastal and ocean water quality problems. Instead, the Commission relies heavily on federal technical assistance and incentive programs, despite the fact that such programs have not been effective to date. See e.g. Recommendations 14-2; 14-3; 14-11; and 14-13.

TOC urges that the Commission's recommendations be changed to require improved controls on sanitary sewer overflows, more stringent controls on concentrated animal feeding operations, and a strong Total Maximum Daily Load program. Recommendation 14-4 that funding for State Revolving Fund be capped "at or above historic levels," does not go far enough in calling for dramatically increased funding.

While TOC supports the adoption of ecosystem-based management, some problems such as nutrient-created dead zones cannot be addressed on an ecosystem basis because the source of the pollution is outside the ecosystem affected by the nutrient pollution. Iowa farms, for example, contribute to the Gulf of Mexico dead zone, and ecosystem based management would not capture that relationship. Further, as noted earlier, the solutions put forth for both point source and nonpoint source pollution rely too heavily on technical assistance and incentive programs, rather than on much needed, stronger regulatory controls.

The Commission should recommend an amendment to the Clean Water Act to require enforceable nonpoint programs. Simply transferring NOAA's nonpoint program to EPA, as contained in Recommendation 14-9, would accomplish little to solve this problem.

*Add:*
TOC calls for the Commission to recommend the prompt establishment by states of standards for nutrient loads, including both nitrogen and phosphorus. The final report should also call for the prompt establishment by states of standards for sediment quality. Finally, the report should recommend the adoption and implementation of international treaties regarding pollution prevention and reduction.

## Chapter 15: Creating a National Water Quality Network

*Retain:*
TOC agrees with the Commission that the need for monitoring the health of coastal and ocean ecosystems is critical to protecting and conserving these valuable resources. Current water quality and resource monitoring efforts are grossly inadequate related to coastal, estuarine areas and must be supplemented by alternate means. State and federal monitoring efforts must be coordinated and effectively engage local volunteer monitoring activities, which can provide valuable, credible data on these waters. State and federal agencies should make every effort to work cooperatively with the volunteer monitoring groups in data collection, assessment, reporting and data management. Where possible,

joint coalitions should be developed so that support for training and access to monitoring equipment and supplies could be facilitated.

*Change:*
The recommendations contained in this chapter should be amended to include "local volunteer monitoring groups." Just stating "working with other appropriate entities" does not ensure involvement and inclusion of volunteer monitoring efforts.

## Chapter 16: Limiting Vessel Pollution and Improving Vessel Safety

*Retain:*
TOC agrees with Commission's overall statement that while the benefits associated with vessel activities are significant, they present risks to people and the environment that need to be effectively addressed. To that end, we offer our comments with the goal of providing feedback on the 'effectiveness' of various recommendations to address the risks associated with various types of vessel pollution.

TOC strongly supports Recommendation 16-2 for increased funding for Coast Guard enforcement of their environmental obligations. Coast Guard continues to lack sufficient funding for environmental enforcement, and funding and attention have decreased in recent years with the addition of substantially new security related responsibilities.

Similarly, we appreciate the Commission's attention to the unique pollution problems associated with cruise ships, and we strongly support Recommendation 16-5 to address these pollution streams through legislation. Rather than utilize the Clean Water Act, we encourage the Commission to instead recommend Congress pass the Clean Cruise Ship Act of 2004 (H.R. 4101 and S. 2171).

We also support Recommendation 16-6 calling on EPA to revise the Clean Water Act marine sanitation device regulations to require that new MSDs meet significantly more stringent pathogen-reduction standards.

*Change:*
TOC strongly opposes the chapter's overall reliance on "voluntary measures" alone to protect our coastal communities and habitats from pollution. In particular, we oppose Recommendation 16-9 to use incentive-based measures to reduce air emissions. Ships, like other sources of pollution under the Clean Air Act, must be held to stringent National Ambient Air Quality Standards. Several states have voiced concern in meeting their own Clean Air Act requirements unless ships are better regulated under the Act. Recommending only voluntary incentives and ratification of MARPOL Annex VI is inadequate to address air emissions from vessels. We urge the Commission instead to recommend better implementation of the Clean Air Act.

## Chapter 17: Preventing the Spread of Invasive Species

*Retain*:
TOC applauds the Commission's recognition of the significant problems associated with aquatic invasive species, the inadequate amount of funding spent to prevent and control the problems associated with invasions, and the need to develop an early detection and rapid response program.

We support public education and outreach efforts as one tool to help control invasive species. However, they should not be used alone, as is suggested in Recommendation 17-3, but instead in conjunction with appropriate regulatory controls.

TOC strongly supports Recommendation 17-4 to develop and adequately fund a national plan for early detection of, and rapid response to, aquatic species invasions. The recommendation would be enhanced by specific references to: (a) the need to ensure efficient and expedited access by state and local groups to needed funding, particularly in "emergency" situations (such as the *Caulerpa taxifolia* discovery in Southern California), and (b) the need to ensure that the funds are available on a multi-year basis, so that agencies and organizations can plan ahead.

TOC also supports Recommendation 17-5 to increase research efforts and the coordination of agencies involved in invasive species management and control.

*Change:*
TOC disagrees with the Commission's conclusion that sources of invasive species other than ballast water are not amenable to federal controls. In fact, many of the sources mentioned are already under some sort of federal controls. For example, marine debris, which is regulated by international and federal law, can be a significant vector of invasive species, aquaculture is beginning to be regulated through permits under the Clean Water Act, and the pet and other trade industries operate under numerous federal control. Recommendation 17-3 to use public education and outreach alone to control these sources won't meet our growing need to prevent and control the spread of aquatic invasive species. Given the size and scope of the problem, federal controls are necessary. TOC calls for the Commission to amend this section and recommend an increased focus on the use of federal regulatory controls. The Commission should adopt the Pew Commission's recommendation to create a national electronic permitting system to facilitate communication and track imports of live species that may result in aquatic introductions.

TOC also urges the report to strike the language in Recommendation 17-5 on minimizing invasions "at the lowest cost." The lowest cost prevention efforts may result in astronomically costly invasions (such as the zebra mussel); efforts should instead be proportional to the potential risks involved, and the needs of a specific problem

*Add*:
Recommendations 17-1 and 17-2 on ballast water management are not sufficient. Without regulation under the Clean Water Act, as is required by the Act but has been

ignored to date by EPA, there are no effective incentives to create and continually update standards and technology to control invasives; nor are there citizen suit enforcement capabilities or fees to support the costs of the program. The Commission's call for "full consultation" with EPA is insufficient; EPA should manage the program under the Clean Water Act, in consultation with the Coast Guard (who could perform the actual inspections), to ensure that all of the Clean Water Act's tools are brought to bear on this important problem. In addition to ballast water, hull fouling and other vessel vectors of invasives should be addressed through the Clean Water Act, consistent with the Commission's findings that they are "important" pathways for introducing invasive species.

## Chapter 18: Reducing Marine Debris

*Retain:*
TOC supports the recommendations contained in this chapter and is pleased that the Report adequately acknowledges the threats of marine debris on wildlife, habitat, human health and safety, and coastal community economies.

Specifically, TOC supports Recommendation 18-2 that NOAA and EPA collaborate on marine debris initiatives. Addressing the need for adequate resources/funding for this joint-approach could strengthen this recommendation.

While Recommendation 18-3 acknowledges the need to develop a regional/multi-national plan to address derelict fishing gear issues, including a plan for gear removal and disposal through the U.S. Department of State and NOAA working with the FAO and other entities, it does not specifically address the impacts of discarded monofilament fishing line on wildlife, swimmers, or boaters.

We are pleased that Recommendation 18-5 acknowledges the need to increase efforts to ensure that port reception facilities meet the criteria to support implementation of Special Area designation under Annex V of MARPOL.

*Add:*
While the Report recognizes the current programs being conducted related to marine debris monitoring, education and outreach, it does not adequately acknowledge the need to focus more attention on source reduction. With 80% of the debris coming from land-based sources, more attention needs to be given to land activities that result in debris impacting our waterways. Industry must increase its efforts in finding ways to reduce the overall amount of packaging being produced and to further develop more environmentally friendly materials.

**Part VI – Ocean Value And Vitality**

## Chapter 19: Achieving Sustainable Fisheries

*Retain:*

TOC supports Recommendation 19-3 that fish harvest limits be set at or below the level recommended by an independent science panel, and Recommendation 19-6 that the default position is that fishing ceases if goals or management measures to achieve goals are not established in a timely fashion. TOC also supports Recommendation 19-5 requiring the National Marine Fisheries Service (NMFS) to set harvest limits if a Scientific and Statistical Committee (SSC) fails to act on time.

TOC supports Recommendation 19-4 calling for peer review for scientific information generated by the SSCs, and further suggests that peer review be defined according to accepted scientific procedures and not for stakeholder review of scientific work. Stakeholders have other avenues of input available in the management process.

TOC supports Recommendation 19-8 requiring saltwater recreational anglers to purchase fishing licenses to help with data collection on recreational fisheries, and suggests that priority be given to fisheries in which recreational fishing represents the highest proportion of total catch or in which recreational fishing regularly exceeds allocated quotas.

TOC supports good communication between the Councils and NMFS on research priorities to ensure that NMFS' research is relevant to management needs. However, the Councils should not set the scientific priorities since they are not a scientific body. TOC also supports Recommendation 19-9 to expand regionally based cooperative research programs, but such research should not be funded to the exclusion of core NMFS research such as regular fish surveys and stock assessments. The cooperative research program should be a supplement to such essential existing research programs.

TOC supports Recommendation 19-10 for Congress to develop new statutory authority to support and empower the Gulf States and Pacific States Fisheries Management Commissions. In addition, the Atlantic Coastal Fisheries Cooperative Management Act and new Gulf and Pacific authorities should require that interstate management plans adhere to the national standards in the Magnuson-Stevens Fisheries Conservation and Management Act (Magnuson-Stevens) and include accountability for the interstate Fisheries Management Plans, such as allowances for lawsuits, as provided in the Magnuson-Stevens. TOC supports Recommendation 19-11 to designate a lead authority where fisheries cross jurisdictional boundaries, but only after the interstate authorities are improved as suggested.

TOC supports Recommendation 19-15 to develop national standards and guidelines for dedicated access privileges. Such standards should ensure that dedicated access privileges advance conservation along with the economic benefits they are expected to provide.

TOC supports Recommendation 19-16 to repeal programs that encourage overcapitalization in fisheries and to reduce overcapacity in fishing fleets.

TOC supports Recommendation 19-14 requiring all newly appointed Council members to complete a training course; 19-17, 19-18, 19-19 and 19-20 to improve enforcement in fisheries management; and Recommendations 19-23, 19-24, 19-25 and 19-26 on international fisheries management.

TOC supports Recommendation 19-22 for bycatch monitoring and reduction, but the recommendation should be expanded to state that the need for additional information should not be used as a justification for inaction on bycatch reduction. Simultaneous with collecting more information, known bycatch concerns should be addressed by management action to reduce bycatch.

*Change:*
While TOC supports the goal of Recommendation 19-1 to strengthen the SSCs of the Councils and the separation of scientific and management decisions, we have concerns that the specific reforms proposed will not achieve this goal. The Councils should have the ability to submit nominees, but nominations should be allowed from the general public to ensure that a full slate of qualified, unbiased nominees are presented to the appointing authority.

To ensure that fishery managers rely on sound scientific advice, an independent scientific body, as opposed to the Councils, should provide guidance to the SSCs. This would ensure that tasks entrusted to the SSCs, such as setting Allowable Biological Catch (ABC) levels for managed fish stocks, are carried out in a credible and scientific manner.

While TOC supports the Commission's goal of broadening the membership of the Councils, the suggested reforms in Recommendation 19-13 do not go far enough to ensure balanced membership. Further specificity to the suggestion that Councils "reflect a broad range of interests" is needed to ensure that the general public is represented and that Councils are not largely composed of people with a financial interest in fishing and associated operations that are subject to regulation by the Councils.

While TOC strongly supports the recommendation that fishery managers should begin to move toward a more ecosystem-based management approach, specific recommendations should be added to support this goal. In particular, Magnuson-Stevens should be amended to emphasize that protecting ecosystem structure and function is the highest priority goal of fisheries management. Since targeted fish species are produced naturally by uncultivated ocean ecosystems, there is an obvious need to ensure the restoration and maintenance of the health and resilience of ocean ecosystems.

TOC does not support Recommendation 19-21 to change the designation or protection of Essential Fish Habitat. The existing law and guidelines are appropriate and should be implemented to protect marine ecosystems and the fish species sought by humans. There is no credible way to try to manage for production of preferred fish species without protecting the natural marine ecosystems that produce those fish.

*Add:*
TOC urges the Commission to add a recommendation repealing the existing exemption from federal conflict of interest laws currently provided to Council members. This important reform would lead to balance and a lack of bias in the Councils and ensure that Council members serve to promote good fisheries management, not promote their own financial self-interest.

TOC suggests that the Commission add a specific recommendation for fishery managers to adequately consider marine protected areas (MPAs) and other forms of spatial management as a primary tool for fishery management. Many scientific studies have documented the benefits of no-take marine reserves, yet many fishery managers are unfamiliar with this research and seem unduly reluctant to consider implementation of MPAs. MPAs should be viewed as essential tools for protecting habitat, rebuilding depleted stocks, providing reference sites for ecosystem-based management, and as a useful hedge against the uncertainty inherent in fishery management. Further, MPAs may be the only way to protect and maintain the age structure and geographic range of managed species, which are attributes that have been neglected in much of the single species, maximum sustainable yield modeling approach that underlies much current management.

## Chapter 20: Protecting Marine Mammals And Endangered Marine Species

Retain:

*TOC strongly supports Recommendations 20-7 and 20-8 to significantly increase funding for research to assess and mitigate the impacts of human activities and human-generated sound on marine mammals and endangered marine species. TOC also supports Recommendation 20-2 to consolidate authority for implementing the Marine Mammal Protection Act (MMPA) under the National Oceanic and Atmospheric Administration (NOAA) and Recommendation 20-3 to improve coordination between NOAA and the Fish and Wildlife Service (FWS) regarding implementation of the Endangered Species Act (ESA). Finally, we support Recommendation 20-6 to use programmatic permitting where available and appropriate and creating an interagency team to recommend activities that fit this criterion.*

*Change:*
TOC opposes Recommendation 20-5 to significantly weaken the MMPA's definition of "harassment," raising the threshold of disturbance to "cover only activities that

meaningfully disrupt behaviors that are significant to the survival and reproduction of marine mammals." This controversial change would undermine the Act by reversing its precautionary burden of proof in favor of permittees rather than vulnerable marine mammals.

Recommendation 20-4 to streamline the MMPA permitting process does not ensure adequate public review and species protection. Before the Commission recommends purging whole categories of activities from permitting, it should recommend a comprehensive review of the permitting process, consider the use of programmatic Environmental Impact Statements to streamline the National Environmental Policy Act (NEPA) process, improve coordination among the MMPA, NEPA, and ESA, and assess which activities may be eligible and appropriate for programmatic review.

While TOC supports Recommendation 20-8 to increase federal funding for research into ocean acoustics, we believe that an independent body should oversee and administer a competitive grant program to fund acoustic research, rather than distributing those resources across several different federal agencies, each with their own agenda and institutional bias.

*Add:*
A major shortcoming of this chapter is its failure to address species other than marine mammals. TOC urges the Commission to include recommendations for sea turtle conservation and other non-mammal endangered marine species in the final report. Specifically with respect to sea turtles, we urge the Commission to address issues related to recovery goals, fisheries bycatch, habitat protection, marine pollution, international trade, and emerging domestic and international threats. On the domestic level, habitat protection is critical and important areas must be identified and safeguarded. There is also a need to be proactive in identifying the threats posed by disease, marine pollution, and global warming and to recommend ways to mitigate these impacts. The United States can, and should, play a key role in promoting sea turtle conservation around the world. Funding for ongoing bycatch reduction research and gear modification is exceedingly important, as is the commitment to conclude international agreements to conserve sea turtles and reduce their capture in international fisheries.

TOC agrees with the Commission that enforcement of the MMPA over the past decade has been sorely lacking and urges specific recommendations – such as adding a citizen-suit provision – to strengthen enforcement of the Act.

The Commission notes that bycatch represents the biggest threat to marine mammals worldwide; however, the report lacks specific recommendations to address this issue. One option would be to improve cooperation between fisheries and marine mammal management plans and programs at both the state and federal levels. The Commission should also recommend that Congress provide increased resources over the next five years to accurately estimate marine mammal bycatch in all Category I and II fisheries; mandate and provide the necessary resources to ensure that NOAA has updated and

accurate stock abundance estimates for all marine mammal stocks in U.S. waters by 2010; and renew efforts to test and implement bycatch reduction measures.

The report makes no recommendations to address emerging threats such as high contaminant levels in marine mammal tissue, the effects of fishing activities on prey species of marine mammals, or mass mortalities of marine mammals caused by harmful algal blooms and other disease-related threats. The report should recommend increased funding to undertake health assessments of marine mammal populations in conjunction with stock assessments and research into predator/prey relationships.

## Chapter 21: Preserving Coral Reefs And Other Coral Communities

Retain:
TOC supports the Commission's views on the need to assess the status of coral ecosystems. We also support the section on interagency and intergovernmental coral reef management. We suggest, however, that the discussion of the Executive Order be expanded to state its purpose "to preserve and protect the biodiversity, health, heritage, and social and economic value of U.S. coral reef ecosystems and the marine environment." TOC also supports the section on promoting international coral reef initiatives.

TOC supports Recommendation 21-2 that Congress should codify and strengthen the Coral Reef Task Force (CRTF). It also should recommend that Congress direct the NOC to determine the best mechanism and approach for protecting deep-water coral communities. This could be accomplished, for example, through augmentation of the expertise, membership and resources of the CRTF or through creation of an analogous body to address this important and emerging issue.

We question whether the CRTF should be under the oversight of the NOC, believe that the additions of DOE and USACE should be considered in the context of other possible additions, and, most importantly, urge the Commission to recognize DOI's important current and future role in the CRTF and coral reef protection. At a minimum, NOAA, DOI, and relevant state and territorial agencies should all be involved in implementation of task force recommendations for reducing the effects of fishing on corals, not just NOAA. Furthermore, this should be done in consultation with all interests, not just the regional fishery management councils.

TOC supports Recommendation 21-3 concerning national standards, but believes that it could be strengthened by requiring the standards to include a list of species that cannot be harvested and a limitation on the geographic extent over which such resources can be harvested.

Add:
TOC believes that a glaring omission in this chapter is that there is no mention of the Department of Interior (DOI) and virtually no mention of the laws for which it has

responsibility. DOI co-chairs the Coral Reef Task Force (CRTF), along with the Department of Commerce, and shares the most important and extensive federal roles and responsibilities for managing U.S. coral reefs. These include coral reefs in areas managed by the National Park Service, the Fish and Wildlife Service, the U.S. Geological Survey, and the Office of Insular Affairs. The important and extensive coral reef resources managed by DOI within the nation's national parks and national wildlife refuges are especially significant. This chapter should fully and accurately recognize the critical roles, responsibilities, and authorities of DOI with respect to U.S. coral reef management.

There should also be a section and a recommendation within this chapter on the need, value, and benefits to be derived from an effective national system of coral ecosystems marine protected areas, including a substantial network of marine reserves. Consistent with the Coral Reef and MPA Executive Orders and with the CRTF's National Action Plan, this chapter should have an explicit recommendation that the CRTF must develop and advance an effective network of marine reserves.

The legislation in Recommendation 21-1 should: recognize that much more can and should also be done under existing mandates; directly address priority threats to coral reef systems including fishing, pollution, and global warming; support management efforts (not just outreach) including development of an effective network of MPAs, including substantial marine reserves, to protect coral reefs, conserve their resources, and reduce human impacts; codify the policy and anti-degradation provisions from the Coral Reef Executive Order; and adequately fund federal programs that provide coral reef protection.

We support Recommendation 21-4 for the CRTF to identify critical research and data needs related to coral reef ecosystems, to use these needs to guide agency research funding, and to incorporate them into the design and implementation of the Integrated Ocean Observing System.

## Chapter 22: Setting a Course for Sustainable Marine Aquaculture

*Retain:*

TOC supports the idea that all marine aquaculture must be sustainable, and that the environmental impacts from aquaculture must be minimized. The Commission has comprehensively listed the impacts of aquaculture to include disease, genetic contamination, competition between farmed and native stocks, effects on water quality and wetlands, harm to surrounding ecosystems, marine mammal entanglement, use of wild fish in feed, antibiotic and hormone contamination and introduction of non-native species.

TOC also supports the provisions in Recommendation 22-2 demanding that any marine aquaculture activities are ecologically and economically sustainable and that any regulatory program provide for collection of rent, recommend performance bonds, and call for the application of best management practices.

*Change:*
The report should clearly articulate that, on balance between economic and environmental objectives, environmental concerns must prevail. Otherwise, highly profitable aquaculture operations causing substantial environmental degradation would be permitted to go forward to the detriment of our ocean waters and the ecosystems dependent on clean, healthy oceans.

While TOC supports the adoption of the idea that all marine aquaculture must be sustainable, we have concerns that the report does not call for specific standards to be met before NOAA can issue any permits and leases. Further, while cataloging environmental issues, TOC is disappointed that Recommendation 22-3 leaves responsibility for addressing these environmental issues primarily with industry, when this responsibility must rest with government. TOC urges the Commission to make these necessary modifications in its final report.

*Add:*
The Commission's final report should discuss the need to assess potential cumulative impacts of marine aquaculture development on the environment and on fishing, address the basic need for zoning in the exclusive economic zone (EEZ) before opening any area to aquaculture, and call for a moratorium prior to any commencement of aquaculture in the EEZ.

Recommendation 22-2 must be more comprehensive relative to actions to be considered in setting a course for sustainable marine aquaculture, including inspections, record keeping, escapements, storm events, disease outbreaks, marine mammal entrapments and other foreseeable events. This recommendation should also be amended to include the following text regarding marine protected areas: "An important element of this program will be evaluation of potential aquaculture sites and zoning of coastal and offshore areas into those that are and are not appropriate for aquaculture. Zoning should provide for designation of conservation areas, and should prohibit or strictly regulate aquaculture in sensitive marine sites, including designated and candidate marine protected areas."

## Chapter 23: Connecting The Oceans And Human Health

*Retain:*
TOC supports the Commission's recognition that human health depends upon healthy ocean ecosystems. We also agree that preserving marine biodiversity is good for the health of ocean ecosystems and the potential to offer humans beneficial bioproducts. TOC further supports the need to control harmful algal blooms by reducing nutrient inputs to coastal waters as a way of preventing toxic algal blooms, "which can lead to paralytic, diarrhetic, neurotoxic, or amnesic shellfish poisoning."

While we support the report's recognition that land-based human activities cause pathogens in the ocean, the chapter's recommendations do not articulate necessary,

substantive changes to these human activities so as to redress directly the human health risks. The Commission's recommendations for expanding research and studies should definitely be retained, but as set forth below, more should be added.

*Change:*
The report should clearly articulate that the link between nutrient pollution and harmful algal blooms has been established by the National Academy of Science. With that, there needs to be emphasis on putting a stop to nutrient pollution and restoring the waters already damaged by growing dead zones. Recommendations about mitigation and research should be strengthened accordingly. Specifically, the Commission should recommend options for curtailing nutrient pollution, including limits on agricultural use of nutrient fertilizers, pre-treatment of sewage, better regulated septic systems and limits on the pollution that can flow into the coastal waters from concentrated animal feed operations.

Contaminated seafood is properly discussed as a serious problem, citing mercury and dioxins as common contaminants of seafood. The report, however, goes on to discuss imported seafood as a cause for many of these problems. In fact, mercury is a direct problem from U.S. coal-burning power plants that can and must be addressed. For example, the addition of scrubbers to local power plants in the Everglades resulted in a decrease of mercury in local bass. Similarly, dioxin contamination stems from incinerator use, manufacturing process and other human activities.

The contaminated seafood section should be changed to reflect more accurate facts about mercury contamination. Solutions and recommendations in the report should be changed to limit the amount of mercury emitted from power plants, as would occur under the Clean Air Act, if left unaltered by currently proposed EPA regulations. Dioxins should also be restricted and managed for water restoration.

*Add:*
The Commission's final report should make policy recommendations for addressing the impacts of climate change on human health. Further, the final report should fully discuss marine biotechnology to acknowledge controversies over public benefit and recommend that standards and practices must be developed to ensure bioprospecting and other activities are conducted in an ecologically sustainable fashion, and are not permitted to jeopardize sensitive habitats, species, or communities. Bioprospecting and related activities should be prohibited or tightly regulated in designated and candidate marine protected areas and other environmentally sensitive locations.

<u>Chapter 24: Managing Offshore Energy and Mineral Resources</u>
*Retain:*
TOC generally supports the Commission's broad call for a coordinated offshore management regime that is comprehensive, transparent, and that promotes a balance between economic and environmental considerations.

TOC supports Recommendation 24-5 for Congress to enact legislation providing for the comprehensive management of offshore renewable energy resources as part of a coordinated offshore management regime. This program must include provisions for identifying zones in which various types of projects are and are not appropriate, and for protecting marine protected areas and other sensitive locations from adverse effects of such projects.

*Change:*
The Commission should amend Recommendation 24-1 to acknowledge that offshore oil revenues create incentives for new drilling in potentially environmentally sensitive areas. While the Commission recommends establishing an "Ocean Trust Fund" to fund most of the report's recommendations, the details of how this conveyance of offshore oil revenues would be structured are not specified. Great care needs to be taken in the design of any such potential funding process to ensure that communities and states are not punished for maintaining their longstanding offshore drilling moratorium protections. States and localities must not be rewarded for accepting more offshore drilling and drilling closer to shore. Further, the ultimate uses of the distributed money must be subject to strong environmental standards to preclude further harm to the coastal environment from the construction of expanded industrial infrastructure and shoreline offshore drilling support facilities that would otherwise inevitably result from inappropriate application of such funds.

*Add:*
TOC calls for the Commission to recommend bipartisan congressional renewal of the offshore oil and gas leasing moratoria and the prompt legislative reinstatement of the recently discontinued Congressional moratorium on new leasing in Alaska's fishery-rich Bristol Bay. The Commission should also recommend continuation of the present Presidential Outer Continental Shelf leasing deferrals that were enacted by executive action.

The Commission's final report should support the recommendations contained in the Department of Energy's 2003 report of the Methane Hydrates Advisory Committee. These recommendations state that full environmental studies should be conducted to evaluate potential impacts of methane hydrate commercialization on the seabed, on marine ecosystems, and on the atmosphere and climate prior to leasing of seafloor lands for hydrate exploration and extraction.

## Part VII -- Science-Based Decisions: Advancing Our Understanding Of The Oceans

Chapter 25: Creating a National Strategy for Increasing Scientific Knowledge
*Retain:*
TOC recognizes and agrees with the need for better ocean science and ocean information and supports Recommendation 25-1 to double the funding for these efforts. TOC strongly supports Recommendation 25-2 to increase the development of regular, long-term observations and predictions of ocean characteristics and health. This effort is long

overdue and will only help the U.S. improve protection of our ocean and its resources. We also support expanding socioeconomic research and improving data management and integration, called for in Recommendation 25-3.

*Change:*
Although we support Recommendation 25-1 to double the U.S. ocean and coastal research budget, the Commission should explicitly state that this increase should not come at the expense of other high priority conservation and management needs, such as funding our national marine sanctuaries. Further, the Commission should call for much better use of existing information to improve management immediately.

*Add:*
The Commission's report should explicitly state that scientific work should be insulated from political and economic pressures. This is highlighted elsewhere in the report with respect to fishery management, but should be highlighted in Part VII for all ocean research, especially where it involves commercial uses of the ocean, such as for energy.

## Part VIII – The Global Ocean: U.S. Participation In International Policy

Chapter 29: Advancing International Ocean Science and Policy
*Retain:*
TOC strongly supports the Commission's Recommendation 29-1 that the U.S. swiftly ratify the 1982 U.N. Convention on the Law of the Sea. Ratification is vital for the U.S. to regain and retain global credibility and enhance the chances of further progress in international ocean policy. TOC also strongly supports Recommendation 29-2 that the National Ocean Council coordinate an expedited review of the U.N. Treaty on Biological Diversity to determine if ratification is in the nation's best interest.

TOC supports Recommendation 29-4 that a multilateral approach is needed to address pressing international issues such as marine protected areas, protection of seamounts, and polar regions. This recommendation could be strengthened by including migratory fish and wildlife, with priority attention going to depleted, slow-growing and/or under-protected species, such as sea turtles and many species of sharks.

TOC strongly agrees the U.S. should fully participate in international bodies and meet its treaty obligations. The Commission should explicitly recommend that the U.S. fulfill its financial commitments in international forums and develop a plan of action for meeting them in the future.

TOC supports the Commission's assertion that the U.S. can have a strong influence globally by "enacting and enforcing exemplary policies here at home." For example, the U.S is making great strides in the conservation of domestic sharks, but improved monitoring, enforcement of existing measures, and prevention of overfishing is needed for the U.S. to retain and maximize the benefits of being a global leader in international shark conservation.

TOC supports Recommendations 29-5, with minor modifications, to improve integration of science with policy development and implementation, and 29-6 calling for strong U.S. leadership in international ocean science. The U.S. has worked collaboratively with many other countries to achieve important progress in this area in the last decade; we are hopeful that this work continues with an even stronger government commitment.

TOC supports Recommendation 29-8 to improve efforts to export our technical expertise and increase funding for enhancing science and management capacity in other nations. The U.S. has made significant progress toward this end and numerous migratory marine species could benefit from innovative programs.

*Change:*
Recommendation 29-5 should reflect the fact that the National Marine Fisheries Service and the Fish and Wildlife Service, in addition to the Department of State, play critical roles in international ocean conservation. The Commission should recommend that these agencies, all of which bring special expertise to international negotiations, improve their communication and collaboration to maximize U.S. effectiveness on the world stage.

Add:
TOC encourages the Commission to recommend that the National Ocean Council coordinate an expedited review of the U.N. Convention on Migratory Species (CMS) and seriously consider whether ratification is in the nation's best interest. TOC notes that the U.S. currently participates in a CMS marine turtle conservation agreement in the Indian Ocean as a non-party member and that U.S. accession and full participation in CMS has great potential to benefit a wide range of vulnerable migratory species.

TOC urges the Commission to recommend the ratification or implementation of the following important international instruments: the World Summit for Sustainable Development's Johannesburg Plan of Implementation, the Straddling Fish Stocks Agreement, the Convention on Biological Diversity, Annex IV to the International Convention for the Prevention of Pollution From Ships, the Kyoto Protocol, the Stockholm Convention on Persistent Organic Pollutants, and the Basel Convention on the Transboundary Movement of Hazardous Wastes and Their Disposal.

The Commission's final report should also include a brief discussion of numerous treaties and agreements, currently missing from the report, signed and ratified by the U.S. or that are relative to U.S. interests. These include the Inter American Tropical Tuna Commission; the Convention for the International Council for the Exploration of the Sea; the Specially Protected Areas and Wildlife Protocol of the Cartagena Convention; the Inter American Convention for the Protection and Conservation of Sea Turtles; A Memorandum of Understanding on the Conservation and Management of Marine Turtles and their Habitats of the Indian Ocean and South East Asia; the Convention for a North Pacific Marine Science Organization; and the South Pacific Regional Environment Program.

TOC urges the Commission to explicitly recommend that the U.S. assert greater leadership and use its unique position to advance greater protections in all international agreements of which the U.S. is a member. Lastly, the Commission should stress the importance of applying the precautionary approach in international marine resource management and encourage the U.S. to continue to press the international community for stronger ecosystem management measures and to reduce illegal, unreported and unregulated fishing around the world.

## Part IX – Moving Ahead: Implementing A New National Ocean Policy

Chapter 30: Funding Needs and Possible Sources

*Retain:*

TOC strongly supports the Commission's call for sufficient funding to support implementation of the Commissions recommendations. TOC strongly supports a permanent, dedicated funding mechanism, but has concerns about Recommendation 30-1 to establish an Ocean Policy Trust Fund (Trust Fund).

*Change:*

As currently designed, the Trust Fund could potentially invite environmental harm by providing incentives for new offshore drilling in Alaska and elsewhere. Further, without adequate safeguards, coastal states could use the federal funds for environmentally damaging activities.

TOC urges the Commission to include standards to ensure that Trust Fund dollars distributed to the federal, state and local levels are spent consistently with the national ocean policy to protect, maintain, and restore marine and coastal ecosystems. Trust Fund dollars should not, for example, be allowed to support outer continental shelf related infrastructure, including roads and port development that could interfere with natural coastal processes or damage the marine environment. If Trust Fund dollars are distributed to states or local governments based on offshore oil and gas leasing, the allocation formula must be based on leasing at the date of enactment. Even small amounts of revenue tied to new offshore oil and gas leasing have the potential to create pressure to open up sensitive areas to development in order to maintain the revenue stream.

In addition to oil and gas development, several other forms of industrial activities may begin to take place in the U.S. Exclusive Economic Zone, including the construction of alternative energy operations, desalinization facilities, bioprospecting infrastructure and open-ocean aquaculture. TOC urges the Commission to ensure that the structure of the Trust Fund and its revenue stream in no way creates incentives for these industrial activities.

## *Conclusion*

The Ocean Conservancy again thanks the U.S Commission on Ocean Policy for the opportunity to provide detailed comments on the it's preliminary report. We look forward to continuing our dialogue during the rest of the Commission's deliberations.

***Comment Submitted by Gerald Leape, Vice President, Marine Conservation National Environmental Trust***

June 4, 2004

These comments are submitted on behalf of the National Environmental Trust**. We are a national environmental group that is based in Washington D.C. but has organizers in 22 states across the country. We also have organizers in Chile, S. Korea, Spain and South Africa. NET has an active marine conservation program that has campaigns to protect and conserve marine mammals, gain greater protections for Chilean Sea Bass and gaining greater grassroots support for fisheries management reform. In addition, we work on marine aquaculture. Our comments will focus on three key chapters in the report. The sustainable fisheries chapter, the marine mammals chapter and the aquaculture chapter.**

**We join the rest of the environmental community in commending the U.S. Commission on Ocean Policy (USCOP) for its exhaustive effort in concluding this draft report and are encouraged with the similarity, to the Pew Oceans Commission Report, in the scientific conclusion that the Oceans are in trouble and reform in management of our oceans activities is urgently needed. The raising of the public profile along with your findings are critical to beginning the discussion among policy makers which is a critical first step toward achieving change.**

**However, while we agree with your findings, we believe that your recommendations need to be significantly strengthened to restore the health of our oceans for generations to come.**

**Overall, we are pleased with your overarching theme that ocean management must be based on an ecosystem-wide approach. However, despite your intent, it is not clear that this approach is to be used throughout the report. For clarity, it would be helpful to reiterate this overall premise within each chapter and/or section.**

**We are concerned, as well, about your use of the 'precautionary approach'. This approach, versus the precautionary principle, sets a dangerously high threshold for when to exercise precaution. Due to the precarious state of our oceans, especially our fisheries, we suggest that it be made clear that management decisions should always err on the side of caution, versus exploitation. Once "serious or irreversible damage" has occurred, it is too late for precaution. We urge the Commission to adopt a stricter precautionary approach in all management decisions and plans, in order to prevent the potential for further having to act in a defensive crisis mode. For fisheries, the U.S. has already agreed to utilize the precautionary approach through its ratification of the UN Convention on Highly Migratory Species and Straddling Fish Stocks and the recommendations here should, at a minimum, be consistent with that already established standard.**

**The most basic and fundamental goal of all ocean management systems, including the national ocean policy, should be the protection and restoration of our marine ecosystems. To this end, we strongly urge the Commission to explicitly support the bipartisan congressional offshore oil and gas leasing moratorium that currently protects most of our fragile coastal waters. If you are interested in gaining the support of the coastal governors for your recommended changes, this action would be warmly received by all but a very few. The continuation of this moratorium on offshore drilling activities should be an integral part of any plan to restore our oceans' health. While we recognize that this is, indeed, an issue for Congress, your draft report does include other specific legislative recommendations and we ask that you expand that list to include the continuation of the offshore moratorium. Given the Commission's call for the Ocean Policy Trust Fund and the proposed use of offshore revenues to support this fund, this explicit stated support for the moratorium is particularly crucial.**

Beyond the overall concerns mentioned above, our fisheries comments will focus on part VI, "Ocean Value and Vitality: Enhancing the Use and Protection of Ocean Resources", specifically on the marine wildlife, fisheries and management recommendations. An overarching concern with your recommendations is the lack of hard targets and timetables to achieve the necessary changes for the protection and restoration of our marine resources, both living and nonliving. We would urge you to look at addressing this in your final report.

Current fishery management law is based on a 30 year-old hypothesis from the last ocean commission that predicted oceanfish catches could increase from the level, at that time, of 60 million metric tons to 440 million metric tons. As your report points out, that hypothesis was incorrect and, in fact, 80-100 million metric tons of fish appears to have been the peak. Since that time, our fisheries management policies have exploited our ocean resources (in this case, fish) to the maximum extent possible. That policy has been at the cost of healthy fish stocks and vibrant ocean ecosystems.

Most importantly, our nation must shift focus from the view that our ocean fish are just a commodity to be exploited to the maximum extent possible, to that of a view of conservation of a national treasure first and commodity second. We must establish the conservation of ocean ecosystems as the primary responsibility of fisheries management. If we continue to manage our ocean wildlife as only a commodity, we will continue to degrade our oceans and witness further and continuing collapses of fish populations and other ocean wildlife.

**Recommendation 19–1. Congress should amend the Magnuson–Stevens Fishery Conservation and Management Act and related statutes to require Regional Fishery Management Councils (RFMCs) and interstate fisheries commissions to rely on their Scientific and Statistical Committees (SSCs), incorporating SSC findings and**

**advice into the decision-making process. In keeping with this stronger role, SSC members should meet more stringent scientific and conflict of interest requirements, and receive compensation.**

We suggest that the following text be added to this recommendation:
To ensure a strengthened SSC, each RFMC should nominate candidates for service on its SSC. Nominees will typically be scientists with strong technical credentials and experience, selected from federal or state governments or academia. A provision should be made for self-nomination by qualified scientists and nomination by interested parties that are not members of the RFMC. Private-sector scientists who are technically qualified may also be nominated if they meet the conflict of interest internal requirements.

**Conflict of Interest:**

Your report correctly identifies that our ocean fish populations are in serious decline, in large part due to systemic overfishing that continues to take place due to management decisions that do not follow scientific advice. The report also identifies that there is sufficient scientific evidence (some of the best fishery science in the world) to make informed management decisions, yet overfishing is allowed to continue. For example, 36% of known commercial fish stocks are overfished and approximately 20% of fisheries are both overfished and overfishing continues. Conflicts of interest have exasperated the problems with our current management system. A recent report, authored by the director of the Stanford Fisheries Policy Project, found that more than 60% of all appointed council members had a direct financial interest in the fisheries they manage.

Conflicts of interest within the council systems need to be more fully addressed in both the RFMCs and the SSCs. To enhance the credibility of future science and allocation decisions, members of both the RFMCs and SSCs must be held to the most rigorous conflict of interest standards followed by government and all other regulatory bodies.

**Recommendation 19-3. Each Regional Fishery Management Council should be required to set catch limits at or below the allowable biological catch determined by its Scientific and Statistical Committee. The Fishery Management Fishery Management Councils should begin immediately to follow this practice, which need to be codified at the next opportunity in amendments to the Magnuson–Stevens Fishery Conservation and Management Act.**

If the precautionary approach is to apply throughout the entirety of the report, it would mandate that catch quotas be set below the recommended allowable biological catch to allow for potential scientific error. Therefore, this recommendation should be amended to read “set catch limits below”, not “at or below”, the limits set by the SSCs.

**Rebuild Overfished Fish Populations:**

U.S. marine fish populations are at historic lows. Our nation has so grossly mismanaged fisheries in the past that we have lost once important commercial fish stocks such as Atlantic Salmon and Atlantic Halibut forever. Atlantic Salmon and Halibut populations will not return to healthy levels in the foreseeable future and are now considered endangered or threatened species. There are many other fish populations that are facing the same course, yet the current management system not only continues to allow overfishing, but also continues to develop management plans that permit this to occur.

**Our RFMCs and SSCs must rebuild all overfished populations by developing management plans that are based off catch limits determined by the SSCs. These plans should rebuild fish populations within no more than ten years. Specifically, the SSCs should develop catch limits with the target of rebuilding overfished fish populations to healthy levels within ten years or less. The RFMCs should then follow the prescribed catch limits in developing management plans. The RFMCs should follow the precautionary approach by developing the fish management plans implementing below the SSCs' determined catch limits. If the RFMC wants to develop a management plan to hasten the pace of fish population recovery, they should have the ability to develop management plans that are below the SSC catch limits, but not above.**

**Recommendation 19–5. Each Regional Fishery Management Council should set a deadline for its Scientific and Statistical Committee (SSC) to determine allowable biological catch. If the SSC does not meet that deadline, the National Marine Fisheries Service Regional Science Director should set the allowable biological catch for that fishery.**

This recommendation should be amended to read " … set an annual deadline for its Scientific and Statistical Committee (SSC) to determine allowable biological catch for each fishery under its jurisdiction. This deadline must take into account the time required, prior to the start of the fishing season, for the Council to approve and submit a plan to NMFS and for NMFS to review and approve the plan. If the SSC does not meet that deadline…"

**While the suggested additions above might be implied, it has been our experience that if such recommendations are not explicitly stated, they will not happen.**

**Recommendation 19–12. Congress should amend the Magnuson–Stevens Fishery Conservation and Management Act to require governors to submit a broad slate of candidates for each vacancy of an appointed Regional Fishery Management Council seat. The slate should include at least two representatives each from the commercial fishing industry, the recreational fishing sector, and the general public.**

**Diverse Management for All Interests:**

Our current RFMCs are dominated by individuals that have direct interest in the short-term commercial value of catching fish and ocean wildlife. For example, there is only one council member, out of 144 members nationwide, that represents a conservation group. The selection of both council members and SSC members must be transparent, diverse, fair, and balanced. In particular, the RFMCs need to be reformulated with the aforementioned criteria and should represent all interests. Without balanced representation, management decisions will continue to reflect the short-term commercial interests of fisheries and not the long-term health of ocean ecosystems. While council members should continue to be selected by the Secretary of Commerce, there should be a requirement to balance representation on each council by both the commercial and sports fishing industries, conservationists, and the public. The lists of candidates that the Governors must submit should also reflect the above balance of interests. While we agree with the USCOP recommendation that the SCC members should be appointed by the Secretary and not by the RFMCs, it must be made clear that the public, in addition to the RFMCS, can nominate scientists to these panels, as well.

**Recommendation 19–21. The National Marine Fisheries Service (NMFS) should change the designation of essential fish habitat from a species-by-species to a multi species approach and, ultimately, to an ecosystem-based approach. The approach should draw upon existing efforts to identify important habitats and locate optimum-sized areas to protect vulnerable life-history stages of commercially important species. NMFS should work with other management entities to protect essential fish habitat when such areas fall outside their jurisdiction.**

**Protect Habitat:**

We are cutting down the rain forest of the ocean and limiting the ocean's ability to repair itself and restore fish populations. Every year, fishing gear such as bottom trawls and dredges scrape the ocean floor, ruining essential fish habitat and micro-ecosystems. The ocean floor is made up of many essential habitats from coral gardens to kelp and oyster beds. These ocean wildlife habitats can be destroyed by just one pass of destructive fishing gear. In certain areas such as New England's Georges Bank, where fish populations have been severely declined, bottom trawlers and dredges drag every square inch of the ocean floor up to four times each year, having devastating impacts on the habitat. Fishing gear needs to be improved to limit the impact and human fingerprint left on the ocean floor. Where there is scientific information that indicates that ocean dragging fishing practices would not harm a significant portion of habitat, special zones can be created where this practice can continue, any other areas bottom dragging fishing should not continue.

**Recommendation 19–22. The National Marine Fisheries Service (NMFS) and Regional Fishery Management Councils should develop regional bycatch reduction plans that address broad ecosystem impacts of bycatch. Implementation of these plans will require NMFS to expand current efforts to collect data on bycatch, not only of commercially important species, but on all species captured by commercial**

**and recreational fishermen. The selective use of observers should remain an important component of these efforts.**

The recommendation should be amended to read "develop and implement regional bycatch reduction plans" to clarify that the mandate of NMFS and the RFMCs is to not only develop bycatch reduction plans, but to implement them as well. The word "selective" in the last sentence of the recommendation should be stricken for a greater clarity of recognition by the RFMCs that observers are an important part of implementing bycatch reduction plans. Furthermore, because this last sentence says "should", and not "shall", it would not require all plans to include observers.

**Bycatch and Promotion of Ecologically Sustainable Fishing Practices:**

Bycatch monitoring should be approved before fishing is allowed. Development of these plans would require increased observer coverage in most fisheries to gather data in order to establish baselines for any fishery where that data is not currently available. In addition, NOAA must lead a national effort to develop new fishing gear that reduces bycatch.

## *Marine Mammals (Chapter 20)*

## *We appreciate the following recommendations included in this chapter;*

- ***increase funding for research to assess and mitigate the impact of human activities on marine mammals and endangered marine species (recommendation 20-7):***

- A significant significant increase in funding for research on ocean acoustics and the impact of human-generated sound on marine mammals and endangered species. (Recommendation 20-8, p. 257)

- Consolidation of authority for implementing the Marine Mammal Protection Act under NOAA and improving coordination between NOAA and FWS regarding implementation of the Endangered Species Act. (Recommendation 20-2 & 3, p. 254)

- Clarifying the permit process, and that NMFS and FWS implement programmatic permitting for activities that affect marine mammals, and notes the need to create

an interagency team to recommend activities appropriate for programmatic review. (Recommendation 20-6, p. 256)

**However, we strongly oppose the following recommendation in the report:**

- Amend the MMPA with a significantly weaker definition of "harassment" by raising the threshold of disturbance to "cover only activities that meaningfully disrupt behaviors that are significant to the survival and reproduction of marine mammals". This is a dramatic alteration that, as the U.S. Marine Mammal Commission has testified, "effectively reverses the precautionary burden of proof that has been the hallmark of the MMPA since 1972."

**We would recommend the following provisions be inserted to strengthen the commission's recommendations**:

- In the recommendation that urges streamlining of the permitting process, place language in there to ensure that the species themselves are protected under the new process. With out that assurance, whole categories of activities could be exempted that would allow projects that harm marine mammals to slip through the process.

- Include a recommendation that encourages state and local governments to act with the federal government to strengthen efforts to address regional marine mammal issues; orcas in Puget Sound, manatees in Florida, Steller sea lions in Alaska, mass strandings or other disease related threats.

- Follow up on your noting that bycatch is the most serious threat to marne mammals today by recommending greater action regionally, nationally and internationally. This could include on the national level greater cooperation and integration between fisheries and marine mammal conservation and management plans. There also could be a recommendation for greater improvement in bycatch monitoring and collection of data.

- While we support consolidation of authority for marine mammals under NOAA, the recommendation needs to also details that research dollars and FTEs for marine mammal issues in these agencies will be transferred as well.
- The report should also contain a recommendation(s) regarding non-mammal endangered species concerns. A comprehensive report on endangered marine species should address the precarious state of populations of endangered sea turtles, sea birds, and other marine species.

- The report recognizes that MMPA enforcement over the past decade has been sorely lacking. Now it needs to make specific recommendations – such as adding a citizen-suit provision – that would strengthen enforcement of the Act.

- The report should recommend a more conservative definition of "harassment" and clearly define the terms in the existing definition.

- The report should recommend a comprehensive review of the permitting process, consider the use of programmatic Environmental Impact Statements to streamline the NEPA process, and assess which activities may be eligible and appropriate for programmatic review.

- The report should recommend increased funding to undertake health assessments of marine mammal populations in conjunction with stock assessments and research into predator/prey relationships.

## Marine Aquaculture; Chapter 22

With the open ocean aquaculture business on the verge of expanding significantly, it is critical that the U.S. establish a strong conservation oriented management regime to oversee any development in this area.

We support your first recommendation designating NOAA as the lead agency. This industry needs to have oversight and an important first step is to resolve the question of which federal agency has jurisdiction.

As was true with federal fisheries management for the first two decades, the focus was on economic development first and conservation a distant second. In order for the U.S. to be a leader in the aquaculture field, critical environmental standards must be developed first so that in growing our marine aquaculture industry we aren't ruining our ocean ecosystems.

**Recommendation 22-2,** the environmental problems of escapes, chemical and pesticide use, waste disposal and reliance on a high degree of wild fish (at least 3.5:1) should be spelled out in the language following the recommendation as problems that need to be specifically addressed in any national standards.

These standards must be agreed before additional expansion of the industry is allowed.

**Recommendation 22-3:** a provision should be included that explicitly states that research dollars will go towards developing technology that reduces environmental impacts to the marine environment.

**Recommendation 22-4**: We support extolling the U.S. to take this leadership role internationally.

Thank you for considering our comments and please don't hesitate to email me or write me with any questions or concerns.

***Comment Submitted by Doug Hobbs Coordinator, Sport Fishing & Boating Partnership Council, U.S. Fish and Wildlife Service***

June 4, 2004

As Chairman of the Sport Fishing and Boating Partnership Council (Council), I am pleased to offer the enclosed comments for consideration by the Commission. The Council is an advisory body established in 1993 under the Federal Advisory Committee Act that represents the interests of the public and private sectors of the recreational boating and sport fishing communities. It offers advice to the Secretary of the Interior on matters related to boating, fishing, and aquatic resource conservation. We appreciate this opportunity to submit our views on the Commission's Preliminary Report.

We commend you and the Commission on the work that you have done. You had an enormous task and you delivered a report, both in size and scope, that reflects the multitude of problems that society must address if we are to conserve and restore the oceans that we share and revere. While the process of preparing the report was transparent and open to the public, we feel that public comment on your preliminary draft is an important facet of the process which will lend credibility to your recommendations in the eyes of the public and Members of Congress. The Council believes, as do many others interested parties, that a lengthier comment period of perhaps 60 to 90 days was warranted. However, this should not serve as an excuse for inaction on the part of policy makers in moving forward to thoughtfully consider the important work of the Commission.

The Sport Fishing and Boating Partnership Council (Council) commends the work of the U.S. Commission on Ocean Policy and we are pleased to submit the following comments on the Commission's Preliminary Report (Governors' Draft).

The Council represents the interests of the public and private sectors of the sport fishing and boating communities. The purpose of the Council is to provide advice to the Secretary of the Interior through the Director of the Fish and Wildlife Service about recreational fishing and boating issues and to enhance partnerships among industry, constituency groups, and Government. The Council is broadly representative and is comprised of members of State fishery management agencies, freshwater and marine fishing organizations, boating organizations, tourism, and the recreational fishing and boating industry. Council members and their affiliations are listed below.

**Bill Anderson**, President, Westrec Marina Management, Inc.
**Jim Anderson**, Executive Director, Northwest Indian Fisheries Commission

**Doug Boyd**, Board Member, Coastal Conservation Association
**Monita Fontaine**, Vice President for Government Relations, National Marine Manufacturers Association
**Sheri Griffith**, Director, America Outdoors
**Kenneth Haddad**, Executive Director, Florida Fish and Wildlife Conservation Commission
**Doug Hansen**, Director, Division of Wildlife, South Dakota Department of Game, Fish and Parks
**Mike Hough**, Past President, States Organization for Boating Access
**Dean Kessel**, Vice President & General Manager, BASS/ESPN
**Ryck Lydecker**, Assistant Vice President for Government Affairs, BoatU.S.
**John L. Morris**, Founder, Bass Pro Shops
**Jim Range**, National Honorary President, Izaak Walton League of America
**William W. Taylor**, Professor & Chair, Department of Fisheries and Wildlife, Michigan State University
**Carl Wilgus**, Administrator, Division of Tourism, Idaho Department of Commerce

The Council agrees fully with the Commission's call to manage the nation's oceans to ensure long-term sustainability so that all Americans may benefit from healthy marine and coastal resources, now and into the future. We appreciate the fact that the Commission considers people to be an integral part of our ocean ecosystems. In that regard, we would point out that sport anglers and recreational boaters represent one of the nation's largest constituencies for marine and coastal resources, if not the largest discrete constituency to be found among the general public. For that reason, we wish to emphasize from the outset that federal policy must acknowledge that the restoration, enhancement and management of these resources should be predicated on management philosophies that permit, even encourage where appropriate, access to public lands and waters for recreation, consistent with sound conservation principles and practices.

More than just a hugely popular recreational activity, sport fishing and boating are powerful economic forces, unparalleled contributors to conservation, and constitute a vital part of the American culture. Each year, more than 17 million Americans fish for recreation along our oceans and coasts. This activity generates more than $31 billion in benefits to our national, state and local economies and supports nearly 300,000 jobs. Further, there are an estimated 69 million participants in recreational boating with 17.3 million boats in use resulting in $29.2 billion in annual retail expenditures (2002 figures).

Through the innovative Sport Fish Restoration Act, taxes imposed on fishing tackle, equipment and boat fuel, when combined with license revenues for fishing and boating, result in nearly $1 billion being returned to states each year for conservation and to enhance boating and fishing opportunities. America's anglers and boaters return far more to the resource than they take out and are organized and motivated to continue to play a leadership role in the restoration, enhancement and conservation of our fish and aquatic resources.

Sport fishing and recreational boating rely on healthy fish, clean water, quality fish habitat and adequate facilities and access to the nation's aquatic environments. By conserving ocean resources, we safeguard the sport fishing and recreational boating traditions upon which our coastal communities thrive and derive their identity. These activities which bring us in touch with the bounty of our fish and aquatic resources, in turn, reinforce the role humans play in ecosystem sustainability through instilling leadership potential and self-confidence in all people, knit families together across the generations and create in all ages an ethic and practice of stewardship toward our coastal and marine resources.

**Comments on Recommended Critical Actions**

In general, the Council is supportive of efforts to create a National Ocean Council in the Executive Office of the President as well as regional ocean councils. However, we are concerned that the creation of the National Ocean Council and its accompanying infrastructure, the creation of Regional Ocean Councils, and the policy making responsibilities of these various bodies appears to be centralized federally.
This appears to turn against the extremely effective policy approach that engages partners at regional, state, and local levels to address the urgent problems identified in the Commission's preliminary report. We urge the Commission to adopt a structure and process of policy making that utilizes a bottom-up approach. In that way, federal policy makers could build upon, private-public efforts at the state, region, and tribal level,

efforts already underway which uniquely and effectively engage the knowledge base of those "ocean constituents" most closely involved in day-to-day management and policy decisions related to our ocean resources. An Ocean Policy Council in the White House provides a focal point in the Executive Branch to ensure balanced, equitable treatment for sport fishing and boating in federal policy decisions. Consistent with that philosophy, we believe that sport fishing and boating interests must be represented on any and all regional ocean councils. Furthermore, the organization of such councils should recognize the diverse nature of aquatic users and stewards ensuring representation from all sectors (i.e. fishing, boating, diving, camping, RVs, paddlesports, etc.) on these councils. In similar fashion, a non-federal Presidential Council of Advisors on Ocean Policy as recommended by the Commission must include representation from State natural resource agencies and tribal nations, and the sport fishing and boating interests.

The Council believes that any effort to strengthen NOAA and "improve the federal agency structure" should be approached with caution. While NOAA provides key services to anglers and boaters, and to the state agencies that serve them, including charting, marine weather, fisheries management and research, other federal agencies (i.e., U.S. Fish and Wildlife Service, U.S. Geological Survey, U.S. Forest Service, U.S. Army Corps of Engineers, U.S. Coast Guard) have program responsibilities of key significant interest to this constituency as well. On the surface, consolidation of agency responsibility around ocean management would appear logical. However, it is a fact that many conservation and related fish and wildlife management missions cut across bioregions and scientific disciplines. In addition these mandates span many local, regional and national legislated authorities as well as contractual partnerships with a wide variety of NGOs. As such, we do not support the creation of a "super agency" as we believe that such consolidation of agency responsibilities could undermine the very "ecosystem management" and "watershed planning" goals the Commission espouses, creating dysfunction in the coordination of activities at all levels of governance and destroying effective and efficient partnerships that ensure proper attention to our magnificent ocean resources are being attended to by the myriad of organizations involved. We believe that the synergies of multiple agencies working together to

manage our ocean and coastal resources sustainably results in better management than a super agency could provide by itself.

The Commission correctly acknowledges that upstream activities throughout the extensive watershed systems in our country can and do have an effect on our coastal and offshore waters. NOAA and other federal agencies, including the Departments of Interior and Agriculture, currently manage programs designed to enhance the quality and integrity of all U.S. fresh and saltwaters and the habitats associated with these systems. The Council is encouraged by the Commission's attention to ecosystem management and we are supportive of efforts to advance the application of those concepts in ameliorating the marine resource management challenges that confront us. Further, the Council supports recommendations to continue developing linkages between and among these various federal programs that are aimed at conserving, restoring and enhancing aquatic resources from headwaters to the oceans. For example, an effort is currently underway involving the Council, the International Association of Fish and Wildlife Agencies, the Fish and Wildlife Service, and other partner organizations to craft a National Fish Habitat Initiative that will aid locally driven efforts already under way to restore and conserve fish and aquatic habitats throughout entire watersheds and estuarine systems. This effort is built on the assumption that effective conservation must recognize the linkages of between fresh and saltwater aquatic systems as the Commission has correctly stated and their relationship to land use within watersheds and river basins.

Effective water pollution abatement continues to be the single most pervasive threat to ocean and coastal ecosystems 32 years after passage of the Clean Water Act. While some progress has been made in controlling discrete sources of pollution, non-point source controls continue to elude us. Anglers and recreational boaters are increasingly frustrated by the lack of progress on this front, even as "dead zones" are increasing in coastal waters. Thus, the Council supports all efforts to focus increased funding and technical assistance through programs such as the Clean Water Act Section 319 program, the U.S. Fish and Wildlife Service's Partners for Fish and Wildlife Program, and programs funded through the Farm Bill in the Department of Agriculture to meet measurable reduction

goals for non-point source pollution. Water pollution from commercial aquaculture is increasingly becoming a concern. We acknowledge the positive benefit of fish production for food, recreation and restoration programs to the local community and society at large and support is existence and enhancement. However, the Council also acknowledges and endorses efforts by all federal agencies with oversight authority to insure that fish production proceeds in the most sustainable, environmentally and economically sound manner possible. Finally, the Council supports the creation and funding of a National Water Quality Monitoring Network (**Recommendation 15-1**).

The Council supports reform of current fisheries management regimes as critical to the health and long-term sustainability of our fisheries and their ecosystems. We would urge that such efforts be based on the best available data and credible science (**Recommendation 19-8**). The U.S. Fish and Wildlife Service's *National Survey of Fishing, Hunting, and Wildlife-Associated Recreation* is a valuable source of longitudinal data that includes information on recreational freshwater and saltwater fishing that aid local and national policymakers as they face decisions regarding the management of fishery and aquatic resources. The Council suggests that the Ocean Commission support the Survey and recommend its continued funding and availability. We also advocate broadening the representation on various policy-setting management bodies (i.e. the federal regional fishery management councils) to include representatives of the entire supply chain of the sport fishing and boating communities. Further, we concur with the Commission's recommendation to provide training on relevant scientific, economic, social, and legal information for new representatives on federal fishery management councils.

Regarding funding for any of the initiatives outlined in the Commission report, we recognize that its implementation will prove costly. Establishing an Ocean Policy Trust Fund such as the Commission proposes using offshore oil and gas revenues links resource utilization and conservation together in a manner that the fishing and boating public can understand and value. However, the Council is not persuaded that this particular funding approach is politically viable at this time. Further while we support

efforts to develop dedicated funding to implement Commission recommendations we strongly oppose any diversion of the current funding streams dedicated to the Aquatic Resources Trust Fund to these or any other aims not related to the mandates of the Aquatic Resources Trust Fund. The Aquatic Resources Trust Fund as it exists today is a highly successful user-pay, user-benefit program partnership program that must remain intact to benefit the nation's fisheries resources and aquatic environments.

**Specific Comments**

**Recommendation 6-3 Marine Protected Areas:** Public access to ocean and coastal waters is critical to fishing and boating and efforts to develop guidelines for Marine Protected Areas as proposed by the Commission must reflect that reality, i.e., MPAs must be designed to take human uses and fish stock sustainability into consideration. The Council recommends that guidance for the consideration of any new MPAs should include a process for through public input and each must have clear management goals based on the best available science.

**Recommendation 9-2 U.S. Fish and Wildlife Service Coastal Program:** The Council is adamantly opposed to moving the U.S. Fish and Wildlife Service's Coastal Program to NOAA. This recommendation which, seeks to consolidate all "area-based coastal management programs" within a single federal agency, has erroneously identified the Service's Coastal Program as "area-based" and therefore should not be transferred to NOAA but should remain within the Service. The Service's Coastal Program does not acquire lands or hold interest in lands, but is primarily a restoration program that provides technical assistance to communities and landowners to identify and restore important habitats, a key tenet of the USFWS in their partnership role with the states, Tribal nations, industries and publics. Also, because the Coastal Program places high priority on projects that support the Service's responsibilities for the North American Waterfowl Management Plan, U.S. Shorebird Conservation Plan, Partners in

Flight Plan, and threatened and endangered species recovery, among others, it plays a unique role in fulfilling the Service's mission.

**Recommendation 16-8 Clean Vessel Act grant program:** The Council is opposed to the Commission recommendation to transfer the Clean Vessel Act (CVA) grant program to the Environmental Protection Agency. CVA is one of several programs funded directly by anglers and boaters (through the Sport Fish Restoration Act) and administered by the U.S. Fish and Wildlife Service. The Service is highly responsive to the needs of the recreational boating and fishing communities and the state agencies that serve them. Furthermore, the agency has a long and impressive track record in managing a very successful conservation partnerships program that could not be duplicated by EPA (or any other agency) without a severe loss in program continuity and effectiveness, if at all.

The Council agrees that incentives should be created to encourage the installation of improved Marine Sanitation Devices in recreational vessels but would expand that mandate to all small craft in coastal waters (i.e., commercial vessels as well). Furthermore, the Council agrees that Verification of pumpout facilities must be done before any new No Discharge Zones are approved. We would add, however, that such facilities must be functioning at all times, must be located on waters with adequate draft to be accessible to most boats using those waters, and must be located in areas frequented by recreational boaters.

**Chapter 17 Invasive Species:** The Council is highly supportive of efforts to stem the spread of invasive species, however we believe that there is an existing infrastructure for these efforts underway (i.e., Aquatic Nuisance Species Task Force & National Invasive Species Council) that would be capable and highly effective in coordinating interagency actions to abate the threat of invasive species. The effectiveness of these efforts, which have had substantial input and buy-in from the recreational boating and fishing communities, is limited by a lack of adequate funding. Therefore, we suggest that the Commission support adequate funding of existing efforts and not the creation of new or

redundant mechanisms. The Council supports the Commission's call for a more effective U.S. Coast Guard national ballast water management program (**Recommendation 17-1**). Regarding other pathways for invasives, we would draw the Commission's attention to the work of the Recreational Activities Committee of the Aquatic Nuisance Species Task Force, concluded two years ago. Those efforts are now incorporated into the "Stop Aquatic Hitchhikers" education and outreach campaign now conducted by the U.S. Fish and Wildlife Service and should not be overlooked.

**Chapter 18 Reducing Marine Debris:** The Council is encouraged by the Commission's attention to marine debris, particularly to lost or abandoned commercial fishing gear. We concur with **Recommendation 18-2** to re-establish an interagency marine debris committee to address the problem domestically while working through international channels to address a critical issue that is largely ignored worldwide.

***Comment Submitted by Brion BlackWelder, Associate Professor, NOVA Southeastern University, Shepard Broad Law Center***

June 4, 2004

As a law professor teaching in the subject area of Ocean and Coastal Law, and Administrative Law, my comments are on two aspects: 1. Governance, 2. Water quality.

1. GOVERNANCE: The Preliminary Report selects what is known in administrative law jurisprudence as a "Presidential Administration" mode of governance. This puts at the center an Assistant Administrator to the President with a "small staff". The alternative of naming a lead administrative agency is more in keeping with traditional models of governmental administration. My comment is that there is not enough explanation as to why Presidential Administration is preferred. It appears that the problems addressed are complex and technical, and ultimately will require a true revamping of the multiple resource agencies despite their historic separation. Presidential Administration does more grand-standing central policy control for new initiatives, than the real work of a real program. Cf. Elena Kagan, Presidential Administration, 114 Harvard Law Review 2245 (2001).

2. WATER QUALITY: It can simply be said, the recommendations on the crucial issue of water quality are a great disappointment. Part V side-steps the issue by calling for goals and pland. At this time it is recognized there must be implementation of provisions like Total Maximum Daily Loads (TMDL), not merely more setting goals and plans that are not implemented and enforced. Cf. James R. May, The Rise and Repose of Assimilation-Based Water Quality, Part I: TMDL Litigation, ELR News & Analysis, 34 ELR 10247, 3-2004, available from www.eli.org, 1-800-5120.

In sum, after 20 to 30 more years of coastal decline, another Commission like Stratton or the present one, will reflect these shortcomings as great missed opportunities in the current effort.

Thank you for the opportunity to comment.

***Comment Submitted by Carrie Wall, Institute of Marine Remote Sensing, College of Marine Science, University of South Florida***

June 4, 2004

First, I would like to compliment each of the commission members on creating a policy report that, if passed, appears to be able to vastly improve today's outdated standards of scientific management and policies. The gamut of issues reviewed in the report will provide a solid foundation for all aspects of oceanic research and education. The recommendations suggested by the commission show a tremendous amount of insight and acknowledge the immediacy for change, for this you should be greatly commended.

My comments are short and touch upon two recommendations. While Advancing International Ocean Science and Policy (Chapter 29) establishes the groundwork of the much needed collaborative global scientific effort and lists the numerous international ocean agreements that the US participates in, there seems to be a lack of clearly defined recommendations in Preserving Coral Reefs and Other Coral Communities (Chapter 21) for international policies. Since US. territories reach far beyond the sites of the North American continent, a great amount of coordination with the US. Coral Reef Task Force and other international government agencies is needed in order to efficiently address and implement regulations regarding the continuing decline in coral reef ecosystems.

Also, I would like to express my concern in allocating the Integrated Ocean Observing System (IOOS) to NOAA. It is well known, and well documented in this report, that NOAA requires numerous alterations in its management before it can sufficiently follow through with many of the reports recommendations. To create such an important tool as IOOS and then have to wait for an entire governmental department to undergo massive changes, which one can only hope will be successful, before it can be implemented seems to create a degree of uncertainty and a loss of valuable time in which IOOS could be used. Perhaps, another department or institution might be better equipped and readily available to maintain IOOS or at least create a temporary location where IOOS can be developed and sustained until NOAA is functioning to its fullest potential.

Thank you for your time. Congratulations on your hard work.

***Comment Submitted by Todd Ambs, Administrator, Water Division, Wisconsin Department of Natural Resources***

June 4, 2004

Thank you for the opportunity to provide comments on behalf of the Department of Natural Resources on the "Preliminary Report of the U. S. Commission on Ocean Policy". As you are well aware, Congress through its enactment of the Oceans Act of 2000, clearly intended the report to consider Great Lakes issues and concerns and perhaps have the recommendations of the commission to apply to the Great Lakes. As recognized in the initial chapter of the preliminary report, the land adjoining the Great Lakes is our nation's "Fourth Seacoast".

The importance of the Great Lakes cannot be overstated. . These vast inland seas, which include over 10,000 miles of coastline, contain more than 90 percent of our nation's fresh surface water supply and about 20 percent of the world's fresh water supply. As stated by Michael J. Donohue, Executive Director of the Great Lakes Commission, on page 9 of the Preliminary Report, the Great Lakes "lend not only geographic definition to the region, but help define the region's distinctive socioeconomic, cultural and quality of life attributes, as well". About 20 percent of the nation's population live in the Great Lakes basin. The Great Lakes coastal area correspondingly accounts for about 20 percent of the coastal employment.

Like the oceans, the Great Lakes, however, are not without problems and concerns. They are subject to fish consumption advisories due to both contaminated sediment and atmospheric deposition of contaminants. In addition, the Great Lakes fishery has been severely harmed by invasive species. Also, many of the Great Lakes beaches are frequently closed due to human health concerns. And, like the other three seacoasts, the Great Lakes have lost critical habitat.

In light of the importance of the Great Lakes and their critical resource concerns, I'd like to briefly comment on a few of the concepts and recommendations contained in the preliminary report:

- Applicability to the Great Lakes

It is unclear how many of the recommendations will apply to the Great Lakes. The Great Lakes are not mentioned in the executive summary. The chapter in the preliminary report entitled "Primer on Ocean Jurisdictions" never mentions that there are distinct differences in jurisdictional authority between the Great Lakes and the other three seacoasts. The chapter on "Managing Sediments and Shorelines only mentions contaminated sediment, a very significant Great Lakes concern, as a complicating factor. We fear that the Preliminary Report does little to elevate the profile of the Great Lakes in ocean and coastal concerns. In general, the final report should clearly state the applicability of the recommendations to the Great Lakes. We also strongly recommend the addition of a chapter on Contaminated Sediment.

- Ecosystem-based Management

We strongly support the concept of eco-system based management. The Great Lakes States and the Canadian Provinces have diligently identified problems and formulated solutions using this concept, and can serve as an example for the other coastal areas. Remedial Action Plans have been for the identified Areas of Concern. Unfortunately, assistance for Great Lakes resource action plans has greatly trailed the substantial federal funding for Chesapeake Bay and the Everglades. The final report should clearly recognize the eco-system-based management in the Great Lake, including a discussion of the 42 Great Lakes Areas of Concerns and the Remedial Action Plans developed for those Areas of Concern.

- Governance

We concur with the recognition that there is a need to make improvements in ocean, coastal and Great Lakes management at the national level. Inadequate federal leadership in Great Lakes resource issues was the key finding in the U. S. General Accounting Office's April 2003 report "Great Lakes: An Overall Strategy and Indicators for Measuring Progress Are Needed to Better Achieve Restoration Goals". The lack of federal leadership has promoted the President, through an Executive Order, to create a Great Lakes Interagency Task. Great Lakes Governors, however, have show substantial leadership in management of the Great Lakes. In the final report, the Governance Chapter should recognize the recommendations from the GAO report on Great Lakes management and the past leadership of the regional governors in any governance recommendation.

It is unclear how a proposed National Ocean Council will take into account the unique features, concerns and international aspects of the Great Lakes. It is also unclear whether the proposed regional ocean councils are to replace or are in addition to existing institutional arrangements, such as the Great Lakes Council of Governors, the International Joint Commission and the Great Lakes Commission. Clarity on these issues and the applicability of recommendations for the Great Lakes are needed if the final report is to meet the statutory requirements.

In closing, we urge the Ocean Commission in its final report to clearly recognize the Great Lakes as the nation's fourth seacoast. My staff and I are willing to work with your staff to address these concerns.

*Comment Submitted by Jim Ellis, Boat Owners Association of The United States*

June 4, 2004

As the nation's largest organization of recreational boaters, with 565,000 members, BoatU.S. is pleased to provide comment on the Commission's draft report and offer our perspective on a number of the Commission recommendations that affect boaters. The following comments address four of the Critical Actions for the federal government to undertake as put forth in the Commission report, as well as 12 specific recommendations among the 198 listed in Chapter 31.

Recreational boaters represent one of the largest identifiable stakeholder groups concerned with ocean and coastal resources. Some 68.8 million people participate in recreational boating annually in the U.S. Today there are 17.3 million boats in use nationwide and as an industry, boating accounts for $29.2 billion in retail expenditures and provides 550,000 jobs in manufacturing, sales and services.

The health of our coastal and inland waters, as well as the natural resources in and around them, is of critical importance to recreational boaters and the boating industry. For that reason, BoatU.S. applauds the efforts of the Commission in drawing attention to the challenges and opportunities that confront the nation.

**Establish a National Ocean Council … in the Executive Office of the President**

BoatU.S. views this as a positive step that would help ensure that the concerns of the maritime community are heard at the highest level of government to ensure balanced use of ocean and coastal waters.

**Strengthen the National Oceanic and Atmospheric Administration …**

NOAA provides key services to boating including charting, marine weather, fisheries management and research. Since recreational boaters represent one of the largest NOAA constituencies, the agency focus should be directed at improving these services while developing new partnership opportunities with the boating and sportfishing communities.

**Develop a flexible, voluntary process for creating regional ocean councils …** Such councils could have far-reaching affects on issues like boating access and marina development. If created, recreational boating interests must be represented on each council and organizers should develop consistent outreach

efforts to ensure broad representation from all sectors of outdoor recreation (i.e., boating, fishing, diving, paddlers, etc.). A single token "recreation" position intended to represent all sectors would be insufficient.

**Reform fisheries management …**

BoatU.S. agrees the Regional Fishery Management Council system should be improved in order to maintain sustainable fish stocks. In general, BoatU.S. supports efforts to include broader representation on the councils, provide sufficient training for new council members, apply scientific information more stringently in management and allocation decisions, reduce bycatch, and improve fisheries enforcement in the Exclusive Economic Zone.

## *Specific Recommendations*

**Recommendation 4-1**

**Establish a non-federal Presidential Council of Advisors on Ocean Policy**. Boaters represent one of the nation's largest constituencies with a direct stake in marine and coastal resource issues. Recreational boating must be represented on any such council, whether created through Executive Order or by Congress or both.

**Recommendation 6-3**

**Develop guidelines for Marine Protected Areas**. Public access to ocean and coastal waters is critical and can serve to enlist the boating public as stewards and therefore an essential part of the solution. All MPAs must be designed to take human uses into consideration and management plans for existing MPAs should reflect that philosophy. Any new MPAs must have clear and flexible management goals based on the best available science, with human uses factored into the planning and management equation.

**Recommendation 9-1**

**Congress should reauthorize the Coastal Zone Management Act … to more effectively manage growth.** Coastal Zone Management plans should ensure public access to the water by identifying and setting aside areas specifically for water-dependent uses by the general public (marinas, public landings, fish docks,

marine service businesses) as a critical element in "smart growth" planning initiatives as well as through the zoning and planning process, and/or tax incentives. A reauthorized CZMA should reflect this goal.

**Recommendation 9-2**
**Congress should consolidate area-based coastal management programs … in a strengthened NOAA ….**
Any such action relative to the National Marine Sanctuary program should create, perhaps by the reauthorization process, an emergency response capability and funding source. This would allow resource managers to begin immediately to correct damage caused by vessel groundings in sensitive habitat (e.g. seagrass beds, coral reefs). This must be coupled with an appropriate upper limit on monetary assessments against vessels as already exists under the Oil Pollution Act of 1990.

**Recommendation 16-7**
**Verify pumpout facilities before approving new No Discharge Zones**: Surveys by BoatU.S. and others have shown that, in too many cases, pumpout facilities are not functioning, are accessible only to shallow-draft boats or are located in the wrong places. Verification of conditions put forth in state applications to EPA for No Discharge Zones (physical site visit, if necessary) is essential to maintaining a credible, effective and manageable program. Such verification should be conducted by an objective third party such as a state Sea Grant Extension Program and a funding source should be provided.

**Recommendation 16-8**

**Congress should provide incentives … to install improved Marine Sanitation Devices**. Congress should pass legislation to upgrade Marine Sanitation Device standards, now more than 20 years old, and promote a variety of legal options for sewage disposal including wider use of Type 1 MSDs. This would conform to current EPA guidelines that call for all sewage treatment to be performed "as close as possible to the source." **Congress should also consider transferring the Clean Vessel Act (CVA) grant program to EPA**. BoatU.S. opposes any such transfer. CVA is one of several boater-funded programs administered by the U.S. Fish and Wildlife Service (through the Sport Fish Restoration Act). The Service is highly responsive to the needs of recreational boating and fishing and not only is change unnecessary, it would serve to undermine the program. The Service has an impressive track record managing a very successful conservation partnerships

program with the states and numerous stakeholder groups that could not be duplicated by EPA without a severe loss in program continuity and effectiveness.

**Recommendation 16-11**
**Congress should create an incentive program for boat owners to install or use less polluting engines in recreational boats**. No incentive program is necessary since all outboard engine manufactures are ahead of schedule to meet EPA deadlines for low emission engines by 2006 and diesel engine manufacturers are phasing in lower emission engines beginning in 2006 to meet a 2009 deadline.

**Recommendation 18-1, 18-2**
**NOAA should establish … a marine debris management program …. and re-establish an interagency marine debris committee ...** Debris of all sorts is a constant threat to safe and enjoyable recreational boating and a marine debris management program for our inshore and offshore waters is long over due. Damage to recreational boats from floating debris ranges from engines destroyed by overheating due to trash taken up in a boat's cooling system to collision at sea with lost cargo (principally containers floating partially submerged) that result in loss of life as well as the sinking and total loss of recreational vessels.

**Recommendation18-3, 18-4**
**The U.S. Dept. of State and NOAA should develop a plan of action to address derelict fishing gear.** Derelict commercial fishing gear ("ghost nets") poses a serious threat to fish and other sea life. This problem must be addressed both domestically and through international channels. Derelict gear is a critical issue that is largely ignored worldwide.

**Recommendation 19-8**
**The National Marine Fisheries Service should require all saltwater anglers to purchase licenses … to improve data collection on recreational fishing.** While it is unclear whether the Commission advocates a federal saltwater license or state licensing, such decisions should be left to the states to decide through the regulatory and/or political process in which anglers are included as stakeholders.

***Comment Submitted by Kathy Fletcher, People for Puget Sound; Christopher J. Evans, The Surfrider Foundation; William J. Chandler, Marine Conservation Biology Institute; Cha Smith, KAHEA: The Hawaiian Environmental Alliance; Dana Beach, The Coastal Conservation League; Sarah Chasis, Natural Resources Defense Council; Dawn Hamilton, Coast Alliance; Larry Fahn, Sierra Club***

June 4, 2004

We appreciate the opportunity to comment on the U.S. Commission on Ocean Policy's *Preliminary Report*, which was released April 20, 2004, for review and comment. The following organizations are joining to submit these comments: People for Puget Sound, The Surfrider Foundation, Marine Conservation Biology Institute, KAHEA: The Hawaiian-Environmental Alliance, The Coastal Conservation League, Natural Resources Defense Council, Coast Alliance, and Sierra Club.

A complete list of addresses and contact information can be found as an attachment to our comments.

## OVERVIEW

We welcome the Commission's thoughtful analysis of the state of America's ocean and coastal resources. From the Great Lakes to the Gulf of Mexico, and the Pacific to Atlantic Oceans, the nation's seas and shores are an irreplaceable national – and natural – asset. We applaud the Commission's finding that major changes in U.S. ocean and coastal policies are urgently needed, and that reform needs to start now. We commend the emphasis on ecosystem-based management, and the need for a new framework for decision-making.

For too long the management of our saltwater and freshwater coasts has been haphazard, lacking a central and unifying commitment to protect, restore, and conserve the resources that make up the ocean and Great Lakes web of life. One result has been the collapse of some fisheries, with others facing a similar fate unless effective steps are taken to restore and protect them. Coastal management has been riddled with problems, which has resulted in the large-scale loss of habitat, and the pollution of nearshore and ocean waters. Runoff and point-source pollution, in turn, contaminates shellfisheries, imperils wildlife, and results in thousands of beach closures. New and proposed uses of coastal and ocean areas further threatens already degraded resources. The result of this haphazard approach to coastal and ocean management is an unsustainable degradation and loss of resources. With our oceans and coasts on the brink, economies that depend on clean water and healthy living resources also face losses in the billions of dollars. It is clear that a "business as usual" approach to marine resources is the equivalent to a death sentence for struggling and beleaguered ecosystems.

The Commission's *Preliminary Report* makes a compelling case for action to address the myriad threats facing the coasts and oceans. With this report, the scientific, policy, and economic verdicts are in: our marine web of life is in trouble, and we must act quickly and effectively to restore and protect it. Changes must be made on all levels,

ranging from federal agencies and Congress, to state legislatures and governors, to local county councils and citizens. There can no longer be any debate about whether or not the problems are real: they have been documented now by leaders in the realm of science, business, policy, and economics, both Republican and Democrat, both private and public sector.

What now remains is the daunting but inescapable task of initiating bold and effective changes in the policies and actions that affect our oceans. Many of the *Preliminary Report's* recommendations would help institute badly needed improvements to the nation's system of marine management. Other recommendations could be strengthened to better implement the policy statements made throughout the report. Some recommendations are not consistent with improved ocean management, and need to be re-thought. For example, in some instances, there are federal laws and programs that are more rigorous than what the Commission is proposing. In other instances, states and the private sector have initiated programs that have achieved, or have the strong potential to achieve, on-the-ground progress in marine protection and restoration that exceeds what is recommended by the Commission. We feel strongly that current protective laws and programs, and innovative approaches working to improve marine management, must be supported.

Our organizations have long track records of involvement in ocean and coastal policies on the federal, regional, state and local levels. We are cognizant of the Commission's short timeframe for action on this report, and its stated goal of delivering the final report to the President in July. Given the short time period for comments, and the rapid turn-around time, we would like to confine our collective remarks to some key issues in the report. Some of our organizations will be submitting additional detailed comments, and indeed, all of our organizations stand ready to assist the Commission, Administration, and our elected officials in the implementation of effective new reforms to the management and conservation of America's seas and shores.

## **PART I:** ***Our Oceans: A National Asset (chapters 1-3).***

We strongly support the report's call for a comprehensive national policy on the oceans and coasts, and the creation of a coordinated management structure. The need for a strong policy and new structure is buttressed by the report's discussion of the importance of the oceans, the many resources they support, and the threats they face. We agree with the sense of urgency expressed in the report, and the concomitant call for careful stewardship and immediate action. The report rightly concludes that there is now a consensus, and driving need, for action.

However, there are ways in which this pivotal opening section of the report could be strengthened to better serve the cause of improved coastal and ocean management and protection. The report should identify as the fundamental goal of ocean and coastal management the protection, maintenance, and restoration of ocean ecosystem health, including biodiversity. All uses of the ocean depend on effective stewardship above all else. Similarly, the report needs to make clear that, while ecosystems encompass human activity, the over-arching goal should be to protect the natural aspects of the ecosystem as

a necessary predicate to sustaining human and economic activity. In this vein, the creation of a National Ocean Policy Act would help guide federal agencies and the National Ocean Council with clearly articulated goals and priorities. Without an overarching act, it is possible that federal agencies and the Council will become ensnared in the kinds of inter-agency disputes that have dogged ocean efforts in the past. That is why we believe that a separate oceans agency is needed to clearly lead reform efforts. Similarly, although regional ecosystem councils are discussed in the report, they are not granted the authority to create regional ecosystem plans, set measurable goals, and have methods of accountability. In order to direct actions toward outcomes that protect ecosystem integrity, the precautionary approach as articulated by the Commission should not establish such a high threshold for triggering action. Precaution should be applied *before* there is a threat of serious or irreversible damage in order to work to un-do the enormous damage that's already been done to the marine ecosystem, and prevent its reoccurrence. The need to conserve biodiversity should be stressed more strongly, as well as the need to act immediately to restore the sea and its biological components.

## **PART II:** ***Blueprint For Change: A New National Ocean Policy Framework (chapters 4-7).***

We applaud the Commission for detailing the serious risks to living marine resources, and for noting the need to restore degraded ocean ecosystems. We believe, as does the Commission, that there needs to be a much higher profile for ocean issues within the Administrative branch, and better federal coordination. Establishing an Assistant to the President and a National Ocean Council to coordinate and provide high-level attention to ocean policy, as well as creating a Presidential Council of Advisors on Ocean Policy, would help elevate ocean and coastal issues. A National Oceanic and Atmospheric Administration (NOAA) organic act is also long overdue. It would be helpful if the Commission established some criteria for being appointed to the National Ocean Council, and provided guidance as to how it should operate. Similarly, there is no guidance, goals or priorities, mandates, authority, or direction provided to the regional ocean councils, which would be voluntary. We strongly urge the Commission to articulate in this section a national ocean policy based on protecting, maintaining, and restoring the health of the marine ecosystem, and the need for federal actions to be consistent with this policy.

This report is a once-in-a-lifetime "bully pulpit" for the oceans: a statement placing ocean and coastal health first and foremost is sorely needed, and would be very appropriate within the context of this report. As part of a national program to ensure future marine vitality, Marine Protected Areas (MPAs) can play a vital role. More than 1,000 scientists world-wide have called for the creation of MPAs. Even though it emphasizes improved ocean science throughout many parts of the report, the Commission does not point to the importance of reference reserves to establish a scientific baseline of ecosystem health. Ecosystem-based management cannot occur in the absence of sound scientific information about the health of the ecosystem, which could be provided, in part, by Marine Protected Areas. The report contains no specific call to protect special places of national significance in the oceans, akin to parks and wilderness on land. If such a call had been absent for the terrestrial environment, we would not today enjoy the extremely

popular parks and wilderness areas which give us linkage to the natural environment. We urge the Commission to strengthen its discussion of Marine Protected Areas.

## **PART III:** *Ocean Stewardship: The Importance Of Education And Public Awareness (chapter 8).*

We share the Commission's concerns about the need to build national awareness of our oceans, and promote lifelong ocean education. We believe that the Commission has appropriately recognized and identified critical classroom needs, teacher resources and research, and higher education and workforce needs. We concur with the need for a cross-disciplinary approach to strengthening science literacy in the nation's classrooms. The *Preliminary Report* could be further strengthened in ways that are in keeping with its overall goals and stated objectives by focusing on education opportunities outside the classroom, as well as inside it. The report could also offer ideas about ways to foster a meaningful and lasting ocean ethic comparable to our land-conservation ethic.

## **PART IV:** *Living On The Edge: Economic Growth And Conservation Along The Coast (chapters 9-13).*

**Coastal Development and Habitat Restoration** We strongly support the report's conclusion that coastal growth and development *must* be better managed to protect and restore critical habitat and coastal water quality, and the variety of living marine resources – and the human livelihoods -- that they support. For example, the report discusses the need to change federal funding and infrastructure programs to discourage inappropriate growth in fragile or hazard-prone coastal areas, and ensure consistency with national, regional, and state goals aimed at achieving environmentally sustainable development. We applaud the report's findings regarding the National Flood Insurance Program. The recommendation that changes be made to it to reduce incentives for development in high-hazard areas is very welcome. Disincentives should include erosion setback requirements consistent with state coastal management plans, and severe limits on the number of "repetitive claims" a property owner can make before losing his/her insurance. The Program should also establish erosion zones, and base its rates on erosion, and sea level rise, risks.

We also agree that it is high time that projects conducted through the Army Corps of Engineers' Civil Works Program be subject to valid, peer-reviewed cost-benefit analyses, while providing greater transparency to the public, and enforcing requirements for mitigating the impacts of coastal projects, and coordinating such projects with broader coastal planning efforts. The Commission's recommendations in this area are welcome.

We also welcome the Commission's strong statement of support for the Coastal Zone Management Act's (CZMA) consistency provision, and its review of its long, successful track record.

There are ways in which the Commission's recommendations could go farther with respect to coastal management, and still be based on real-world, on-the-ground programs that are being implemented, or devised, at the federal, regional, and state level. A report

of this nature should not lag behind other federal and state/regional policies. It should lead us, as a nation, into the next generation of action. Additional actions should be taken to limit growth and restore habitat:

- *Identify Areas for Growth Management:* Legislation is moving through the South Carolina Legislature to establish a program of Priority Investment Areas that would require local governments to identify areas for growth as part of their comprehensive plans.
- *Enable coastal states to manage growth* using mechanisms such as Low Impact Development, proper site design, growth boundaries, targeting growth around existing transportation corridors, public transport, or integrating Phase II stormwater strategies to prevent sprawl and pollution.
- *Implement the NRC recommendations.* The National Research Council recommended in 2002 that all controversial or complex USACE civil works projects have an external review, and that mitigation requirements be enforced. The Commission should recommend the implementation of the NRC recommendations.
- *Direct FEMA to delineate erosion zones and increase rates to be actuarially sound.* The Federal Emergency Management Agency should act immediately to delineate erosion zones on its National Flood Insurance Program rate maps, which it has the capacity to do. Similarly, FEMA has the capacity to increase its policies to be actuarially sound for all hazards, including erosion, and the agency should be directed to immediately begin revamping policy costs based on the full assessment of erosion risks, sea level rise impacts, and flood hazards.
- *National Hazard Mitigation Legislation.* The report doesn't acknowledge the national legislation passed in 2000 that requires local governments to prepare hazard mitigation plans to qualify for funding from a federal level to do projects in their communities to reduce hazards. For example, along the North Carolina coast, grants are being given to local governments to do these plans, but there is no coordination with existing land use planning requirements. These plans do nothing to promote environmental protection (buffers, wetlands protection and restoration, setbacks, etc.) as a means of reducing coastal hazards.
- *Limits To Impervious Surfaces.* North Carolina requires that no more than 12% impervious surface accompany new development in coastal watersheds. The report mentions the more preferable limit of 10%, but does not endorse it or the North Carolina standard. The Commission should recommend similar state standards.
- *Support Of The Coastal Barrier Resources System.* President Reagan supported the CBRS, describing it as achieving conservation goals with less government, not more. Yet every year, attempts are made to remove undeveloped lands from protection through the CBRS. The Commission should state support for this program as a way of reducing federal subsidies for unwise coastal development.
- ***Support Current Habitat Restoration Programs:*** **The NOAA Community Restoration Program is important for building community involvement in restoration and coastal conservation, and it should be expanded and fully funded for on- the-ground projects.**
- ***Support The Current Restoration Goal Of 1 Million Acres:*** **The report fails to criticize the Corps of Engineers for failing to implement the Estuary Habitat**

**Restoration Act. This Act established a million acre goal for restoration. The goals developed by the National Ocean Council should include this 1 million acre goal, and should incorporate the national strategy to achieve this goal that is called for in the Estuary Restoration Act of 2000.**

Sediment Management and Port/Harbor Issues. **With respect to sediment management and harbor/port issues, two recommendations in the report deserve strong support: the need to expand least cost assessments to include economic and environmental issues, and reuse, and the need to control land-based sources of sediments from agriculture and erosion. Overall, however, this section of the report fails to highlight an issue that is prevalent throughout the Great Lakes and marine coastal waters, and on which great progress is being made at the state level. The report does not adequately address the threats posed by contaminated sediments, and the real-world, innovative technologies that are being used to treat, remediate, and reuse contaminated sediments. Sediment contamination is widespread, affecting every major harbor in America, and many coastal, bay, sound, and estuarine areas, as well. Every year, more than 300 million cubic yards of sediment are dredged from rivers and coastal areas, and disposed of in wetlands, nearshore waters, upland areas, and the ocean. Some portion of these sediments are contaminated, posing a threat to fisheries and shellfisheries, marine mammals and other marine wildlife, and to humans through foodchain contamination. Yet the report glosses over sediment contamination, and its well-documented impacts. It fails to call upon EPA to establish sediment quality criteria and standards that are fully protective of the marine environment, as EPA has the authority to do under the Clean Water Act. Streamlining of permitting processes is also recommended; however, this could be disastrous without modern, ecologically sensitive, sediment standards and management options.**

**This section of the report also incorrectly states the "benefits" of beach renourishment in protecting natural systems such as reefs and downstream coastal environments, whereas renourishment projects can directly bury shallow reefs and indirectly affect offshore reefs by sedimentation.**

This section also calls for designating the Department of Transportation as the lead federal agency for planning and oversight of the marine transportation system, and much closer coordination between the 18 federal agencies with responsibilities for various aspects of the U.S. marine transportation system. This raises the real possibility that local, state, and regional environmental protections could be over-run by an exclusive emphasis on enhancing and expanding marine transportation. Environmental protection and conservation, and a stated commitment to adhering to current laws and regulations, should be stated as equal partners with port maintenance and expansion, and associated infrastructure and transportation development.

**There are provisions under current laws that, if they were enforced, would lead to improvements in sediment quality, which would result in better management and disposal options, and less risk to the aquatic environment and human health. There are also commercially available programs that are re-using, recycling, and treating contaminated sediments. The Commission should support current laws and programs and promote their use:**

- *Complete EPA's nonpoint source survey.* EPA's survey of contaminated sediment sites, and its survey of point sources contributing to these sites, was supposed to be augmented by another survey of nonpoint sources contributing to sediment contamination, according to 1992 amendments to the Marine Protection, Research and Sanctuaries Act (MRPSA). The third survey of nonpoint sources has not been completed.
- *Inventory ocean dumpsites for contamination.* The 1992 amendments to the MRPSA also directed EPA to inventory its roughly 100 ocean dumpsites to assess contaminant levels at the sites and in surrounding areas. This has not been done, and the EPA should be directed to do so.
- *Expand and enhance development of dredge material management options using decontamination, treatment and beneficial use technologies* for brownfield reclamation, abandoned mine and landfills reclamation, and other environmentally sound options. The New Jersey experience could serve as an excellent national model for other state and regional approaches to sediment management. In New Jersey, the ocean dumpsite has been closed, a majority of sediments dredged are reused in upland situations for beneficial reuse, and in less than five years, the region has implemented a comprehensive approach for treating and managing over 1 million tons per year of contaminated dredged material, using processes that are both environmentally and economically sound.

## PART V: *Clear Waters Ahead: Coastal And Ocean Water Quality (chapters 14-18).*

The Commission's report makes important findings on coastal and ocean pollution, and places proper emphasis on the seriousness of the threats that pollution poses to coastal waters. It focuses particularly on the need to control nutrient pollution and nonpoint sources of pollution. However, the nonpoint source pollution recommendations rely too heavily on technical assistance and incentive programs, rather than on stronger regulatory controls, despite the fact that such programs have not been effective to date in controlling what is the number one source of water pollution in the United States.

**Point sources of pollution.** We support the Commission's call for EPA and the states to require advanced nutrient removal for wastewater treatment plant discharges into nutrient-impaired waters, something that the Clean Water Act already requires but that has not been fully implemented to date. However, we are troubled by several of the Commission's recommendations with respect to point sources. For example, the report recommends that EPA and the states experiment with tradable credits for nutrients and sediments. However, such experiments should not be allowed to proceed unless and until numeric water quality standards for these pollutants have been established for the water

bodies affected by these experiments, and the trade will not cause or contribute to a violation of those water quality standards.

We also are concerned by the failure to call for improved controls on sanitary sewer overflows, a serious omission in a report of this nature. To control other sewage inputs, significantly higher levels of funding for the State Revolving Fund are needed than what is recommended by the Commission. The Commission is also silent on the TMDL program, which is the Clean Water Act's principal watershed cleanup program. We urge the Commission to recommend prompt implementation of the existing program, and to make receipt of federal money for highways contingent on states completing TMDLs within the time frame established by current EPA guidance and thereafter on making reasonable progress in implementing them.

There is also a marked gap in the stormwater recommendations, which are not consistent with the overall strong assessment of the problems posed by stormwater. The report's recommendations on stormwater are actually weaker than current law, which provides an enforceable program for dealing with stormwater, namely Phase I and II NPDES Stormwater Permits, which are mandated for any coastal community where stormwater either is or is potentially a source of pollution. We urge the Commission to support a substantial increase in funding for water infrastructure to address growing water pollution problems caused by urban stormwater and sewage (including septics.) In addition, the Commission should urge that NPDES permits for stormwater pollution (municipal, industrial, and construction) use the best available technologies economically achievable, and include water quality based effluent limitations in order to meet the water quality standards of the receiving waters.

There is also a missed opportunity for improved linkage between development and pollution impacts in the Commission's recommendation that state and local governments should merely consider, rather than control, the individual and cumulative impacts of development on water quality when they revise their codes and ordinances.

In fact, the report fails to address the concept of integrated wastewater management, which was the subject of an extensive report years ago by the National Academy of Sciences. Sewage and stormwater have to be addressed together as part of the overall need to manage wastewater. This is also a land use planning issue tied closely to getting communities to do land suitability analyses. To address sewage and stormwater separately means that sewage treatment (which facilitates sprawl and polluting development) will always get priority and funding. The Center for Watershed Protection put out a major summary of research five years ago on bacterial pollution of coastal waters. The Center found that traditional methods of watershed management simply don't work to provide the degree of protection and enhancement necessary to keep coastal waters safe for shellfishing and swimming. In short, the traditional ways of treating stormwater are simply prescriptions for pollution.

**Nonpoint Sources of Pollution** We support the Commission's recommendation that Congress provide authority under the Clean Water Act and other applicable laws for

federal agencies to impose financial disincentives and establish enforceable management measures to ensure action if a state does not make meaningful progress toward meeting water quality standards (similar to what happens under the Clean Air Act if states aren't making progress in implementing their state implementation plans.) However, the withdrawal of financial assistance should be mandatory, not discretionary, since EPA is unlikely to use the authority unless it is required to do so.

The report expresses appropriate concern that farm money may be going to farmers who follow harmful practices and wisely suggests that funds could be limited to farmers who follow BMPs. We also approve of the recommendation that USDA align its conservation programs with programs of EPA and NOAA. In addition, the Commission should recommend that the use of best management practices be required to control farm runoff, and be a prerequisite to receipt of federal farm support payments.

We appreciate the Commission's recognition of the significance of septic system releases on coastal water quality. We concur with the Commission that state and local governments should adopt more effective building codes and zoning ordinances for such systems.

We also concur with the recommendation that significant reduction goals should be established for nonpoint pollution into impaired coastal watersheds, along with specific measurable objectives. However, we believe that this should be done by EPA and NOAA, who have regulatory authority in this area, rather than by the National Ocean Council.

While the Commission recognizes the need to have enforceable nonpoint pollution programs, the report fails to recommend that the Clean Water Act be amended to require such programs. Instead, it recommends transferring NOAA's nonpoint program (Section 6217) to EPA, which does not really accomplish anything in terms of the goal of making EPA's overall program an enforceable one. In addition, this proposal runs counter to the Commission's strong recommendation that NOAA be strengthened, not weakened, as well as the close link between coastal development and polluted runoff.

We also believe that the Commission should recommend that the Clean Water Act be amended to require mandatory controls on nonpoint sources of pollution. California already has and is implementing a state law (the Porter-Cologne Water Quality Control Act) that mandates controls on nonpoint pollution, including agricultural runoff, and that requires the state to levy fees on the agriculture and timber industries to pay for the costs of the program.

With respect to atmospheric deposition, we commend the report's recognition of the effects of atmospheric deposition on water quality, which can be significant in some areas. The report makes an appropriate recommendation to address this, though the recommendation should not be limited to "regional" approaches, but include national ones as well.

**Invasive Species** There is good recognition of the problems associated with aquatic invasive species, the pitiful amount of funding spent on it, and the need to develop an early detection and rapid response program. However, the recommendations on ballast water are not much more than the status quo; without regulation under the Clean Water Act (as is required by the Act and ignored by EPA) we lack effective incentives to create and continually update standards and technology to control invasives. The EPA should manage the program under the Clean Water Act, in consultation with the U.S. Coast Guard (who could do the actual inspections), to ensure that all of the Clean Water Act's tools are brought to bear on this important problem. In addition, not only ballast water but also hull fouling (another vessel vector of invasives) should be addressed through federal controls.

We urge the Commission to revisit its conclusion that sources of invasive species other than ballast water are not amenable to federal controls. Each of the sources the report mentions are amenable to federal controls (for example, marine debris, which is regulated by international and federal law, can be a significant vector of invasive species). The recommendation to use public education and outreach to control these sources is not realistic, given the size and scope of the problem; federal controls are necessary.

**Vessel Pollution** We agree with the Commission that Congress should give the Coast Guard more money for vessel inspections, but disagree that "stronger voluntary measures" to control vessel pollution should be a recommendation – it's already the case and is not working (e.g., the *Preliminary Report* states that over 80% of crew documents are forged). Stronger incentives in concert with a stronger enforcement program are significantly more effective than incentives alone. We similarly disagree that voluntary programs to reduce vessel air emissions will work vessels should be required to control their pollution. This recommendation is at odds with the one that calls for stricter air emission standards.

We urge the Commission to support mandatory controls on ballast water. For example, California has a four-year-old ballast water law that applies mandatory controls on ballast water management (whether from coastal or international traffic), requires standards to be set by a certain date, and (most importantly) requires every vessel to pay fees that support the program. There is also a process in the law to begin to address hull fouling. There is no reason not to do something similar nationally.

**Special Status Waters** While the report focuses on recommendations to improve impaired waters, there are no parallel recommendations to ensure waterways do not become impaired. Forexample, there is no recognition of the need to develop appropriate coastal ONRWs (Outstanding National Resource Waters) or no-discharge zones (NDZs); these are important, existing prevention tools that are being under-utilized. In fact, the report recommends only "voluntary" installation of pumpout facilities in NDZs. It should recommend that assistance be provided to ensure that <u>all</u> affected NDZs have these.

**Marine Debris** We urge the Commission to revisit this important problem, and make specific suggestions for increased regulatory efforts or creative solutions to control this important problem.

## **PART VI:** *Ocean Value And Vitality: Enhancing The Use And Protection of Ocean Resources (chapters 19-24).*

**Fisheries Management** We strongly support the Commission's findings that fishery management needs significant improvement, and that major fishery problems are related to governance, not inadequate science. Among the most important of this section's recommendations are the need to separate decisions regarding how many fish can be taken from the ocean (assessment decisions) from decisions about allocation of the available harvest and other operational issues (allocation decisions.) We also strongly support the recommendation that Fishery Management Councils set harvest limits at or below limits recommended by independent scientists, and that the Councils reflect a broad range of interests, including the public. It is also critically important that we shift from a species-by-species approach, to a multi-species approach and ultimately, an ecosystem-based approach. We also support developing regional bycatch reduction plans that address broad ecosystem impacts of bycatch, and feel it would be useful to explore the use of "dedicated access privileges," such as individual fishing quotas, community quotas, cooperatives, and territorial or are access programs, consistent with national guidelines to mitigate potential problems that can result from granting such privileges.

However, the Commission's recommendations on fishery management could be further improved by providing specific recommendations to promote ecosystem-based management, while addressing the need for greater accountability of recreational fisheries. The report would also profit from recommendations on how to eliminate the conflicts of interest on Regional Fisheries Management Councils, and how to further insulate science from political and economic influences. We also urge the Commission to include specific recommendations on improving habitat protection, rather than solely concentrating on refining essential fish habitat designations. There is also an inadequate emphasis on the need for fisheries observers to collect data on bycatch, and no specific recommendation to adopt a precautionary approach to management.

**Funding Mechanism** While the Commission recognizes elsewhere in the report that pollution is a major threat to ocean and coastal waters, it recommends that offshore oil and gas activities, which are highly polluting, provide a major source of revenue for implementing the Commission's recommendations. Care needs to be taken to ensure that the funding mechanism does not encourage new offshore oil and gas activity, and that the standards are set that ensure that uses of any "coastal impact aid" money go to protect, not further degrade, the coasts and oceans. Other revenue streams that incentivize conservation, rather than oil and gas extraction, should be applied to ocean resource management and conservation.

**Marine Mammals** We are deeply concerned with the Commission's recommendation to amend the Marine Mammal Protection Act (MMPA) with a significantly weaker definition of "harassment" by raising the threshold of what constitutes disturbance of

marine mammals. The alteration in definition has been labeled by the U.S. Marine Mammal Commission as, "effectively reversing the precautionary burden of proof that has been the hallmark of the MMPA since 1972." Similarly, the report does not make any recommendations regarding non-mammal endangered species concerns, and how to address the precarious state of populations of endangered sea turtles, sea birds, and other marine species.

**Coral Reefs** The precarious state of coral reefs is strongly presented in the report, which we applaud. We support expanding the responsibility of the U.S. Coral Reef Task Force to include deep sea corals, and NOAA's implementation of Task Force recommendations for reducing the effects of fishing on corals. We urge the Commission to support greater action to prevent coral destruction by dragging activities, and to include "conservation, protection, and restoration of coral reef ecosystems" as an explicit element of the Coral Protection and Management Act.

**Aquaculture**With respect to aquaculture, we agree with the Commission's conclusion that aquaculture can have many damaging environmental impacts, and that what is needed is a coordinated and consistent policy, regulatory, and management framework that is based on scientific and engineering support for an ecologically and economically sustainable marine aquaculture industry. We also agree with the idea of aquaculture leases posting performance bonds, and that best management practices be required of aquaculture operations. However, we strongly urge the Commission to support a requirement that offshore marine aquaculture facilities in the EEZ meet environmental standards before receiving permits and leases, and that NOAA have clear authority to revoke permits and leases, or impose new restrictions, if facilities do not adhere to this standard. We are also very concerned about the role that industry would play in addressing environmental issues, particularly with the report's focus on economic objectives and the implication that highly profitable operations could be allowed to cause substantial environmental degradation. This degradation could include cumulative impacts, which the Commission does not recommend assessing, nor does it consider actions to be taken for inspections, record keeping, escapements, storm events, disease outbreaks, marine mammal entrapments and other foreseeable events. We are also troubled with the Commission's focus on research, development, and extension activities primarily for speeding the development of the marine aquaculture industry. We urge the Commission to change its focus from these perspectives.

**Human Health** The focus on human health contains some laudable elements, including the connection between human health and healthy ocean ecosystems. However, we were disturbed to see the almost exclusive focus on research and development, rather than on needed policy changes: climate change and seafood contaminants are but two. For example, the report acknowledges that the Food and Drug Administration (FDA) screens only a small percentage of imported seafood, but it does not recommend a more comprehensive testing program. Nor does it acknowledge that the FDA's tolerances for contaminants in commercially traded fish are fewer, based on older science, and less protective of human health than EPA's risk assessment methodology for recreationally

caught fish. We urge the Commission to recommend that the FDA update and expand its monitoring of seafood for contaminants and other chemicals.

**Offshore Energy and Mineral Resources** With respect to offshore energy and mineral resources, we support the report's call for more oversight of damaging offshore oil and gas drilling impacts. As the Commission states, there is a need for more comprehensive monitoring of the impacts of offshore drilling operations to better understand the long-term impacts of this industry, especially from low levels of persistent organic and inorganic chemicals and their cumulative or synergistic effects on the marine environment. We also applaud the Commission's support of the CZMA consistency provision, as mentioned earlier in our comments. However, we strongly feel that the Commission should acknowledge that offshore oil revenues can create strong incentives for new drilling in inappropriate areas, and that any funding method drawn from existing OCS activities should be carefully designed to prevent pressure to accept more drilling. In a similar vein, the Commission's report should support the bipartisan Congressional renewal of the offshore oil and gas leasing moratorium in the Lower-48 states, and the prompt legislative reinstatement of the recently-discontinued Congressional moratorium on new leasing in Alaska's fishery-rich Bristol Bay. Leasing deferrals enacted by executive action should also be supported by the Commission. Finally, we urge that the Commission follow the recommendations of the 2003 report of the Department of Energy's *Methane Hydrates Advisory Committee* FACA which states that full environmental studies should be conducted to evaluate the potential impacts of methane hydrate commercialization on the seabed, on marine ecosystems, and on the atmosphere and climate prior to leasing of seafloor lands for hydrate exploration and extraction.

## PART VII: *Science-Based Decisions: Advancing Our Understanding Of The Oceans (chapters 25-28).*

We support the Commission's recommendation that the nation develop regular, long-term observations and predictions of ocean characteristics and health. We also support the recommendation for a significant increase in funding for this effort. We share with the Commission its caveat that the system not become "narrow," useful only for research or federal government applications, but that instead, it must result in tangible benefits for a diverse array of interests, including the public. We also concur with the Commission that the Integrated Ocean Observing System be linked with the broad national water quality monitoring network that is recommended elsewhere in the report.

We have some concerns about the relatively open-ended nature of the research discussion in the report. For example, we are concerned about the discussion of the use of carbon bound in frozen gas hydrates as a new energy source, without a corresponding discussion about the environmental problems that must be addressed. Similarly, though we support an increase in infrastructure necessary to improve our understanding of the oceans, we recommend that the report address the environmental impacts associated with such infrastructure, and recommend that sufficient mitigation be used if sensitive areas must be accessed.

## **PART VIII:** *The Global Ocean: U.S. Participation In International Policy (chapter 29).*

We applaud the Commission's recommendation that the United States ratify the 1982 U.N. Convention on the Law of the Sea. We fully support the report's acknowledgment of the importance of multilateral approaches to international issues, such as Marine Protected Areas, protecting polar regions, carbon sequestration, and seamounts. We also strongly support the United States fully funding our participation in international bodies, and meeting our treaty obligations. We, too, believe that the United States could be an international leader in integrating science with policy development and implementation.

We believe that the report, to be consistent with its strong philosophical statements, should forcefully call for the ratification or implementation of important ocean-related or relevant treaties, such as the Convention on Biological Diversity, Annex IV to the International Convention for the Prevention of Pollution From Ships (dealing with sewage), the Kyoto Protocol, the Stockholm Convention on Persistent Organic Pollutants, or the Basel Convention on the Transboundary Movement of Hazardous Wastes and Their Disposal, and the World Summit for Sustainable Development Johannesburg Plan of Implementation and Straddling Fish Stocks Agreement. We also urge the Commission to make the link between two of the four "Emerging International Management Challenges" – polar regions and carbon sequestration – and global warming. This is an immense oversight because global warming and climate change caused by anthropogenic greenhouse gas emissions threatens to have the most profound effects on oceans of any human activity.

## **PART IX:** *Moving Ahead: Implementing A New National Ocean Policy (chapter 30).*

We agree with the Commission that there is a compelling need for significant investment in our oceans, including increased permanent funding in ocean science, exploration, education and management. We also agree that states need increased funding to better manage and protect their marine resources. Many states are struggling with deficits and budget problems, and need increased federal support to take the necessary steps to address coastal and ocean resource issues.

However, as stated earlier in our comments, we have grave concerns about the funding mechanism for the Ocean Policy Trust Fund. We believe that the fund should include standards that eliminate or restrict the ability of coastal states to spend money on environmentally damaging activities. Similarly, local pass-throughs to local governments should be prohibited if allowable uses include ones that are potentially environmentally destructive. Overall, it is important that funding for implementing the ocean governance framework, and for improving management of our threatened natural resources, be given top priority. Pursuant to this, the proposed funding for the National Ocean Council, regional ocean councils, and for implementing the ocean governance framework should be increased to at least $20 million.

We appreciate the opportunity to submit these comments to the Commission for your consideration. We stand by to assist you, the Administration, and elected officials in efforts to implement strong and effective reforms to the nation's management of its coastal and ocean resources.

***Comment Submitted by Susan B. McAllister, La Jolla, CA***

June 3, 2004

I am writing to comment on the upcoming draft report of the U.S. Commission on Ocean Policy. Having lived most of my life on either the East or the West coasts, the health and well being of our shores is of utmost importance to me. In too many ways to name here, our oceans are under siege, a fact that few would disagree with. I am hopeful that the your Commission will finally begin to address some of these issues in a comprehensive and sensible manner.

In particular, I would like to see the near oceans "zoned" in a way that protects traditional water-dependent uses that serve the public interest, as well as ecological imperatives. In this regard it is important to establish a permitting process for offshore development that fairly considers the economic and environmental costs and benefits of a proposed project. Until such processes are fully in place it is critical to suspend all offshore projects currently in the pipeline. This would include, in particular, some of the enormous wind farms currently under review.

In the absence of any comprehensive regulations and/or standards, either at the Federal or the State level, the Army Corps of Engineers seems to be the only permitting authority for many of these proposals.

This is for many a truly scary thought. The Army Corps favors "mega" projects involving large-scale manipulations of the natural world, often for dubious reasons.

It is therefore extremely important that a comprehensive policy be enacted before any further development is permitted. The oceans are too important a resource to leave to haphazard planning.

***Comment Submitted by Bev Minn, Private Citizen***

June 4, 2004

Thank you for this opportunity. I scanned most of the report and paid particular attention to Part V. My overall comment is this is an excellent report and its recommendations cannot be put into practice fast enough.

The following comments refer to specific passages. In Chapter 14, the report covers atmospheric sources of pollution. I think Figure 14.6 is somewhat misleading as it implies air pollution is limited to areas adjacent to the source of the pollution. As a resident of Alaska, with an elevated level of mercury in my body, (which I believe comes from my consumption of fish), atmospheric pollution has global implications. I don't believe the US should wait for international efforts to deal with mercury contamination. The US needs to cut back on mercury emitted from coal-fired power plants now!

In Chapter 19, on page 221, the second to the last paragraph is great. Having dealt with the North Pacific Fishery Management Council on the recreational charter halibut allocation, and told that "bad data is better than no data," I can only wholeheartedly agree with the report's finding in giving the SSCs more weight and balancing and broadening representation of Council members.

Recommendations 19-12 and 19-14 are outstanding.

Again, from personal experience of working with the North Pacific Fishery Management Council, I believe the last sentence on page 222, gives this Council unearned praise. The blame for ongoing tons of wastage through bycatch and illegal use of crucifiers can be shared by the North Pacific Fishery Management Council members and NOAA law enforcement.

The sentence on page 235, "Halibut and sablefish fishermen, previously skeptical [on IFQs] are now among the program's biggest supporters," is misleading. If you were *given* hundreds of thousands of dollars worth of IFQs, you would like the program too.

The report's Dedicated Access Privilege, hits the nail on the head. So, how is the public going to get halibut and sablefish *back* from commercial IFQ holders?

I hope that Recommendation 19-22, on bycatch, will receive more emphasis, to make a great report even better.

Thank you for writing this report. I never thought I would see such a report come to pass in my lifetime.

***Comment Submitted Christopher J. Evans, Executive Director, Surfrider Foundation***

June 3, 2004

On behalf of Surfrider Foundation, a conservation organization with over 60 national chapters throughout our coastal states and islands, we are writing to offer comments on the *Preliminary Report of the U.S. Commission on Ocean Policy: Governor's Draft* (April 2004) (Report). We appreciate the opportunity to provide comments and believe their incorporation will improve this important report and support innovative ocean management to support healthy oceans, waves and beaches for future generations.

# Overview

The report accurately recognizes the critical importance of the coasts and ocean in sustaining life on earth, the severity of the threats to its health, and the need to overhaul the way we manage activities that affect it. Like the report, we believe it is essential that coastal and oceans resources be managed from a watershed perspective that extends across beaches and into the sea. The linkages between the terrestrial and coastal-ocean systems must be stressed not only ecologically but also among research institutions, governmental agencies, regional bodies, and in the public understanding of our coasts and oceans. We agree with many of the report's findings and with its call to action. However, in a number of areas the report stops short of urging the steps necessary to restore and sustain the health of our oceans and coasts. We encourage the Commission to strengthen its recommendations in the following ways.

## Governance

## Enhancing Ocean Leadership:

The President and Congress should enact a National Ocean Policy Act that establishes the ocean as a national public trust and requires federal, state, and local agencies to protect and restore the health of ocean resources. Federal policy should focus on preserving and restoring marine ecosystems, and federal fishery management programs should be based on ecosystem health and sustainability rather than single-fishery management. Currently, the Report proposes principles but includes no mechanism to hold federal agencies accountable to them. Without a National Ocean Policy Act, the governance proposed by the USCOP report is unlikely to produce lasting change because the underlying national agency structures and divergent missions remain intact.

Additionally, the federal government should strengthen ocean governance at the regional level by establishing Regional Ocean Councils charged with developing and overseeing implementation of enforceable regional ocean governance plans. This structure would empower states like Washington to quickly and effectively protect our ocean heritage by working with federal and tribal agencies to coordinate, integrate, and implement effective ocean conservation measures.

**Reorganizing to Support an Ecosystem-based Management Approach:**

The Report, like the Pew Oceans Commission Report, strongly support the need for more coordinated and effective management of our coasts and oceans, both across terrestrial and aquatic (freshwater to marine) ecosystems, and across agencies and stakeholders. Of particular concern to the Surfrider Foundation is that beaches should be managed as ecosystems instead of sterile piles of sand (see comments on regional sediment management).

Coastal land use would also benefit from taking a coastal watershed perspective that includes better coordination of state and local land use management agencies. We support the Report's findings that rampant growth is contributing to the collapse of fragile coastal ecosystems, and that states need the capacity to better manage growth and to focus on the entire coastal watershed. Improved growth management on a watershed, littoral cell, and regional basis requires enhanced opportunities for regional-scale research programs, as indicated in Chapter 5.

Though these recommendations are sound, more can be done, as described in the Pew Ocean Commission report and its accompanying analysis of coastal development and sprawl. For example, goals for coastal watersheds should specifically include significant restoration strategies in overdeveloped coastal areas (such as those with more than 10% impervious cover in the watershed), combined with a strong habitat protection strategy in those coastal areas with less development.

Chapter 5 appropriately acknowledges the need to develop and disseminate regionally significant research and information. This section notes that scientific information is required over spatial scales beyond state jurisdiction, and over time scales longer than state governments generally act. However, the Report is short on specifics on how funding agencies should restructure their grant programs to better support nested, hierarchical, and system-based research essential to watershed, coastal, and ocean management. The Recommendations in Chapter 5 generally refer to coordination, priority-setting, incorporation, and administration of existing information and assessments, but unfortunately do not call for a fundamental restructuring of grant programs to support integrated and multi-disciplinary research needed to understand the processes and functioning of regional coastal ocean systems. While the suggested spatial scale on which regional ocean information programs should be developed may be appropriate for administration purposes, the Report should acknowledge that scientific and management within these large regions will require concerted efforts at smaller sub-systems scales of littoral cells, watersheds, and basins that make up these large geographic regions.

**Employing Marine Protected Areas as a Management Tool:**
The federal government should establish an effective system of marine protected areas to restore fisheries and marine ecosystem health. Currently, less than 1% of America's ocean is set aside for protection. Yet, marine protected areas – particularly those that protect entire ocean ecosystems - are a critical management tool to restore ocean health and the coastal lifestyle. If Regional Ocean Ecosystem Councils are established, the President and Congress should require them to establish networks of marine protected

areas that include multiple goals. The U.S. Commission on Ocean Policy's draft recommendations on marine protected areas and zoning are too weak. For example, the Report does not provide recommendations or directives on how to accomplish the transition to regional ocean councils. While national ocean governance is being restructured, NOAA should support state and local initiatives to create marine protected areas through funding, mapping and data assistance.

## Water quality

The President and Congress should strengthen the Clean Water Act and reorient federal policies and programs to better assist states in abating sources of point and non-point pollution, and improve coastal growth management and land use to protect watersheds, critical coastal habitats, water quality, and the quality of life in coastal communities. Polluted runoff is the single most significant source of pollution to the oceans, and it is critical that the Commission recommend steps to strengthen, not weaken, relevant federal laws. The Commission's report should be strengthened by providing more specific recommendations as to how federal laws and programs can be improved to better promote watershed management, what changes in law and programs would further these efforts, and what specific approaches to reducing non-point sources of pollution would be most effective.

More specific recommendations follow:

The section that discusses marine water quality monitoring should be strengthened to include mention of specific programs. Although the emphasis on watershed monitoring is important, it should be recognized that recreational water quality monitoring is still largely inadequate and under funded. The Report should include discussion of coastal bacterial monitoring (the BEACH Bill) and recommend full funding of the BEACH Bill to ensure that all states have comprehensive recreational water quality monitoring.

Sewage treatment infrastructure is woefully behind standards and timelines established in the Clean Water Act and too many sewage treatment facilities are still operating with 301(h) waivers. The Report should recommend eliminating these waivers in the future and creating new mechanisms to fund improving sewage infrastructure, one such example is the Clean Water Trust Fund.

The Total Maximum Daily Load program is a valuable program to improve water quality using watershed principals and is often criticized by municipalities as an "unfunded mandate." The Report should contain recommendations that will create a mechanism to fund this important program.

The Report should more strongly discourage the use of septic systems.

The Report should strongly encourage water conservation to reduce ecological impacts and runoff pollution and provide incentives for communities to promote and conserve water. For example, programs to support water reclamation and reuse will conserve water and reduce impacts of runoff and discharge.

## Managing Coasts and Their Watersheds:

The Coastal Zone Management Act created the Coastal Zone Management Program whose goal is to balance the conservation of the coastal environment with the responsible development of economic and cultural interests. Unfortunately, NOAA has few options to ensure that the programs are meeting national guidelines and are meeting the stated goals of the program. As illustrated in the Surfrider Foundation State of the Beach report and further substantiated in many other reports, the lack of measurable on-the-ground indicators of beach and coastal health make evaluation of the success of coastal zone management nearly impossible. Meanwhile, the few indicators that are measurable, such as water quality, indicate a decline in the health of coastal and marine resources.

To this end, the Surfrider Foundation supports recommendation 9-1 that Congress should reauthorize the Coastal Zone Management Act to strengthen planning and coordination capabilities of coastal states and enable them to incorporate a coastal watershed focus and more effectively manage growth. We support the recommended amendments to include requirements of resource assessments, the development of measurable goals and performance measures, improved program evaluations, additional funding to adequately achieve the goals of the Act, and expanded boundaries that include coastal watersheds.

Similar to terrestrial-based watersheds that share a common drainage area, coastal zones are naturally partitioned into littoral cells that share a common sediment source. In order to improve the linkage between management of coasts and watersheds, explicit connections need to be drawn between watersheds and littoral cells. Some littoral cells receive sediment and water discharges from several watersheds of a common basin, while larger watersheds may transfer energy and mass to multiple littoral cells of a common region. While growth management and development should be managed on a watershed basis, development along a coastline should likewise be managed on a littoral cell basis. Littoral cell management is especially critical in light of shoreline stabilization and navigation projects that often have a large impact on downdrift beaches.

The Report should prominently recognize the direct and significant link between dams located throughout watersheds and the coast and ocean downstream. Dams facilitate water supply, hydropower, sediment retention, and flood protection in watersheds. Yet these facilities often have profound influences on the discharge of freshwater, sediment, and nutrients into estuaries and oceans, and can greatly alter the physical and biological functioning and capacities of these systems. Dams also have a severe impact on the health of fisheries, such as salmon. In order to improve the management of coasts and their watersheds, better integration of water resource management with coastal management will be required. The Report should explicitly acknowledge the importance of the significant connection between water flow regulation, flood control and downstream coastal and ocean systems.

## Managing Sediment and Shorelines:

We support the Reports findings which recognize that human intervention in natural sediment movement patterns has resulted in problematic situations with either too little or too much sediment. The recognition that piecemeal management of coastal systems has

led to unintended consequences of poorly planned infrastructure projects is significant. We are encouraged by the recommendation that sediments be managed on a regional basis using ecosystem-based management principles. Too often ecological consequences are not given their deserved weight, in particular when it comes to beach nourishment impacts on coral reefs. Through the Surfrider Foundation's "Beach is Alive" campaign it has become evident that beaches are an important ecological bridge between the land and sea which support an abundance of important terrestrial and marine species. The ecology of sandy beaches is poorly understood and often ignored in engineering-dominated management of these resources.

Along these lines, Surfrider Foundation believes that the management of sediment and shorelines must be done within the context of understanding watersheds, littoral cells, and regional coastal systems. Although the US Army Corps of Engineers (USACE) manages projects that significantly influence these systems, it is not the USACE role, nor the desire of local, state and regional governing bodies to have the USACE in the business of managing shorelines on their behalf. At best, the USACE strives to manage sediment on a multi-project, regional basis, but the USACE should not be viewed as the lead agency responsible for developing system-scale understanding of regional sediment processes. The USACE in practice is highly constrained by project-specific authorities and regulations, and is fundamentally not organized nor adequately staffed with the scientific expertise to perform regional-scale systems-based research. This task is much more effectively performed through a genuine partnership of local, state and federal science teams that draw from multiple disciplines and capacities.

Chapter 12 is unfortunately is biased towards an engineering viewpoint of sediment and shoreline management. This Chapter emphasizes multi-project management and beneficial uses of dredged material but overlooks the many human and natural factors that affect the transfer of sediment from watersheds to the coastal oceans. The Report attributes problems created by even well-designed projects to poor communication among stakeholders and confusion about many programs that affect the removal and transport of sediment. However, Surfrider Foundation finds that most problems created by projects are due to faulty design analysis, a lack of understanding about regional coastal system processes, and an overall failure to manage regional systems (as opposed to individual or even multiple coordinated engineering projects).

Recommendation 12-1 emphasizes a national strategy and regional coordination of projects that affect sediment, and that permitting of projects should be based on ecosystem management principles. What is missing from this approach is the recognition of the critical importance of a science-based assessment and understanding of the functioning and evolution of regional sedimentary systems, including sediment sources, pathways, and sinks. An understanding of these system processes is a critical foundation for regional sediment planning and management, and is as equally important as coordination and collaboration efforts among all levels of government and stakeholders.

The section on Moving Toward Regional Sediment Management at USACE highlights the more progressive engineering viewpoint that coastal processes operate on time frames

of up to 250 years and geographic extents of dozens of miles. In actuality, coastal sedimentary processes and coastal change are significantly governed by the inherited geological framework and significantly influenced by earth surface processes spanning thousands of years and hundreds of miles. Surfrider Foundation agrees with the Report that the disregard for the scale over which natural processes operate result in unintended adverse impacts on not only nearby but *system-wide* coastal resources, and urges the Commission to recognize the role of sea-level rise, regional tectonics, climate change, sediment budgets and framework geology as major factors that influence the effect of engineering projects on coastal processes. The omission by the USACE to adequately take these larger scale factors into account often contributes to the unintended adverse impacts of engineering projects.

While the USACE recent move toward Regional Sediment Management demonstration projects is a positive step forward, Surfrider Foundation agrees with the Report that scientific, technological, and institutional hurdles remain to implementing truly regional sediment management. Surfrider Foundation recommends that Congress assist in overcoming institutional hurdles by directing the USACE to implement its existing and future projects based on Regional Sediment Management principles and not only implement individually-authorized and funded Regional Sediment Management demonstration projects. Surfrider Foundation also recommends that Congress fund and direct the US Geological Survey, as the nation's science agency, to support research and assessments towards understanding watersheds and littoral cells with prioritized needs in Regional Sediment Management.

The Surfrider Foundation supports Recommendation 12-4 that specifically encourages the relevant federal agencies to co-develop a strategy for improved assessment, monitoring, research, and technology to enhance sediment management. While Surfrider Foundation agrees that it is essential to "monitor outcomes from past projects and study the cumulative, regional impacts" of projects undertaken by the USACE, it is not recommended that the USACE be the responsible agency to undertake these monitoring and study efforts. . Monitoring and assessment of the cumulative regional impacts of USACE projects should be performed by an independent science agency, and among the federal agencies, the US Geological Survey is the most appropriate to be given that responsibility. The lack of objective post-construction monitoring and analysis has been a major weakness in the ability of state and federal resource agencies to hold the USACE accountable to negative environmental impacts of their activities and projects. Objective and peer-reviewed analysis of past and proposed projects should be performed by independent science agencies as part of comprehensive studies aimed at understanding regional coastal systems. In addition to federal agency coordination, a strategy for sediment management should be developed with significant input from states and regional ocean information boards.

While the Report's recommendations regarding highly contaminated sediments are laudable, we are concerned with the lack of guidance for small-scale dredging projects in the coastal waterways of the US. Currently there are ambiguous and often conflicting guidelines concerning disposal of contaminated dredged materials. Harbor and marine

dredge materials are often disposed in the near shore or on beaches with little or no examination of toxicity or risk to human health.

We are particularly concerned about the text box found in Chapter 12 on the top of page 141, titled "Beach Renourishment: A Special Use of Sediment." The second sentence states: "Beach nourishment can be important in protecting natural systems such as reefs and downstream coastal environments." This statement is inaccurate and, worse, could foster increased reef deterioration. For example, these "renourishments", more accurately called massive dredge and fill projects, directly bury shallow reefs in east Florida and indirectly affect offshore reefs by sedimentation. In many cases these reefs are Essential Fish Habitat-Habitat Areas of Particular Concern under the South Atlantic Fishery Management Council. These impacts are documented by shelves of Environmental Impact Statements and by peer-reviewed publications. This concern is further substantiated by a letter signed by 70 leading Ph.D. scientists in 2000, urging much greater consideration of the impacts to reefs from these projects and the need for additional independent research.

We suggest that this sentence be omitted because it is not accurate and does not reflect the larger positive theme of the report: the implementation of an ecosystem-based management approach. We also suggest that the title of this box be changed to "Beach Nourishment: Using Sediment for Hazard Reduction".

## Funding

The report should clarify that the federal ocean trust fund will be structured in a way that promotes conservation, i.e. in a manner that avoids encouraging oil and gas development, and ensures that states spend the money to conserve and protect coast and ocean resources, not to degrade them further. The proposed ocean trust fund is the sole source of money for implementing the report. As currently proposed, the fund's sole source of revenue is oil and gas development. Because the need for ocean funding is so great, this single-source design raises the possibility that the fund will encourage new oil and gas activities and undermine the coastal protection it was created to achieve. Additional possible sources of trust fund revenue include aquaculture development fees, cost recovery from fisheries management (i.e., charging for federal fishing permits, which are currently free or substantially undervalued), and fees from land uses that impact coastal and marine areas. This fund must have safeguards to prevent abuse.

## Creating a National Strategy for Increasing Scientific Knowledge

The Report rightly calls for a doubling of federal ocean and coastal research over the next five years and expanding existing programs. However, the Report is generally weak on recommending specific actions to encourage ecosystem-based scientific research that more directly supports wise decision-making and management. The Report emphasizes regional coordination, priority-setting, and administration of National Ocean Policy, but is short on specifying the type and scale of scientific information needed to support system-based management. Surfrider Foundation believes that integrated multi-disciplinary research on a watershed and littoral cell scale that is specifically aimed and

understanding the dynamics, influences and interactions of these systems should be prioritized as part of the national budget and through directives to implementing agencies.

Thank you for the opportunity to provide these comments. We look forward to working with you and your Administration to implement actions that move us toward sustainable use of our spectacular coasts and oceans and benefits our economy and preserve the sensitive and unique habitats, wildlife and resources of the coast and ocean for Americans today and into the future. America's oceans need the leadership you can provide. Please act now so our children and future generations can enjoy the continuing legacy of a healthy ocean.

***Comment Submitted by Mike Nussman, American Sportfishing Association; Monita Fontaine, National Marine Manufacturers Association; Ryck Lydecker, Boat Owners Association of the United States (BoatU.S.); Liz Hamilton, Northwest Sport Fishing Industry Association; David Cummins, Coastal Conservation Association; Bob Fletcher, Sportfishing Association of California; Rob Kramer, International Game Fish Association; Tom Raftican, United Anglers of Southern California***

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We are pleased to submit comments to the U.S. Commission on Ocean Policy (USCOP) as it works toward recommendations for a coordinated and comprehensive national ocean policy. The following statement addresses four specific recommendations outlined in the Preliminary Report related to improved fishery management. These include improving recreational fishing data, reducing conflicts of interest in allocation decisions, balancing representation on fishery management councils, and the appropriate use of marine protected areas.

The members of the recreational fishing and boating community listed below agree with the Commission's overall findings that marine resources would benefit from improved management. We firmly believe our ocean resources must be managed for long-term sustainability ensuring future generations of Americans can enjoy the benefits of a healthy ocean ecosystem. Sportfishing relies on healthy fish, clean water and quality habitat. By conserving ocean resources, we preserve the recreational fishing tradition.

**Sportfishing: America's Traditional Pastime**

More than just a hugely popular recreational activity, sportfishing is a powerful economic force, an unparalleled contributor to conservation, and a vital part of the American culture. Each year, more than 17 million Americans fish for recreation along our oceans and coasts. That's more people than play baseball, tennis, or soccer and more than twice as many as participate in offroad mountain biking or yoga. Recent national public opinion polls from Harris and Roper/ASW have identified recreational fishing as among Americans' top outdoor recreational activities.

Saltwater recreational fishing generates more than $31 billion in benefits to our national, state and local economies and supports nearly 300,000 jobs. The overall impact of angler expenditures would make saltwater sportfishing on par with some of America's largest companies such as Nextel, Nike, and General Mills.

Both in theory and practice, anglers return far more to the resource than they take out. Through the innovative Sport Fish Restoration Act, taxes imposed on fishing tackle and boat fuel, when combined with license revenues, result in a pot of nearly $1 billion being returned to states each year for conservation. In many parts of the country these angler-generated dollars are the only funds states have to improve fish habitat, public access, and aquatic education. However, despite making such a significant financial contribution to the fishery, NOAA Fisheries data demonstrates that recreational anglers take only 3

percent of all fish landed along our coasts. Commercial operations are responsible for the remaining 97 percent of saltwater landings, although commercial fishermen make no comparable contribution.

**Anglers Are Critical to Improved Fishery Management**

Fishery management has made tremendous progress in the past three decades since the enactment of legislation inspired by the Stratton Commission. The landmark Sustainable Fisheries Act of 1996 marked a milestone for ocean fisheries management. It turned the focus from commercial exploitation to conservation of fishery resources. And we have made significant progress.

In 2003, the National Oceanic and Atmospheric Administration reported that 70 overfished species showed significant progress under special management plans designed to rebuild their populations to healthy levels. Over the last 5 years, 20 species have been removed from the overfished list and are steadily improving, and the trend toward overfishing has been reversed for 25 species. Striped bass, weakfish, and summer flounder are three examples of recreationally important species that have rebounded because of improved implementation of regulations and the active involvement of conservation-minded anglers.

While not all the news is so bright, anglers continue to provide examples of what's good about ocean management today. The June 2003 issue of the scientific journal *Nature* made clear that factory longlines and trawlers have decimated 90 percent of large pelagic fish. But it is important to note that through voluntary tagging efforts, gear modifications, and increased use of catch and release, recreational anglers have played a critical role in helping aid the recovery of these open ocean species, most notably the successful return of Atlantic swordfish.

Unfortunately, we have largely ignored habitat destruction, among the most critical threats to sustainable fisheries. *Shifting Gears* a recent report by the Marine Conservation Biology Institute focused on the significant habitat and species damage caused by different types of fishing gear by ranking their relative impacts. It made clear the substantial differences in habitat impacts between commercial trawls (the worst offender) and simple hook and line fishing used by recreational anglers (shown to have very little effect on habitat).

Rigs-to-reefs are a good example of how anglers are working to find creative solutions to habitat loss. Over the past 15 years, at the urging of sport anglers and divers, hundreds of dormant oil rigs have been toppled over or sheared in half to provide what scientists have qualified as quality fish habitat. In a rare marriage of conservationists and industry, anglers, divers, and oil companies all support the effort. Anglers and divers are excited about the potential new recreational opportunities and the oil companies' relieved about the potential savings in removal costs.

**Toward an Improved Ocean Policy**

The recreational fishing community looks forward to working with Congress and the Administration to ensure the public's recreational interests are well represented in subsequent policy debates. We hope to address the Commission's findings by working cooperatively to reauthorize the Sustainable Fisheries Act and push for passage of other key ocean legislation such as an organic act to strengthen NOAA, establish a National Ocean Council, and create an ocean trust fund.

As the USCOP prepares its final report, we ask them to consider the following specific comments of the recreational fishing community.

**1. Improving Recreational Fishing Data**

*Recommendation 19-8. The National Marine Fisheries Service working with the States and interstate fisheries commissions, should require all saltwater anglers to purchase licenses to improve in season data collection on recreational fishing. Priority should be given to fisheries in which recreational fishing is responsible for a large portion of the catch, or in which recreational fishermen regularly exceed their allocated quota.*

Outside of beachgoers, recreational saltwater anglers represent the single largest user group of the nation's oceans. Yet, as the USCOP points out, they are a difficult group to sample and integrate into marine fishery management. The Preliminary Report proposes to institute a recreational saltwater fishing license at the federal level to improve data collection.

In most states recreational anglers have supported a recreational saltwater fishing license, as long as the funds generated were used for better fishery management and anglers had some oversight of the funds. America's 17 million saltwater recreational anglers should be accurately counted both to improve fisheries management and help directly fund these efforts.

We support Recommendation 19-8 in principle. However, selective application of the license will not be effective; therefore it ought to be applied to all saltwater anglers. There are a variety of ways to implement a recreational saltwater license, but we do have some advice for moving forward. A federal permit should only be issued in the absence of a state license that does not have significant exemptions. If a state has a license in place that is capable of providing enough data for proper management of recreational saltwater anglers, the data is available to all fishery managers and the issuing authority can apply the funds to marine fishery management and better data collection, then a federal permit would not be needed. Only when these conditions could not be met, would a federal permit be appropriate.

Having the means to collect better recreational data is only the first step. Anglers are NOAA's largest constituency, yet management has long suffered from poor catch and socio-economic data specific to recreational anglers. NOAA must use this additional data collection effort to improve the precision and credibility of their statistics. Sampling of recreational anglers must increase both in number and frequency and sufficient

resources need to be added in order to analyze the newly collected data. Lastly, and perhaps most importantly, recreational fishing data must be collected so that it is relevant to management goals and easily integrated into the decision-making process. To that end, we also support Recommendations 5-2, 19-7, 25-1, and 25-3 that call for increased research coordination and funding, along with better incorporation of social science and economic data in management decisions.

**2. Reducing Conflicts of Interest in Fishery Allocations**

*Recommendation 19-1. Congress should amend the Magnuson-Stevens Fishery Conservation and Management Act and related statutes to require the Regional Fishery Management Councils (RFMCs) and interstate fishery commissions to rely on their Scientific and Statistical Committees (SSCs), incorporating SSC findings and advice into the decision-making process. In keeping with this stronger role, SSC members should meet more stringent scientific and conflict of interest requirements, and receive compensation.*

The perception of most fishery management councils is of the fox guarding the henhouse. While there are some councils that use SSCs and other scientific technical teams effectively, there clearly are cases where this perception is close to reality. The recreational fishing community has long had concerns about conflicts of interest on federal, interstate or state management councils or commissions. We are especially concerned about conflicts on the science side of the management equation.

The scientists and biologists that do the assessments determining the allowable catch and allocation must be knowledgeable about the fisheries in question. However, this knowledge should not be tainted by having a direct financial stake in the particular fishery. They should not be employed by or the representative of any concern (recreational, commercial or environmental) that may directly benefit from management actions. Members of the SSC should be disinterested, scientifically trained individuals whose sole objective is the best scientific management of the resource.

We urge the Commission to support stricter conflict of interest requirements by including this recommendation in its final report to Congress. In a related action, we also support requiring Councils to not exceed allowable biological catch levels or overfishing limits.

**3. Balancing Representation on Fishery Management Councils**

*Recommendation 19-12. Congress should amend the Magnuson-Stevens Fishery Conservation and Management Act to require governors to submit a broad slate of candidates for each vacancy of an appointed Regional Fishery Management Council seat. The slate should include at least two representatives each from the commercial fishing industry, the recreational fishing sector, and the general public.*

In general, marine fisheries management occurs on two levels. The first is where scientists determine the status of stocks, allowable catch, and allocations (see above). The second is by appointed lay people who devise regulations based on both science and public input. We echo the concerns of many that say the Councils are too heavily influenced by commercial fishing interests. Decisions about the long-term sustainable health of our fisheries resource should be debated in an open forum with fair and balanced representation from all sides.

We disagree that with Recommendation 19-12 however, as it *requires* governors to fill a quota of representatives from various sectors. Governors should offer up the most knowledgeable individuals that, to the extent possible, represent a wide spectrum of interests. However, understand that it may not always be possible or practical to select names from each of the assigned categories. We urge the commission to reevaluate the recommendation and leave the authority to assign council members entirely up to the governors.

**4. The Role of Marine Protected Areas**

Although there is no specific recommendation, the USCOP's report provides a glimpse into the no-fishing debate – one of the most critical issues affecting fishing access today. We fear progress on our nation's broader ocean conservation agenda is getting sidetracked by runaway proposals to establish a national network of no-fishing zones.

It is appropriate to consider special protection for certain marine areas. The evidence is clear we need to do a better job safeguarding our ocean resources and as we move towards ecosystem management, MPA's should be among the suite of tools available. However, public policy proposals that are vague on criteria, scope, and benefit, yet definitive on denying all access to a large segment of the American public, raise our concern. It is a long-standing policy of the Federal Government to allow public access to public lands and waters for recreational purposes consistent with sound conservation. This policy is reflected in the principles of our great wildlife refuges, national forests, national parks, and wilderness areas.

Anglers are conservationists first and foremost and have a long history of making sacrifices for the betterment of the resource. These have occasionally included targeted closures where the science has clearly indicated they are the best solutions to protect fish and sensitive habitat. But because they are the most draconian device, use of MPAs must be considered in relation to other, less severe management tools. As with any good fishery management decision, discussions about measures that restrict public access must involve an open public process, a solid scientific basis, and specific guidelines on implementation and follow-up.

Oceans are a treasured public resource that provides important recreational opportunities to all Americans. We are pleased to see the USCOP acknowledging that one of the main reasons we conserve our natural resources is to ensure people can continue to enjoy them

through outdoor recreation. Unfortunately, that idea has gone missing in recent ocean policy debates. It's important for the Commission to place MPAs in their appropriate management context, as just one of many tools available to resource managers.

The undersigned members of the sport fishing and boating communities thank you for the opportunity to comment on the Commission's preliminary findings. We look forward to working with the U.S. Commission of Ocean Policy, Members of Congress, and the Administration to ensure a bright future for our oceans.