

Participating Organizations

Alliance for a Living Ocean
American Littoral Society
Arthur Kill Coalition
Asbury Park Fishing Club
Bayberry Garden Club
Bayshore Regional Watershed Council
Bayshore Saltwater Flyrodders
Belford Seafood Co-op
Belmar Fishing Club
Beneath The Sea
Bergen Save the Watershed Action Network
Berkeley Shores Homeowners Civic Association
Cape May Environmental Commission
Central Jersey Anglers
Citizens Conservation Council of Ocean County
Clean Air Campaign, NY
Coalition Against Toxics
Coalition for Peace & Justice/Unplug Salem
Coast Alliance
Coastal Jersey Parrot Head Club
Communication Workers of America, Local 1034
Concerned Businesses of COA
Concerned Citizens of Bensonhurst
Concerned Citizens of COA
Concerned Citizens of Montauk
Concerned Students and Educators of COA
Eastern Monmouth Chamber of Commerce
Fisher's Island Conservancy
Fishermen's Conservation Association, NJ Chapter
Fishermen's Conservation Association, NY Chapter
Fishermen's Dock Cooperative, Pt. Pleasant
Friends of Island Beach State Park
Friends of Liberty State Park, NJ
Friends of the Boardwalk, NY
Garden Club of Englewood
Garden Club of Fair Haven
Garden Club of Long Beach Island
Garden Club of RFD Middletown
Garden Club of Morristown
Garden Club of Navasink
Garden Club of New Jersey
Garden Club of New Vernon
Garden Club of Oceanport
Garden Club of Princeton
Garden Club of Rumson
Garden Club of Short Hills
Garden Club of Shrewsbury
Garden Club of Spring Lake
Garden Club of Washington Valley
Great Egg Harbor Watershed Association
Green Party of Monmouth County
Green Party of New Jersey
Highlands Business Partnership
Holly Club of Sea Girt
Hudson River Fishermen's Association
Jersey Shore Captains Association
Jersey Shore Parrot Head Club
Jersey Shore Running Club
Junior League of Monmouth County
Keypoint Environmental Commission
Kiwanis Club of Manasquan
Kiwanis Club of Shadow Lake Village
Leonardo Party & Pleasure Boat Association
Leonardo Tax Payers Association
Main Street Wildwood
Mantoloking Environmental Commission
Marine Trades Association of NJ
Monmouth Conservation Foundation
Monmouth County Association of Realtors
Monmouth County Audubon Society
Monmouth County Friends of Clearwater
National Coalition for Marine Conservation
Natural Resources Protective Association, NY
NJ Beach Buggy Association
NJ Commercial Fishermen's Association
NJ Environmental Federation
NJ Environmental Lobby
NJ Main Ship Owners Group
NJ Marine Education Association
NJ PIRG Citizen Lobby
Nottingham Hunting & Fishing Club, NJ
NYC Sea Gypsies
NY State Marine Education Association
NY/NJ Baykeeper
Ocean Wreck Divers, NJ
PaddleOut.org
Piscataway Saltwater Sportsmen Club
Raritan Riverkeeper
Religious on Water
Riverside Drive Association
Rotary Club of Long Branch
Rotary District #7510—Interact
Saltwater Anglers of Bergen County
Sandy Hook Bay Anglers
Save Barnegat Bay
Save the Bay, NJ
SEAS Monmouth
Seaweeders Garden Club
Shark Research Institute
Shark River Cleanup Coalition
Shark River Surf Anglers
Shore Adventure Club
Sierra Club, NJ Shore Chapter
Sisters of Charity, Marie Stella
Sons of Ireland of Monmouth County
Soroptimist Club of Cape May County
South Jersey Dive Club
South Monmouth Board of Realtors
Staten Island Tuna Club
Strathmere Fishing & Environmental Club
Surfers' Environmental Alliance
Surfrider Foundation, Jersey Shore Chapter
TACK I, MA
Terra Nova Garden Club
Three Harbors Garden Club
Unitarian Universalist Congregation/Monm. Cnty.
United Boatmen of NY/NJ
Village Garden Club
Volunteer Friends of Boaters, NJ
WATERSPIRIT
Women's Club of Berck Township
Women's Club of Keypoint
Women's Club of Long Branch
Women's Club of Merchantville
Women's Club of Spring Lake
Women Gardeners of Ridgewood
Zen Society



Ocean Advocacy
Since 1984

Clean Ocean Action

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August 14, 2009

Interagency Ocean Policy Task Force
c/o Ms. Nancy Sutley, Chairwoman
White House Council on Environmental Quality
722 Jackson Place
Washington, DC 20503

Re: National Policy for the Oceans, Our Coasts, and the Great Lakes

Dear Chairwoman Sutley and members of the Interagency Ocean Policy Task Force:

Clean Ocean Action (COA) is a regional, broad-based coalition of 125 conservation, environmental, fishing, boating, diving, student, surfing, women's, business, service, and community groups with a mission to improve the degraded water quality of the marine waters of the New Jersey/New York coast. We have been actively engaged in the national Outer Continental Shelf (herein the "OCS") energy development discussions and have provided extensive comments on several energy projects proposed off the New Jersey coastline, including three commercial-scale wind facilities, three liquefied natural gas facilities and oil/gas exploration and development. COA was also instrumental in developing the federal Clean Ocean Zone legislation, set to be introduced in the U.S. Congress by our New Jersey legislators, which includes important marine spatial planning principles.

In his June 12, 2009 Memorandum on National Policy for the Oceans, Our Coasts, and the Great Lakes (herein the "Ocean Policy Memo"), President Obama made clear his expectations of a definitive national policy whose core value is to "ensure(s) the protection, maintenance, and restoration of the health of ocean, coastal, and Great Lakes ecosystems and resources."¹ He also called for "a comprehensive, ecosystem-based framework"² to provide the underpinnings of an effective and protective national policy that is based on objective, scientifically valid information. The President campaigned on the promise to "restore the basic principle that government decisions should be based on the best- available, scientifically-valid evidence"³ and

¹ President Barack Obama to Heads of Executive Departments and Agencies, Memorandum regarding National Policy for the Oceans, Our Coasts, and the Great Lakes, June 12, 2009, The White House Office of the Press Secretary.

² Ibid.

³ ScienceDebate2008, (August 30, 2008) "Presidential Answers to the top 14 Science Questions facing America", last visited August 14, 2009, from <http://www.sciencedebate2008.com/www/index.php?id=40>

this initiative is further proof of his ongoing commitment to science as a driver of policy. COA shares President Obama's vision to ensure the continued protection of the ocean today and for future generations and we look forward to contributing to his efforts to develop of a long-overdue national policy. Below please find our recommendations for ensuring an effective and protective national policy based on best-available, scientifically-valid information, including important actions that are required to support this policy, which includes ecosystem-based management, precautionary principle, adaptive management, cumulative impacts and public participation. We will also be submitting additional comments at a later date on the issue of marine spatial planning and renewable energy development, as outlined in the President's Ocean Policy Memo.

NATIONAL POLICY FOR OUR OCEANS, OUR COASTS, AND GREAT LAKES

The national policy must be to protect, maintain, and restore healthy, productive and resilient oceans and coastal ecosystems. This can only be achieved through the implementation of each of the following actions.

Employing a comprehensive Ecosystem-Based Management Approach

In 2005, the Communication Partnership for Science and the Sea (herein "COMPASS") called for a new management strategy for our marine resources that utilizes a comprehensive, integrated ecosystem approach, in contrast to the current practice of sector-by-sector management by multiple agencies with different and often conflicting mandates. COMPASS developed the following consensus definition of Ecosystem-based Management that was signed by over 220 scientist and policy experts, including Dr. Jane Lubchenco, President Obama's current NOAA Administrator.

"Ecosystem-based management is an integrated approach to management that considers the entire ecosystem, including humans. The goal of ecosystem-based management is to maintain an ecosystem in a healthy, productive and resilient condition so that it can provide the services humans want and need. Ecosystem-based management differs from current approaches that usually focus on a single species, sector, activity or concern; it considers the cumulative impacts of different sectors. Specifically, ecosystem-based management:

- *emphasizes the protection of ecosystem structure, functioning, and key processes;*
- *is place-based in focusing on a specific ecosystem and the range of activities affecting it;*
- *explicitly accounts for the interconnectedness within systems, recognizing the importance of interactions between many target species or key services and other non-target species;*
- *acknowledges interconnectedness among systems, such as between air, land and sea; and*
- *integrates ecological, social, economic, and institutional perspectives, recognizing their strong interdependences.*⁴

When read in its entirety, the six page COMPASS statement clearly states that the primary goal must be to protect, maintain, and restore healthy, productive and resilient ecosystems. This priority is further articulated in the "Key Elements of Ecosystem-Based Management" section of the document, which was taken from the U.S. Commission on Ocean Policy and the Pew Oceans Commission. The very first element listed is: *"Make protecting and restoring marine ecosystems*

⁴ Communication Partnership for Science and the Sea, "Scientific Consensus Statement on Marine Ecosystem-Based Management" March 21, 2005 http://compassonline.org/pdf_files/EBM_Consensus_Statement_v12.pdf

*and all their services the primary focus, even above short-term economic or social goals for single services. Only intact, healthy ecosystems can provide the complete range of benefits that humans want and need over long periods of time.*⁵” Any ocean policy that reverses this relationship and emphasizes human wants and needs as the catalyst for ecosystem protection, will fail in both endeavors. This seemingly subtle, yet fundamental distinction is critical to developing an effective national policy that can achieve both a healthy ecosystem and by consequence, meet human’s wants and needs.

Therefore, in order to more clearly and unequivocally describe the true intention of this coalition of scientists and policy makers, COA recommends the national policy include the comprehensive COMPASS definition and description of ecosystem-based management with the following clarification to the definition, : “*The goal of ecosystem-based management is to maintain an ecosystem in a healthy, productive and resilient condition **which will** provide the services humans want and need.*”

Utilizing the Precautionary Principle

As defined at the 1998 Wingspread Conference, the Precautionary Principle is “*When an activity raises threats of harm to human health or the environment, precautionary measures should be taken even if some cause and effect relationships are not fully established scientifically.*”⁶

Applying the Precautionary Principle to our national oceans and coastal policy means requiring evidence that an action will not cause undue harm to ecosystem functioning before allowing that action to proceed. Utilization of a precautionary approach would apply judicious and responsible management practices, based on best available science⁷ and would put the burden on the proposed action to prove no undue harm. Using this same line of reasoning, the U.S.

Commission on Ocean Policy clearly stated “*where threats of serious or irreversible damage exist, lack of full scientific certainty shall not be used as a justification for postponing action to prevent environmental degradation.*”⁸

Adopting an Adaptive Management Strategy

The use of an adaptive management strategy that is guided by the precautionary principle is critical to the success of ocean and coastal resource management because it accounts for the inherent uncertainties of the natural world, socioeconomic developments, and the outcomes of management actions.⁹ COA supports a definition of adaptive management that allows regulators to take action in the face of uncertainty, enhances scientific knowledge to reduce uncertainties, and responds to unanticipated events.^{10,11} We recommend the Interagency National Ocean

⁵ Ibid

⁶ Wingspread Conference, Racine, Wisconsin, 23-25 January 1998

⁷ D.F. Boesch (2006) Scientific requirements for ecosystem-based management in the restoration of Chesapeake Bay and Coastal Louisiana. *Ecological Engineering*. 26: 6-26.

⁸ U.S. Commission on Ocean Policy (2004) *An Ocean Blueprint for the 21st Century*. Final Report of the U.S. Commission on Ocean Policy, Washington, D.C.

⁹ D.F. Boesch (2006) Scientific requirements for ecosystem-based management in the restoration of Chesapeake Bay and Coastal Louisiana. *Ecological Engineering*. 26: 6-26.

¹⁰ National Research Council (2004) *Adaptive Management for Water Resources Project Planning*. National Academies Press, Washington, D.C. <http://www.nap.edu/catalog/10972.html>

¹¹ D.F. Boesch (2006) Scientific requirements for ecosystem-based management in the restoration of Chesapeake Bay and Coastal Louisiana. *Ecological Engineering*. 26: 6-26.

Policy Taskforce (herein the “INOP”) refer to the structured approach to adaptive management developed by the National Research Council which includes the following set of requirements: “*Management objectives that are regularly revisited and accordingly revised, a model(s) of the system being managed, a range of management options, monitoring and evaluating outcomes of management actions, mechanisms for incorporating learning into future decisions, and a collaborative structure for stakeholder participation and learning.*”¹²

Accounting and Protecting for Cumulative Impacts

The current sector-based management system contributes to an often deficient and ineffective analysis of a proposed project’s cumulative impacts. For example, a study of 89 Environmental Assessments (EAs) prepared by 13 different federal agencies, found that only 35 of the EAs (39%) mentioned cumulative impacts anywhere in the document and only one-half of the 35 provided any evidence or rationale for reaching a conclusion of no significant cumulative impacts.¹³ Adopting an ecosystem-based approach to management of our marine and Great Lakes waters will improve cumulative impact assessment by requiring permitting agencies to recognize and consider the dynamic interconnectedness within and between ecosystems and consequently evaluate the cumulative effects of different proposed activities on the diversity and interactions of species. An effective and protective national policy must ensure the development and implementation of policies, management plans, regulations, and enforcement procedures that account for cumulative impacts. COA will provide additional comments on the critical role that cumulative impact assessment must play in the Marine Spatial Planning process when we submit formal comments on this issue at a later date..

Implementing Robust, Meaningful Public Participation as the Cornerstone of Good Governance Structure

In general, Clean Ocean Action supports the recommendations offered by the Coastal States Organization (herein the “CSO”) entitled “*Recommendation # 5: Adopt an Ocean Governance Framework that Builds on Existing State, Regional, and Federal Partnerships*”.¹⁴ Our support for this recommendation comes with some important distinctions.

First, CSO’s recommendation includes a bullet that “*Support[s] a mechanism such as the Ocean Trust Fund to develop, fund and implement regional plans.*” As described in a separate recommendation (# 3) the CSO’s proposed Ocean Trust Fund would include revenue from offshore drilling, as well as other activities that occur in ocean, coastal and Great Lakes ecosystems. Please refer to the section below entitled “Ocean Trust Fund” for Clean Ocean Action’s recommendations on this issue.

Second, efforts to develop and implement an effective national policy will only be successful through meaningful involvement of the interested public. A concept that is also endorsed by the

¹² Ibid

¹³ L. McCold and J. Holman (1995) “Cumulative impacts in environmental assessments: How well are they considered?” *Environmental Professional* 17(1): 2-8

¹⁴ Kristen M. Fletcher, Executive Director, Coastal States Organization “Priorities for a National Policy for the Oceans, Coasts & Great Lakes”. Submitted to the White House Council on Environmental Quality, July 30, 2009. pp. 5-6. http://www.whitehouse.gov/assets/formsubmissions/54/CSO_Recommendations_for_National_Policy_7-30-09.pdf

CSO in Recommendation # 5 on Governance Framework: “*Encourage and facilitate significant opportunities for public input and involvement in regional ocean governance initiatives.*”¹⁵

Even the most well-planned and efficient governance structure will fail if it does not include a clear requirement for meaningful public participation at all levels of government and at each stage of development. To that end, the White House Council on Environmental Quality (herein the “CEQ”) must take immediate steps to improve current public outreach efforts in order to actively engage and inform the interested public on the process and opportunities for participation. For example, the CEQ webpage on the INOP Taskforce does not provide any contact information, public comment deadlines, information on upcoming public hearing, or even a list of INOP Taskforce members. This dearth of information prevents the interested public from providing their valuable input to the INOP Taskforce, sets a poor precedence for future public participation, and contradicts the clear requirement for public participation described in the President’s Ocean Policy Memo. Considering the abbreviated time frame set forth in the Ocean Policy Memo, improving public outreach and participation must be addressed quickly. The development and implementation of a national ocean policy, an ecosystem-based management approach and marine spatial planning, all must include an explicit requirement for robust and ongoing public participation in the form of workgroups and/or taskforces active at each level of governance (federal, regional and state). The inclusion of the interested public at all stages of the process leads to stronger, more resilient plans by providing knowledge about issues/problems present at all scales (national, regional and local) and allows for the development of common solutions that lead to public support and ownership of policies, programs and activities.

Recognizing the Public Trust Doctrine for the EEZ

COA calls for official recognition of the Public Trust Doctrine for the Exclusive Economic Zone.

Establishing an Ocean Trust Fund

Clean Ocean Action is deeply concerned about the inherent conflict of interest that will be created if funding the Ocean Trust Fund includes direct revenue produced by expanding or establishing new ecologically-harmful industrial use such as oil and gas drilling. Although several others have proposed this type of funding mechanism, after careful consideration, COA believes such an approach threatens the very foundation of an effective and protective national ocean policy by potentially encouraging activities that do not protect, maintain, and restore healthy, productive and resilient ocean and coastal ecosystems.

We propose an alternative funding method for the Ocean Trust Fund that would include a permanent and dedicated annual federal allocation from general revenues. The U.S. Commission on Ocean Policy reported that our oceans, coastal watersheds and the Great Lakes combine to contribute over 4.5 trillion dollars to the annual total National Gross Domestic Product (herein the “GDP”) (as estimated in 2000)¹⁶. This equates to an impressive 50% of the total GDP. The Western Governor’s Association determined the Ocean Trust Fund would require “*a dedicated source of revenues eventually reaching \$4 billion annually to support the management, protection, and understanding of the natural and economic resources along our nation’s coasts,*

¹⁵ Ibid

¹⁶ U.S. Commission on Ocean Policy. (2004) *An Ocean Blueprint for the 21st Century*, Final Report., Washington, DC

oceans, Great Lakes, and islands."¹⁷ Therefore, to fully fund the Ocean Trust Fund would only require an allocation of less than 0.1% of the total revenue generated by these valuable ecosystems! This direct allocation is completely justifiable given the substantial revenues they generate, not to mention a prudent investment that is necessary to sustain current returns.

Implementing Marine Spatial Planning

COA supports the development and implementation of Marine Spatial Planning, as long as it includes a requirement for robust and meaningful public input and participation. This issue, as prescribed by the Ocean Policy Memo will be addressed in the near future however we wanted to highlight the importance of this issue at this time. We will therefore provide more expansive comments and recommendations on this issue to the CEQ and the IOCP Taskforce at a later date.

In conclusion, Clean Ocean Action looks forward to continued participation in this ongoing process of developing an effective and protective National Policy for the Oceans, Our Coasts, and the Great Lakes that ensure the maintenance and restoration of these important ecosystems. We also request representation on any formal or informal public workgroups or taskforces being utilized by the CEQ or INOP taskforce to achieve the goals set forth in the President's Ocean Policy Memo.

Sincerely,



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David Byer, Esq.
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¹⁷ Western Governor's Association "Policy Resolution 09-10" submitted by Shanna Brown, Deputy Director of Washington D.C. Office to the White House Council on Environmental Quality.

<http://www.westgov.org/wga/policy/09/oceans.pdf>