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The Honorable Nancy Sutley
Chair, White House Council on Environmental Quality
722 Jackson Place, NW
Washington, DC 20503

Dear Chair Sutley:

Once again, we applaud both President Obama and the Interagency Ocean Policy Task Force for such early attention on developing a national policy for the stewardship of the ocean, coasts and Great Lakes, and now, for specifically addressing marine spatial planning. As the Task Force turns its focus to the development of a recommended framework for effective coastal and marine spatial planning, we would like to highlight key characteristics and models of marine spatial planning for your consideration in developing a framework, as called for in the Presidential Memorandum of June 12, 2009, that is “a comprehensive, integrated, ecosystem-based approach that addresses conservation, economic activity, user conflict, and sustainable use of ocean, coastal, and Great Lakes resources consistent with international law...” These characteristics and models are drawn from the National Marine Sanctuary System (Sanctuary System), as established and managed pursuant to the National Marine Sanctuaries Act (NMSA).

Integral Elements of Marine Spatial Planning

Though MSP is still not widely practiced or understood around the world, there is a growing recognition of the importance of place-based management to ensure sustainable use of resources in light of increasing pressures across different sectors. There are some key characteristics^{1,2} that constitute successful marine spatial planning in that it must be:

- Participatory—allowing a public process to engage diverse stakeholders in helping to determine the balance of uses and resulting outputs of the specified marine area;

¹ *Marine Spatial Planning: A Step-by Step Approach toward Ecosystem-based Management*. UNESCO Intergovernmental Oceanographic Commission and the Man and the Biosphere Programme. 2009

² *Best Practices for Marine Spatial Planning: Advice from a workshop organized by The Nature Conservancy's Global Marine Team*. August 2009

- Ecosystem-based—taking a holistic approach in balancing the ecological, economic, and social goals in deciding the spatial and temporal distributions within the marine area and in the related management of the area given these distributions;
- Integrated—spanning across different sectors and governing bodies;
- Area/Place-based—having well-defined geographic boundaries;
- Adaptive—adjusting previous decisions based on new information and changing conditions;
- Strategic and anticipatory—seeking long-term success of the plan in the specified marine area; and
- Multi-objective—taking into account multiple management objectives and the trade-offs among them.

These principles are being applied in national marine sanctuaries. In addition, there are many potential economic, ecological/environmental, and social benefits¹ of successfully implementing a marine spatial plan, many of which are relevant and starting to be realized in sanctuaries. For example, within sanctuaries: 1) compatible uses are identified, 2) conflicts among incompatible uses and between uses and nature are reduced, 3) permitting process is streamlined, 4) areas of particular biological or ecological importance are identified, 5) cumulative impacts of human uses on marine ecosystems are reduced, 6) opportunities for community and citizen participation are improved, and 7) cultural heritage is identified and receive improved protection.

We believe that MSP can certainly prioritize one particular purpose, such as resource protection, over other purposes, provided that the defining characteristics identified above are applied, which includes accounting for multiple management objectives in that area. Sanctuaries indeed possess the qualities that describe MSP, and even take it from planning through implementation. The sanctuary management plans and the resulting regulations and permitting guidelines that some sanctuaries produce are comprehensive in nature due to the many uses that occur within their boundaries, as in Monterey Bay and the Florida Keys National Marine Sanctuaries. In order to effectively implement these plans, sanctuary management includes enforcement and accountability, science/research and monitoring, evaluation (e.g., condition reports), adaptability (e.g., periodic management plan reviews), continued public participation (e.g., sanctuary advisory councils, stakeholder working groups), education and outreach, and work with governmental and private partners. These are all critical elements for the sanctuaries to achieve their ecosystem-based approach to management.

In a 2006 report, a panel of the National Academy of Public Administration (NAPA)³ states that the approach taken in national marine sanctuaries “could be an effective model for ecosystem-based management” because they are place-based and “substantively involve communities, stakeholders and other agencies.” Further, the report notes that the “[national marine] sanctuary program [NMSPP]...offers a unique and promising model for effective multipurpose marine governance. Its design and, at their best, its day-to-day operations follow the recommendations of two recent national commissions on ocean policy... NMSPP is one of the few marine agencies—and the only marine agency working in the open ocean—that is explicitly charged with protecting the full range of marine resources, as well as facilitating uses, and with assisting with research and public

³ *Ready to Perform? Planning and Management at the National Marine Sanctuary Program*. Report by a Panel of the National Academy of Public Administration for the National Oceanic and Atmospheric Administration. October 2006.

education.” NAPA called sanctuaries “sources of national inspiration [and] excellent places for testing new approaches to marine governance [since they] address the full range of ocean governance issues and use a variety of tools [giving them the] flexibility to work with other federal agencies, communities, non-profits, citizens, and state and local governments in ways that other marine agencies cannot.” Marine spatial planning is one such tool used in sanctuaries to help protect America’s marine ecosystems and sustain them for future generations. Sanctuary managers have learned to take a balanced management approach and have adopted a marine spatial planning process based on common sense and practical solutions.

Due to their observations and findings, NAPA suggested that Congress, CEQ, and NOAA look to the National Marine Sanctuary Program as “an essential part of ocean governance, and invest resources in the program accordingly,” noting that these entities should “use sanctuaries to test the effectiveness of civic ocean governance—participatory, multipurpose, and locally based with clear national goals.”

National Marine Sanctuaries as Examples for Marine Spatial Planning

Given that the primary objective of national marine sanctuaries is to protect the resources within their boundaries, they must rely on ecosystem-based management and adaptive management to be effective. Such management includes accounting for the many competing public and private uses that are putting pressure on the sanctuary waters and resources. The sixth purpose and policy of NMSA is “to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities.” Therefore, it became necessary for some sanctuaries to conduct marine spatial planning (MSP)—based on sound science, with public input, and in coordination with other levels of government and partners. MSP has been in sanctuaries at multiple spatial scales for more than 30 years in order to fulfill their mission.

The spatial scale necessary for conducting marine spatial planning varies with the density of the uses in a given area and the requirements for sustaining the ecological integrity of the resources. On national and regional scales, sanctuaries are special areas requiring certain management and protection in relation to the surrounding areas. Within sanctuaries, management takes place on a local scale in order to achieve the protection objectives while balancing human uses and interests—including economic, recreational, social, and aesthetic. Sanctuary managers rely on partnerships and public participation to ensure the necessary MSP principles are applied in managing the uses on this finer scale.

Examples of Marine Spatial Planning in Sanctuaries—California:

There are several examples across the four national marine sanctuaries in California of how marine spatial planning has been applied. For instance, when the Gulf of the Farallones National Marine Sanctuary (GFNMS) was designated in 1981, marine spatial planning was critical to placing limits on how close ships could travel in order to protect sea birds and other marine life from ship groundings and oil spills. More recently, marine spatial planning helped NOAA determine zones in the Monterey Bay National Marine Sanctuary (MBNMS) for operation of jet skis and the safe discharge of sediments from harbor dredging. There has also been three years of collaboration

between the Cordell Bank National Marine Sanctuary (CBNMS), NOAA Fisheries Service, and the Pacific Fisheries Management Council to create a zone prohibiting the use of bottom contact gear to protect essential fish habitat on the bank. Finally, the ONMS and the State of California have cooperated and collaborated on MSP processes that resulted in optimal marine zones in MBNMS and the Channel Islands National Marine Sanctuary (CINMS).

To expand more on one California sanctuary in particular, CINMS has been engaged in recent years on issues related to marine reserves (i.e., “no take” zones), ship strikes of whales, and energy projects, using marine spatial planning to consider how to best manage these issues. In 2007, after eight years of work, CINMS completed the largest network of marine zones in U.S. waters. This was a collaborative federal-state marine spatial planning effort that involved multiple consumptive and non-consumptive stakeholders and took into account scientific, socioeconomic, and other available information. Currently, CINMS is working with NOAA Fisheries Service, the U.S. Coast Guard, and the shipping industry to try to manage and mitigate the risk of ship strikes on large whales, with input from scientists and stakeholders. The goal is to ensure that the bulk of shipping traffic occurs in areas with the least threat to whales, while balancing the need for timely and economically sustainable transportation of goods. Finally, as more proposals arise to install offshore liquid natural gas platforms, wind farms, and other energy facilities near CINMS, the sanctuary is beginning to engage in the early stages of marine spatial planning with multiple agencies to help identify the best areas for such large scale industrial development.

Examples of Marine Spatial Planning in Sanctuaries—Florida Keys:

The Florida Keys supports more than three million visitors annually, making the area one of the most visited and intensely used in the country. Tourism, therefore, is a major driver for Florida’s economy, but it is also a threat to the health of the state’s natural resources. Extremely fine-scale spatial resolution is necessary when planning for the use and protection of the Florida Keys National Marine Sanctuary (FKNMS), which encompasses nearly 3000 square miles of ocean and is one of the largest networks of marine reserves and designated use areas in the U.S. The comprehensive marine spatial planning and implementation process necessary in FKNMS required and continues to require a high degree of collaboration between local users, conservation groups, scientists and government agencies in order to be successful in balancing the various needs of the area.

FKNMS is a model for MSP that can be applied elsewhere in U.S. waters for many reasons: there are clearly defined goals and objectives in place; the planning process is both top-down and bottom-up; the process is transparent and inclusive; and management is adaptive, incorporating evaluation, review, and revision. Having been the first marine area in the U.S. to fully seek ecosystem-based management, FKNMS has decades of experience with MSP and data to show the positive impacts of such planning—like increased fish stocks, reduced vessel groundings, and more pristine SCUBA diving sites. It is now widely accepted that the sanctuary has successfully addressed user conflict issues and provided much needed protection of the marine ecosystem. Regardless, monitoring and research are ongoing to allow for timely responses by managers and users to adjust the plan and implementation strategies as needed to account for changing circumstances. In addition, public awareness and participation continues to be critical to the success of the management planning process in FKNMS.

Examples of Marine Spatial Planning in Sanctuaries—Stellwagen Bank:

The work done in the Stellwagen Bank National Marine Sanctuary (SBNMS) in Massachusetts is another excellent example of collaborative marine spatial planning to achieve ecosystem-based management in the face of conflicting uses of the area. In 2007, SBNMS succeeded in rerouting commercial vessel traffic into and out of the Port of Boston to reduce the risk of ship strikes on whales. Every month, over 200 large commercial ships travel through the waters of the sanctuary, which is a critical seasonal feeding area for right, humpback, fin, and minke whales. With the support of the U.S. Coast Guard, the shipping industry, and other key partners and information sources, SBNMS presented the best available scientific information—including long-term whale distribution data, habitat characterization, large vessel use data, and more—to the United Nations' International Maritime Organization (IMO) in an effort to realign the Traffic Separation Scheme (TSS) in the area. Gaining the IMO's approval at the end of 2006, the TSS was shifted just slightly north by 12 degrees to avoid the highest density of whale sightings, reducing the risk of ship strikes to endangered right whales by 58% and to all baleen whales by 81% in the area. Vessel transit distance increased by approximately 3.75 miles, increasing their travel times by only between 9 and 22 minutes, depending on ship speed. The new TSS is now instrumented with real-time 24/7 whale listening buoys that enable managers to alert shippers to the presence of whales, which increases protection of whales and optimizes ship operations. Therefore, MSP resulted in a product that could be agreed upon by the shipping industry and conservation stakeholders, was robust enough to be implemented by the IMO, and would provide substantial conservation benefit to whales.

Recommendations to Task Force for Marine Spatial Planning Framework

Overall Recommendations

As required components of a national MSP framework, we recommend that you incorporate the key characteristics of MSP identified above, many of which are practiced in national marine sanctuaries. In addition, since the MSP framework is intended to be a tool for implementing President Obama's broader national ocean policy, we hope that you will ensure sustainability as you seek balance between the various uses being considered. Though we recognize that certain objectives will outweigh others in different areas of the EEZ (e.g., economic activity versus conservation), it is still critical that the overall health of the ocean, coasts, and Great Lakes remains the ultimate goal for the MSP framework.

Establish Dedicated and Ongoing Funding Source(s) for Planning and Implementation

Though the National Marine Sanctuary Program was initially comprised of a few small sites with limited focus, it has had many successes and gained public recognition over the past few decades. This has led to the expansion of the sanctuary system to include more diverse habitats and resources, as well as competing human uses, which has greatly amplified the need for site characterization, science, and a deliberate and transparent public process to best manage these areas. Unfortunately, as the program has matured, its budget has lagged behind its increasing mandates and range of functions performed at site, regional, and national levels. Despite its successes, this lack of funds has hindered full realization of effectively implemented marine spatial plans. For instance, more funding would improve ability to conduct monitoring, enforcement, and public outreach in support of the plans.

Magnifying a marine spatial planning framework to include the entire U.S. Exclusive Economic Zone (EEZ) requires that much more funding to support the necessary resources for carrying out the plan. Therefore, the Task Force should ensure that its recommendations identify a dedicated source or sources of funding that can be applied on an ongoing basis to conducting the planning and then implementing the resulting decisions.

Identify Existing Laws, Pending Legislation, and Missing Authorities that Support Successful Implementation of Framework

In addition to lack of funding and resources, another reason national marine sanctuaries have not been as successful as they could be in carrying out marine spatial planning within their boundaries is due to flaws in the overarching mandates that guide them in the National Marine Sanctuaries Act. Though there are several relevant authorities in NMSA—e.g., ability to issue regulations and permits regarding uses, established public processes for designation and management, and an enforcement regime—that have helped sanctuaries become what they are and have supported their MSP efforts, the law needs to be clarified and strengthened.

NMSA is now five years overdue for reauthorization, and it needs to be updated to allow the Secretary of Commerce and NOAA (through the Office of National Marine Sanctuaries) to be more effective and efficient in meeting its mandates for managing the areas within the National Marine Sanctuary System. In this regard, the ability of sanctuary managers to fulfill their primary objective of resource protection while managing competing uses within sanctuary boundaries needs to be strengthened. Additionally, reauthorization could provide for stronger and more effective incorporation of marine spatial planning around the sanctuary system. There are several ways these goals could be accomplished, including:

- By clarifying the primary objective of resource protection in the purposes and policies section and elsewhere in the Act;
- By explicitly authorizing temporally and spatially managed areas within sanctuaries and requiring them all to consider the benefits of such delineations;
- By allowing managers to certify that uses are compatible with this primary objective and prohibit uses that are incompatible;
- By allowing greater permitting discretion; and
- By removing the limitation on the designation of new sanctuaries and creating clear standards for identifying and prioritizing places to be considered for designation, which would allow such nationally significant areas to be more fully considered in broader plans.

Such changes to NMSA could further promote sanctuaries as one of the models in the U.S. to be considered in the larger MSP framework being developed by the Administration, as well as a prominent part of the related legislative efforts to implement the resulting framework. That said, there are several authorities in addition to NMSA that could be applied in a concerted way to support the successful implementation of an MSP framework. Therefore, we encourage the Administration to work closely with Congress to identify the existing laws, pending legislation, and/or authorities still needed to fill any gaps to help develop and carry out a marine spatial plan in the U.S. EEZ.

Use One or More National Marine Sanctuaries as Pilot Sites for Implementing the Framework

Given the information presented in our comments, we are confident that national marine sanctuaries can be used as one of the models for how to do marine spatial planning well and how to implement the related management in other areas of U.S. waters—though the objectives might be different in different areas. The number of years that MSP has been conducted in sanctuaries has allowed for many lessons learned that can inform a broader process. These include, for instance:

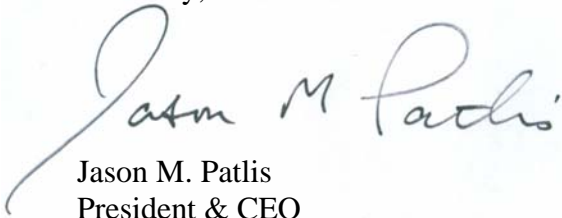
- Use the best available long-term and short-term data to help support effective planning decisions and necessary adaptations of those decisions;
- Engage stakeholders representing the scope of those involved in or impacted by the decisions in the area early in the planning process and throughout its implementation;
- Devise a plan that is reasonable, balanced, and adaptive, with a clear and enforceable outcome;
- Apply appropriate strategies in designing and implementing the plan based on the different scales of the area(s) being considered;
- Use information gained from setbacks and failures to fuel eventual successes; and
- Get feedback from third parties for an objective assessment of the effectiveness of the marine spatial planning and implementation;

Therefore, sanctuaries are ideal sites to test MSP principles, especially for ecologically important and sensitive areas that require additional protection in relation to the other waters in the U.S. EEZ. The expertise and mandates are already in place, though they can and should be improved, to incorporate sanctuaries into the broader scheme.

Closing Remarks

Thank you for considering these comments submitted on behalf of the National Marine Sanctuary Foundation, which is an independent, non-profit, 501(c)(3) organization that was created to preserve and protect and our federally managed National Marine Sanctuary System. We hope they were informative and relevant for the work being conducted by the Task Force. If you would like to follow up with us about anything included here, please do not hesitate to contact me at 301-608-3040 x1 or jason@nmsfocean.org. Alternatively, you are welcome to contact our Director of Government Relations, Letise LaFeir, at 301-608-3040 x4 or letise@nmsfocean.org.

Sincerely,



Jason M. Patlis
President & CEO