



# MARINE MAMMAL COMMISSION

12 February 2010

Mr. Michael Weiss  
Council on Environmental Quality  
722 Jackson Place, NW  
Washington, DC 20503

Dear Mr. Weiss:

The Marine Mammal Commission, in consultation with its Committee of Scientific Advisors on Marine Mammals, has reviewed the Interim Framework for Effective Coastal and Marine Spatial Planning, prepared by the Interagency Ocean Policy Task Force and released for public comment on 18 December 2009 (74 Fed. Reg. 67178).

Previous reports of the Pew Commission, the Commission for Ocean Policy, and the Interagency Ocean Policy Task Force have underscored our collective shortcomings in balancing socioeconomics and marine conservation. This interim framework document is consistent with those reports in many respects. It sets a high bar for conservation goals, is based on important guiding principles, and reinforces the underlying premise that restoration and conservation of healthy marine ecosystems is vital for maintaining resilient coastal economies and communities and a high quality of human life. Indeed, the framework has the potential to move us into a new paradigm of ocean management, research, and conservation by providing a structure that will combine federal, state, tribal, and local governments and their constituencies into a more integrated, coordinated, and functioning network. The Commission gratefully acknowledges the Interagency Ocean Policy Task Force for providing this visionary step toward better management and conservation of the goods, services, and wonders that the oceans contribute to life on earth.

To be clear, the framework is imperfect in many respects. It contains ambiguities and inconsistencies and is vague on some important points. However, in the Commission's view, the imperfections are a reflection of where we stand in our collective effort to envision and develop a more effective approach; they simply indicate where further work is needed. The implementation of the framework will stretch far into the future and will require great commitment, perseverance, problem-solving skills, and imagination. But the Commission sees no other alternative to ocean conservation that builds on all that we have learned to date, seeks to integrate that knowledge into a coherent national strategy, and therefore holds such promise.

As this framework is further refined and implemented, the Commission will pay particular attention to the topics described below. Many of its comments pertain to questions of process versus outcome. Clearly defined processes will be essential to implementing this framework. However, such processes are necessary but not sufficient because they do not guarantee outcomes consistent with our collective vision for sustainable, healthy oceans, as set forth in our national laws. To ensure such consistency, we will all have to pay particular attention to substance and outcome, as well as process.

## **Context**

As managers and decision-makers fill in framework details, they must be mindful not only of current conservation and management needs but also those of the foreseeable future. The future will be highly dynamic, primarily because of the growing human population and increasing dependence on marine resources. In general, two factors will determine the context in which this framework must be implemented and, more important, whether use of the oceans is sustainable. The first is the nature of interactions that we—the human species—have with the oceans. These include interactions that are intentional (e.g., fisheries, transportation, recreation, energy extraction) and those that are incidental or inadvertent (e.g., introduction of contaminants, disease organisms, debris), some of which are relatively well studied and others that are poorly understood. The second factor is the number of us involved in those interactions over geographic space and time. Half of the U.S. population resides in coastal areas. The U.S. Census Bureau predicts that between 2010 and 2030, a mere 20 years, our population will increase by 55 million people, more than half of whom are expected to reside near coasts. Populations in the Gulf and West Coast states, in particular, are expected to increase by 18.7 million and 11.5 million people, requiring the addition of 8.4 and 5.2 million jobs, respectively. If per capita demand and consumption (e.g., energy, marine goods, space) persist at present rates, we have good reason to question whether our socioeconomic system and the marine environments on which it depends are, in fact, sustainable. If we are to achieve a sustainable state, then, under this framework, the proposed National Ocean Council must set bold national objectives and establish measures to carefully monitor progress in achieving those objectives. The framework must be adaptable to meet the objectives, but the objectives and underlying principles themselves must be unwavering. As written, the framework places strong emphasis on development of clear and objective performance measures, and the Marine Mammal Commission concurs with that emphasis. Again, to the extent possible those objectives must be based on outcomes rather than processes, for adherence to processes alone will not necessarily ensure sustainability.

## **Priorities**

A recent public opinion poll conducted by the Pew Research Center indicates that at the beginning of 2010 the environment and climate change ranked 16th and 20<sup>th</sup>, respectively, out of 20 current policy concerns in the United States. Although most Americans might express support for environmental conservation, that support rarely translates into actions that demonstrate a deep and abiding willingness to change the way we live or do business. In many respects, we are a society in crisis involving economic recession, high unemployment, concern about health care, two wars, natural disasters, ballooning entitlement programs, failing education in many communities, rising energy costs, and an enormous federal debt. Unless the national objectives established by this framework are clear and sufficiently strong to withstand such crises, we have no basis for confidence that our national strategy will, in fact, work. It would not be realistic to assume that the framework will never be compromised by unrelated concerns. Nonetheless, every reasonable effort should be made to ensure that its objectives are robust and resilient to the vagaries of regularly shifting public perceptions, attitudes, and priorities over the coming years and decades. The framework's objectives, and the processes intended to achieve them, must be sufficiently well crafted that they protect marine ecosystems, even in the face of competing interests with powerful advocates.

## **Geographic Scope**

The framework delimits the geographic scope of marine spatial planning as beginning at the mean high tide line and including inland bays and estuaries. However, activities on land pose threats to the marine environment as various materials enter watersheds and, eventually, the oceans via runoff and wind drift, effluent discharge, and dumping. Chemical pollutants, debris, and even disease find their way from the land to the water, resulting in harmful algal blooms, contaminated marine life, and declines in the health of species and ecosystems. The framework recognizes that ocean management and land management must be reconciled if we are to maintain healthy marine ecosystems or restore degraded ecosystems to a healthy state. The Marine Mammal Commission strongly supports that view. The Commission expects that, as the national framework is implemented, the immediate need to integrate ocean and land management will become obvious and will provide impetus for expanding the framework accordingly.

The framework also delineates ocean management efforts based primarily on large marine ecosystems with secondary consideration given to political boundaries. The Commission recognizes the relevance of political boundaries but also concurs with the need to ensure ecological realism by focusing primarily on these large ecosystems.

## **Federal and Regional Collaboration**

National objectives are essential to ensure that the goals of the framework are met. However, on a regional basis the oceans vary in their physical, biological, and ecological character, and the associated human coastal communities vary in their socioeconomic and cultural character. Thus, regional implementation also is essential to ensure that management, research, and conservation are adapted suitably to the relevant conditions. For that reason, the design of the framework must ensure that regional interests have the incentive to support and participate in its implementation. Here, too, the Marine Mammal Commission supports this balancing of federal and regional involvement as proposed by the Interagency Ocean Policy Task Force.

## **Balancing Stakeholder and Public Input**

In its current form, the framework calls for engaging stakeholders and the public at key points throughout the management process. However, the pairing of these terms seems to imply that stakeholders consist only of those that use or are most directly affected by use of a resource, and that the public does not have such a stake in the process or outcome. The Commission believes in the need to involve both those that use a resource and those that would choose to conserve it, the latter being stakeholders as well. Otherwise, a conservation perspective may be discounted relative to one that is more utilitarian. The choice to forego certain marine activities, whether by a person, community, or region, should not be interpreted as a lack of involvement, concern, or interest in the marine environment. Legitimate “uses” of marine resources should not be defined in a way that excludes or discounts those who value them for reasons other than their potential economic worth. Rather, national resources should be managed in a manner that fulfills the public’s trust and recognizes that, in some cases, the public may choose to conserve a resource rather than use it. For

that reason, the Marine Mammal Commission encourages the Interagency Ocean Policy Task force to seek equitable participation by all interested parties in the processes established by the framework. Without question, those who do use a resource for economic purposes must be involved to provide necessary information and perspective. Indeed, the Commission believes that users of a resource have a special obligation to support research to understand the effects of such use, as described in the following sections. Furthermore, when uncertainty in management information leads to disputes, resource users should bear the burden of supporting research to resolve that uncertainty.

### **Resolving Disputes**

In view of the many and varied missions of the involved agencies, the work of the Interagency Oceans Policy Task Force to develop this framework is a remarkable example of cooperation. The parties interested in or affected by its implementation also will vary in their needs and concerns. In difficult circumstances, many people's values and livelihoods will be at stake, and resolving disputes will become a great challenge. Unfortunately, no mechanism can achieve optimum solutions for both sides when disputes involve competing or contrasting values. The methods for dispute resolution and, especially, the objectives that will be used for that purpose must be clear to all involved parties. The temptation in such conflicts will be to reach some sort of balance between socioeconomic needs and conservation objectives. Although a search for balance is understandable and may be possible in some cases, a strategy based on the balancing of competing interests may eventually undermine national conservation objectives if the factors underlying such conflict are not addressed. In essence, the existing suite of U.S. environmental laws provide the boundaries for balancing environmental and socioeconomic concerns, and the implementation of the framework must adhere to those boundaries.

### **Information**

The framework emphasizes the value of scientific information to guide its implementation and, as a science-based agency, the Marine Mammal Commission concurs with that emphasis. To understand how human activities are affecting marine ecosystems, we need to understand baseline conditions in marine ecosystems (i.e., physical, biological, ecological characteristics), their natural sources of variation, and the human activities that pose risks to them (i.e., sociological circumstances). Understanding and managing the cumulative effects of multiple risk factors require even more information. Observation systems are being developed in most coastal regions of the United States, but considerable time and resources will be needed before they are ready to support implementation of this framework. To ensure that agencies and organizations understand their responsibilities for providing information, management and conservation needs must be carefully mapped to scientific capacity and gaps in that capacity filled as appropriate.

Even with full scientific support and funding, the information available to support the framework will include considerable uncertainty. The drafters of the framework called for a precautionary approach to guide management decisions in the face of such uncertainty. The Marine Mammal Commission supports that approach and believes it is essential for ensuring conservation of marine mammals and ecosystems. The Commission also believes that the burden of supporting

additional research to resolve uncertainties should fall on proponents of various activities in the marine environment, whether those proponents are agencies, industries, non-governmental organizations, or individuals. Regulating agencies charged with protecting marine ecosystems simply are not given adequate resources for that purpose.

### **Timeline**

The framework is to be implemented in three phases over a period of five years. The schedule is ambitious and may not allow adequate time for developing and adapting key framework elements and processes. Those charged with implementing the framework will have to weigh the value of speed in implementation against the efficacy of the underlying processes. The Marine Mammal Commission recognizes the need for expediency but also believes that the success of the framework will depend on its rational structure and suitability for the purpose of ensuring sustainability. Therefore, the Commission encourages the agencies responsible for its implementation to place due emphasis on getting things right, and not just getting them done.

### **Accountability**

The drafters of the framework emphasize that those responsible for its implementation also must be accountable for its results. The framework's emphasis on sustainability means little without such accountability. Objective performance measures, monitoring and reporting systems, and enforcement are all necessary to ensure accountability. Doing so also will require reconciling framework results with the standards set in existing laws. The National Environmental Policy Act, Endangered Species Act, Marine Mammal Protection Act, Coastal Zone Management Act, Magnuson-Stevens Fishery Conservation and Management Act, and all other environmental laws still apply. Management, research, and conservation measures taken under this framework must be evaluated regularly to determine if they are consistent with these laws. As the framework is further developed, involved agencies should begin the process of integrating statutory requirements into framework procedures. Among other things, doing so will indicate clearly how interested parties can become involved in matters that concern them.

### **Funding**

Without question, the framework cannot succeed if those charged with its implementation are not given adequate resources, including funding. In the Marine Mammal Commission's view, the agencies involved in ocean management, research, and conservation are not now given the resources needed to meet their existing responsibilities. In the case of multi-agency efforts—which seems crucial for an ecosystem approach—some agencies have been able to contribute modestly after moderate reprogramming. But the scale of those activities falls far short of that needed to implement this framework. Some progress toward implementation can be made without additional funding, but the surest way to block full and meaningful implementation is to deny the responsible agencies and organizations the needed resources. The present approach requires that design and planning precede funding. That approach is reasonable, but when the initial design and planning phases are completed, the actual implementation will require further commitment of resources. With

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that in mind, the agencies responsible for implementing the framework soon should begin developing the necessary cost estimates and budget requests.

### **Ongoing, Top-level Commitment**

The ocean environment is too complex to study and manage based solely on short-term strategies, and full implementation of the framework will require ongoing commitment by multiple Administrations over a period of a decade or longer. Continued adequate funding will be the most consistent indicator of top-level commitment. For any particular Administration, mid-level managers may work diligently to carry out framework procedures, but their efforts will succeed only if they are backed by the commitment of Administration leaders, including cabinet members and agency heads. Although some progress has been made in dealing with ocean issues over the past decade, many concerns have been neglected and initiatives have failed for lack of funding. A simple reprogramming of existing funds will not be adequate, as agencies already have responsibilities that they cannot meet based on present budgets. The Marine Mammal Commission would be pleased to work with agency leaders to make the case to the Administration and Congress that more resources are needed for marine spatial planning and the implementation of this framework.

Again, the Marine Mammal Commission gratefully acknowledges the Interagency Ocean Policy Task Force for developing this Interim Framework for Effective Coastal and Marine Spatial Planning. Please let us know if the Commission can be of assistance during further development or implementation of the framework.

Sincerely,

A handwritten signature in blue ink that reads "Timothy J. Ragen". The signature is fluid and cursive, with a long horizontal stroke at the end.

Timothy J. Ragen, Ph.D.  
Executive Director