



Good Harbor Consulting

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TO: Susan Snow Cotter; Deerin Babb-Brott, Greg Watson
FROM: Fara Courtney
DATE: 12 January 2004
SUBJECT: Public Comment on Preliminary Recommendations

I want to share my observations from the series of public hearings on the Draft Recommendations, and the December 19th Task Force meeting. Listening to OMTF internal discussion and comment from the general public over the last month, it appears to me that there is some fundamental disagreement regarding the goals and scope of the task force's work. It boils down to this: "does fisheries management =ocean management; or is fisheries management one component of ocean management? And/or "can we really do comprehensive ocean management without considering the role of fisheries management in the bigger picture?"

You have been very clear the OMTF is only charged with taking the first step in creating a framework for ocean management planning in Massachusetts, by recommending strategic next steps to the Secretary - not creating the plan, resolving the conflicts or drawing an offshore zoning map. My comments refer specifically to how the playing field is being defined, not how far the task force will go in defining the rules of game.

These point/counter-point sets of comment, drawn from the hearings and task force discussion illustrates two ways this conflict is being expressed:

"The oceans are adequately managed, researched and planned for by existing agencies (e.g. DMF). This new ocean management initiative is redundant."

Vs.

"The Ocean Management Task force is charged with addressing use of ocean resources comprehensively, integrating a range of priorities that have been identified for state stewardship. Maintaining the health of exploitable fish species for commercial purposes (commercial harvesting and the recreational fishing industry) is one component of a range of priorities, and DMF and manages towards that agenda and does it well. But there are others – ecosystem health – including non-exploited species, critical habitat and emerging uses like renewable energy, etc, that need to be given standing as well."

“The Task Force should not be discussing the possibility of incorporating MPAs in ocean management plans – that’s fisheries management. Fishing and recreational boating are ubiquitous in Massachusetts’ waters, and that can’t change.”

Vs.

“The Task Force should be congratulated for considering how to create special protection for critical marine habitat areas and for research, consistent with the Pew Commission and the US Oceans Commission”

These competing expectations have been touched on in the context of task force meetings, but have not been discussed directly. I suggest that this needs to occur; if left unresolved this undercurrent of disagreement will make it impossible to achieve consensus on a clear direction for your recommendations.

Secondly, the several points listed below are my answer to the question; “why Ocean Management; why now?”

- Chapter 91 regulations set clear standards for development on filled tidelands, and on flowed tidelands associated with upland properties (docks, piers, etc.) There is no similar guidance for offshore structures – (turbines, aquaculture facilities), and no process for determining how to allocate access for these new types of uses, which are not subject to the same type of vested riparian rights associated with coastal areas. There needs to be thoughtful consideration of how to set appropriate compensation levels for private use of offshore resources: is the fee structure established for filled tidelands, inter-tidal areas and adjacent sub-tidal lands appropriate for offshore sites?
- The current definition of public trust values is based on the Public Trust Doctrine, which focuses on “public use and enjoyment” of tidelands and is most often interpreted as referring in present day context to navigation, recreational access and fishing. There are broader trust values that need to be considered as we move offshore, for example, should *marine ecosystem integrity* be considered a public trust right as well?
- We need a mandate to plan and coordinate all these activities, to anticipate uses. We should look at how permits are issued for other

infrastructure-- like undersea cables and pipelines—to assess how we can better plan for what happens now on a case by case basis (e.g. should we consider cable corridors to organize that type of development, as has been proposed in Nova Scotia?). We need to look at emerging uses (renewable energy, aquaculture) and consider where these fall as appropriate and priority uses in public waters.

- In order to protect the Commonwealth's important marine habitats we must understand their functioning and know where they are. We need a marine waters bio-map to complete the inventory of Mass natural resources (Bio-maps and Living Waters Inventory). The Commonwealth has a Biodiversity Initiative that suggests --a policy of making decisions based on ecological principles – we need a coordinated, specific information gathering/management process to support this in offshore areas.

Finally, regarding the geographic scope of the Ocean Management Initiative, I want to throw my support behind the position that the planning areas be designated below mean low water, in order to focus on the complex issues particular to blue water resource protection and standards for use. This is where significant learning, analysis and comprehensive, creative thinking is most needed.

Thank you for the opportunity to comment.