

February 13, 2004

Dr. Susan Tierney, Chair
Massachusetts Ocean Management Task Force
Executive Office of Environmental Affairs
251 Causeway Street
Boston, MA 02114

Sent by electronic mail transmission and U.S. mail

Dear Dr. Tierney, members of the Task Force,

Please consider these comments on behalf of The Ocean Conservancy and our members regarding the Ocean Task Force's Draft Principles and Recommendations. The Ocean Conservancy is the largest U.S. non-profit organization devoted to ocean conservation, with over 150,000 members nationwide, and over 5,000 members in Massachusetts. We applaud Governor Romney and the Task Force for seizing this opportunity to be a leader in comprehensive ocean management, and appreciate the chance to comment.

Draft Principles

We are generally supportive of the Draft Principles, particularly those that stress the importance of protecting the public trust interest in ocean resources, the value of marine biodiversity, encouraging public participation and public stewardship and better coordination with other agencies involved in coastal and ocean management. We urge the Task Force and the Governor to keep the Principles' emphasis on these important factors.

Recommendation #1

We applaud the Task Force's recommendation that legislation for a comprehensive Ocean Resource Management Act be introduced. The Task Force's work reveals many of the same shortcomings in current coastal and ocean management and solutions identified last year by the Pew Oceans Commission and anticipated when the U.S. Commission on Ocean Policy delivers their findings this spring. The increasing complexity and impact of ocean resource uses require the appropriate legal and management framework to protect the resources, provide an orderly process for resource users to follow, and ensure the public trust is protected for future generations. A comprehensive Ocean Management Act in the Commonwealth would provide this for Massachusetts, and establish the Commonwealth as an innovative leader and partner for future comprehensive management at the federal level. We encourage the Task Force and Governor to advance this Recommendation.

Recommendation #4

We encourage the Task Force and Governor to follow Recommendation #4 to update regulations and establish better agency cooperation to manage the Commonwealth's Ocean Sanctuaries, and additionally to strengthen the regulations governing these sites. Despite their name, these Ocean Sanctuaries are currently doing little to protect marine biodiversity; the Task Force's work confirms what The Ocean Conservancy found in our 2001 report analyzing the effectiveness of existing marine protected areas (MPAs) (*Marine and Coastal Protected Areas in the U.S. Gulf of Maine Region*), that there is an array of different sites managed by different authorities but little comprehensive protection, and a need for better coordination among management authorities. We encourage the Commonwealth to strengthen management of the Ocean Sanctuaries, regardless of the passage of comprehensive ocean management legislation.

Recommendation #9

We strongly support the Task Force's recommendation that the Commonwealth's environmental agencies have the authority to designate and protect areas that have special, sensitive and/or unique estuarine and marine habitat and life. As uses and impacts on coastal and ocean environments have increased, the need to better utilize MPAs and particularly highly protected no-take marine reserves has also increased. A growing body of solid scientific support (such as the findings of 160 scientists in the 2001 National Centre for Ecological Analysis and Synthesis report) and practical experience (including the benefits provided by the groundfish closed areas in the Gulf of Maine) demonstrate that better use of existing and new MPAs is essential to protect all parts of the marine ecosystem and preserve the public trust. The current management regime may provide sufficient authority to protect areas or species related to commercial fishing, but does not necessarily provide the appropriate authority to protect non-commercial species or sensitive habitats, or act in response to activities besides commercial fishing. As noted regarding Recommendation #4, we found in our 2001 study that existing MPAs do not provide comprehensive protection of marine biodiversity in the Commonwealth's waters, as well as in the U.S. Gulf of Maine. The ability to use MPAs better to protect all parts of the marine ecosystem is necessary for the Commonwealth in order to protect sustainable coastal and ocean resources and an intact, healthy marine ecosystem for the benefit of future generations. We encourage the Commonwealth to ensure it can do so, regardless of the passage of comprehensive ocean management legislation.

Recommendation #13

We urge the Task Force and the Governor to ensure that the scientific advisory panel in this Recommendation and their task is focused on ensuring long-term conservation of marine biodiversity. We are concerned that by being asked at any particular point in time to establish baseline species and habitat conditions, determine 'reasonable' environmental quality and 'appropriate' management goals, this panel's work could be used to support exploitative actions that may prove damaging in the future although appearing 'reasonable' and 'appropriate' at the time. The concept of what 'baseline'

one starts from is a tricky one, and the current degraded conditions in the marine environment caused by increasing human impacts are not appropriate ones to use as baselines. We support the use of scientific expertise to support management decisions but we believe management should be focused on protecting, improving and restoring coastal and ocean resources, not just keeping them from getting worse.

Other recommendations

We generally support the Task Force's other Recommendations. We caution that Recommendations such as #2 and #5 regarding streamlining regulatory review and adjusting fees under Chapter 91 could result in management protocols that put environmental protection at a lower priority. We urge the Task Force to ensure that environmental protection remain a priority through any adjustment of permitting processes.

Thank you for this opportunity to comment on the Task Force's work to date. We look forward to participating in the future as the Commonwealth advances this important Initiative.

Sincerely,

John C. Phillips
New England Regional Director