



October 17, 2009

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

Dear Ms. Sutley:

The Recreational Fishing Alliance (RFA) is pleased to provide the following comments on the White House Council on Environmental Quality (CEQ) Interim Report of the Interagency Ocean Policy Task Force (Report). RFA commends CEQ for bring wide nation attention to the management of our nation's marine resources. However, RFA does not agree that the recommendations of the CEQ taskforce should be enacted through the Executive branch. Considering the broad implications and hundreds of stakeholders groups that will be affected, the most appropriate course of action would be through the Legislative branch. Stakeholders would have a greater opportunity to discuss the virtues and flaws of the legislation in a more deliberate, transparent process. RFA is unnerved by glaring similarities of the Report and the Ocean Conservation, Education, and National Strategy for the 21st Century Act, the overarching ocean policy legislation, H.R. 21, that has been introduced and died in every Congress since 2004 (108th). This appears to be an attempt by the Executive branch to circumvent the established legislative process and enact policy that failed as legislation 5 years in a row. RFA believes enacting laws through Executive order and proclamation sets a dangerous precedence.

In reviewing the Report, there are strategies, principles, objectives and other authorizing language that stands to have profound impacts on the recreational fishing community. For this reason, RFA is concerned about the relatively rapid speed at which CEQ is advancing with this initiative and the apparent lack of opportunity the average recreational angler will have when the final Policy and subsequent bureaucracy is put in place.

In general the policy hierarchy outlined in the Report will be complex and cumbersome. It is unclear how the Policy would (or would not) mesh with the existing statutory framework for marine resource management. In addition, it is unclear where the recreational fishing community would be able to provide input and at what level of consideration. RFA believes this is very troubling from a community standpoint because the Policy would minimize or even supersede the role of the regional fishery management councils while providing excessive influence to CEQ. Furthermore, anglers and businesses along the coastal would be excluded from much of the decision making process thereby creating a bias towards the few industry and conservation groups located in the Washington, DC area that are removed from the day to day needs and concerns of the marine industry. The recreational fishing community and related businesses are extremely diverse with many geographic nuances that the DC based fishing, conservation and industry groups simply do not understand. RFA is concerned that if CEQ consults with these groups without doing their due diligence to gather input from the grassroots

level, significant oversights may occur at great harm to the anglers, the recreational fishing industry and the coastal communities.

Throughout the Report, numerous references are made that current domestic fishing levels are unsustainable and that overfishing is occurring. While RFA agrees that there are some problems that persist in the US fisheries management regime, it should be noted that overfishing and sustainability are not specific to fishermen or fishing activity. Some stocks remain management challenges even after direct fishing pressure is extremely low and it becomes apparent the cause of decline is at no fault of fishermen. It is inappropriate, unfair and inconsistent with an ecosystem based management approach to assign full blame to fishermen or to assign the entire rebuilding burden to the fishing community. It should also be noted that our primary federal fisheries law has been effective in rebuilding many important stocks. Citing NOAA's own report¹, 43 stocks have been rebuilt above the overfished threshold in the past decade which represents tremendous rebuilding progress. Unfortunately, the recreational fishing community now struggles with MSA's inability to provide adequate access to these fisheries and it is inaccurate statements such as the one found on page 11 of the Report that continue to be an obstacle in securing that access.

On this note, there is no specific indication of how success will be measured under the Policy nor is there specific language about how the recreational fishing community and industry will benefit once those goals are achieved. The Report astutely identifies problems and sets action to address those problems but it fails to include a trigger once significant progress has been made. The fishing community needs to be assured that any sacrifices on their part will result in tangible benefits prior to supporting the Report. The RFA views successful marine resource management as healthy relationship between the fisheries and the fishermen that pursue them. A measure of success can be described when important recreational fish stocks are at or near high levels of abundance based on the prevailing environmental conditions, when anglers have adequate access to these fish stocks and the recreational fishing industry is viable and stable. Rebuilding alone does not signal success. Sustainable utilization of rebuilt fish stocks by fishermen must occur before claiming success and this criteria is absent from the Report.

RFA is troubled by a statement on page 27 of the Report that states, "Furthermore, the United States intends, through the National Policy, to serve as a model of balanced, productive, efficient sustainable, and informed ocean, coastal and Great Lakes use, management, and conservation within the global community." RFA believes that this approach is based on the assumption that excessive domestic restrictions will guilt foreign nations to enact regulations that would promote the responsible management their natural resources. It has been our experience that this assumption is completely invalid. As seen with international fishing treaties of which the US is a contracting party such as ICCAT and IATTC, the US is the only country that takes enforcement, assessment and monitoring of shared stocks seriously. In the case of Atlantic bluefin tuna, the US, through restrictive management measures, has kept US bluefin landings below our country specific quota for the past 7 years much to the disadvantage of fishermen. In contrast, other nations habitually exceed their quotas by 2 or 3 times without any consequences and in fact benefit from our conservation efforts because Atlantic bluefin is a shared stock. This point was illustrated most recently by Dr. Jane Lubchenco, NOAA Administrator, where she

¹ 2009 Status of US Fisheries. 2009. National Marine Fisheries Service.

states that the lack of science-based quotas, strong enforcement and spawning closures are responsible for the significant and rapid decline of the eastern stock. RFA believes the US is already one of the most conservation minded nation in the world and does not need to impose additional domestic restrictions before confronting other nations on their lack of conservation with shared stocks.

The following comments provided by the RFA are organized and are specific to the priority objectives identified by the Task Force that should be pursued in a National Ocean Policy.

Ecosystem-based Management RFA supports the concept of ecosystem based management outlined as priority 1. so long as, humans, including traditional activities such as recreational fishing, are not just considered but protected. In its application to marine fisheries, there are ecological processes outside of direct fishing activity that undeniably drive the status of many important fisheries such as winter flounder and salmon. However, the jurisdiction of the regional councils and Department of Commerce ends with fishermen. If ecosystem based management is the goal for the US fishery management system and an overarching national ocean policy, then it will be necessary to address non fishing impacts on marine fish stocks.

Current management is primarily single species management and with the focus primarily at the higher trophic levels. This management approach is mandated by the Magnuson Stevens Fishery Conservation and Management Act (MSA) which aims to produce and maintain maximum sustainable yield (MSY) for all federally managed species. Basic ecological theory puts little confidence in the ability to maintain a high level of abundance for all species at the same time because ocean resources are limited. RFA believes that ecosystem base management as described in priority 1 may not compatible with current MSY management under MSA. RFA is apprehensive about how or if these two management approaches can be rectified.

This is not to say that RFA believes the principles of ecosystem base management cannot be applied to current single species management. Specific to the recreational sector, most fisheries are regulated through season, minimum size limits and bag limits. As rebuilding requirements in MSA exert greater pressure on fishery managers, increasing minimum size limits has emerged as the primary mechanism to meet these mandates. The unintended consequence is that recreational fishing effort becomes focused on the older, more reproductively valuable fish in the population. This approach may have longterm implications and may diminish managers' ability in meeting MSA objectives. Furthermore, recreational anglers are forced to discard an inordinate amount of fish in order to encounter a legal sized fish. Not all of the sub-legal size fish released after capture survive and the rate of mortality varies among species. RFA believes excessive regulatory discarding is a wasteful management approach that is not consistent with ecosystem based management and penalizes anglers for complying with regulations. In its application to ecosystem base management, RFA believes there are benefits on spreading fishing pressure over age classes that are more abundant and resilient. This approach would promote a well developed age structure and secure more reproductively valuable individuals in the population and RFA hopes problems such as this can be address under the Policy.

Other examples of ecosystem based management principles and how they would apply to the recreational sector can be seen with the recognition of adequate forage fish, namely menhaden and herring, and predator prey interactions between rebuilding species. Both issues can significantly influence regulations imposed on anglers and ultimately the outcome of rebuilding efforts.

Inform Decisions and Improve Understanding. The RFA is in full support of basing national policy decisions on the best available science. In fact, we believe this priority cannot be implemented soon enough considering the recreational black sea bass closure implemented on October 5 by NOAA was based on information that cannot be described as best available. In fact, this information was preliminary and used in a manner deemed inappropriate by the National Research Council. RFA cautions against assigning the ‘best available’ label to data and/or information by default when it is the only available science. There needs to be confidence in the information being used to make these important decisions and when there is no means to validate or compare the information, we need to be careful about having false or unrealized confidence in our decisions. Comparative analysis is a guiding principle in the scientific method and all too often NOAA makes decisions without spending time or resources to provide any comparative information. This is a serious flaw in current fisheries management that is particularly damaging for the recreational fishing community that is monitored primarily by the Marine Recreational Fishing Statistics Survey (MRFSS) and MRFSS-based surveys.

The ability to compare more than one data sets that come from different source but describe the same event is a value tool. As mentioned above, comparative analysis fosters greater confidence in management decision. Despite this known principle, NOAA has routinely refused to use industry data from recreational fishing business for comparative purposes to the MRFSS and MRFSS-based surveys. Ironically, this is the very same data that would be required to the IRS during an audit and yet, NOAA will not use this information to gauge fishing activity or participation.

The use of poor information is not only a concern with the assessment and monitoring of important recreational fisheries but also with the evaluation, or lack of evaluation, of socio economic impacts on recreational fishing businesses in response to regulatory changes. In most cases, a suite of regulatory options is put before a regional management council with accompanying analysis of the associated conservation impact of each. What is often absent, is detailed economic and participation analysis to indicate the social response to each option. MSA clearly states in Sec. 301 (a)(8)(B) minimize adverse economic impacts of such communities and yet, dismal, if any, effort is put into determining what the actual impacts on the community will be when taking action.

Information and understanding is also extremely important in advancing an ecosystem based management approach. Effective ecosystem based management requires a significant amount of data on the marine environment. We currently do not have a complete understanding of ecological processes that influence fish populations. Furthermore, we have an even more difficult time incorporating climate and weather change in the context of the marine environment. Under single species management, there are many sources of uncertainty affecting stock assessments: 1) imperfections in catch statistics, 2) imprecise estimates of biological

parameters, 3) variability in fishery independent resource surveys, and 4) natural variability in biological processes, particularly in recruitment and natural mortality. If this uncertainty is pooled to accommodate an ecosystem based management model, the associated error would be exceedingly large. This is a risky approach. Ecosystem based management is a very data hungry approach and as mentioned above, the terrestrial and atmospheric stressors also impact the marine resources. The scope of data necessary to properly manage in an ecosystem based management approach would be profound. RFA supports moving in this direction only if an adequate science budget and infrastructure is provided first. At this time, it is unclear what level of appropriation will be provided for the implementation of the Report.

Resiliency and Adaptation to Climate Change and Ocean Acidification. RFA is concerned with the use of the word ‘resiliency’ throughout the document because it sets the presumption that there is a model or static condition that we must achieve in the oceans. The ocean is far from static and influenced by a whole host of stressors that are not man induced. Resiliency implies that the oceans must revert back to a former condition prior to modern science and monitoring capabilities. This requires scientists to use assumptions about historic ocean conditions which is a dangerous precedence considering the difficulty we currently have with accurately assessing marine communities in the present. Prior to man's influence on the oceans, natural events were constantly changing the ocean environment. Hurricanes would destroy entire reef communities and climate change would alter the ocean's chemistry. Both of these events are natural and would result in profound changes to the oceans and their associated communities. Over the course of the earth's history the ocean was in a constant state of flux and went through varying stages of productivity both high and low. It is unwise to assume the ‘good old days’ are the model conditions for our oceans and it is egocentric to assume that man can force the oceans to return to a condition prior to natural events.

Water Quality and Sustainable Practices on Land. RFA fully agrees with the intent of this priority. All too often, fishery declines are blamed on fishermen and the regional fisheries management councils' jurisdiction was limited to direct fishing activity. It is undeniable that terrestrial activities have an impact on the productivity of our nation's marine resources. In some fisheries such as Pacific Salmon and other anadromous species along the Atlantic coast, they are wholly dependent upon having adequate habitat beyond the saltwater demarcation line. Unless, water quality and land use is addressed, it is unlikely that the mandates of MSA and the regional fisheries commissions can be achieved.

Coastal and Marine Spatial Planning. The RFA believes that some activities, based on their impact on the marine and coastal habitat, should be limited in certain areas. These restrictions should be based on clear, definable objectives. In its application to recreational fishing, hook and line fishing has been defined as a low impact gear type. In general, RFA does not support the use of permanent recreational closed areas for fisheries management. MSA has proven a far more effective in rebuilding depleted stocks than arbitrary closures in the oceans. Some recreational fishing practices may result in bottom damage. In areas such as coral reefs, this interaction should be minimized through focused regulations. However, prohibitions should not be excessively broad or overarching. For example, mid-water and troll fishing should still be allowed to continue even if the activities occur over habitat of concern.

In closing, the RFA believes many of the themes and objectives included in the Report would earn the support the recreational fishing community in principle. However, the RFA and many individuals are concerned about the habitual imbalance of the conservation burden placed on the recreational anglers and businesses in meeting these objectives. The lack of details in the Report reinforces this apprehension. RFA is very concerned that implementation of the Report, though well intentioned, will disadvantage the recreational fishing community and not provide adequate opportunity for the recreational sector to provide input.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jim", with a long, sweeping horizontal line extending to the right.

Jim Donofrio
Executive Director