

Western Governors' Association
Policy Resolution 06-17

June 13, 2006
Sedona, Arizona

Improved Ocean and Coastal Management and Protection

A. BACKGROUND

1. The President of the United States, the U.S. Congress, all coastal states, and two national commissions have identified a compelling need at the international, national, state, regional, and local levels to improve the protection and management of the nation's ocean and coastal resources. Pursuant to the Oceans Act of 2000, the U.S. Commission on Ocean Policy released its findings and recommendations for a new comprehensive national ocean policy in 2004. The U.S. Commission report followed the release in 2003 of similar findings and recommendations by the privately funded Pew Oceans Commission. Both reports conclude that the nation's oceans and coasts are severely threatened. The reports identify a set of priorities including the need for wide incorporation of ecosystem-based management, ocean governance reforms, improved fisheries management, increased reliance on science in management decisions, and more funding for ocean and coastal programs.
2. On December 17, 2004, the President announced the release of the U.S. Ocean Action Plan in response to the reports of these commissions. The President also issued an Executive Order creating a new Cabinet-level Committee on Ocean Policy to coordinate federal ocean policy, and to address the commissions' recommendations.
3. In further response to the commissions' reports, a number of oceans bills were introduced during the latter part of the 108th Congress and reintroduced in the 109th Congress to address these issues. Additionally, Congress is considering bills to reauthorize two landmark ocean policy laws: the Marine Mammal Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act.
4. Some of the major issues that have been identified include:
 - *International.* The 1982 Convention of the Law of the Sea enabled the United States and coastal states to establish 200 nautical mile exclusive economic zones to control the use and conservation of resources. The U.S. exclusive economic zone (EEZ) was established on March 10, 1983, by U.S. Presidential Proclamation No. 5030. The U.S. territorial sea was expanded on December 27, 1988 from three to twelve nautical miles, the maximum breadth permitted under international law, by U.S. Presidential Proclamation No. 5928. The U.S. Senate has never provided its consent

for the U.S. accession to the Law of the Sea Treaty despite the call from both national ocean commissions, many coastal Governors (including California, Oregon, Washington, Hawaii, and American Samoa), and other national leaders. In addition, the extension of the territorial sea was never confirmed by the U.S. Congress which created considerable ambiguity regarding the application of domestic laws in the waters between three and twelve miles offshore. This is significant because the term "territorial sea" is used in approximately 68 different federal statutes.

- *National:* Ocean management and protection is inextricably linked to the need for accountability and coordination between all levels of government. Frequently the burden of meeting federal objectives falls on coastal states, commonwealths, territories, and local governments, often with insufficient technical or financial support to carry them out. The prevalence of single-purpose federal laws and approaches to ocean resource management (and the multitude of agencies charged with their enforcement) has resulted in multi-tiered planning, regulation, and enforcement which is often highly fragmented. This fragmentation results in less efficient and effective approaches for addressing complex legal, policy, and scientific issues relating to the sea. Although the U.S. Commission on Ocean Policy provided 220 recommendations to address these national concerns, most implementation to date has occurred through regional and state actions, and not through actions led at the federal level.
- *State and Regional:* Coastal states are moving forward with the development of ocean action plans, new action oriented ocean councils, and new legislation aimed at moving forward with the implementation of many of the recommendations of both the U.S and Pew Ocean Commissions. In addition, new efforts by multiple states throughout the nation have resulted in new regional approaches to ocean and coastal management. The best example of island regional leadership is the Coral Reef Task Force and the All Pacific Islands summits that have been held to help coordinate inter-island initiatives.

B. GOVERNORS' POLICY STATEMENT

1. The Western Governors assert that congressional action for greater federal interagency coordination is needed to ensure comprehensive and coordinated management, conservation and enhancement of ocean resources for their intrinsic value and for the benefit of current and future generations. This action must provide more efficient and effective means to achieve the following goals:
 - a. Stewardship - To assess, conserve, restore, and sustainably manage ocean resources and the ocean ecosystem.

- b. Economic Sustainability - To encourage environmentally sound, sustainable, and economically beneficial ocean resource development activities.
 - c. Research, Education and Technology - To advance research, sound science, education programs, and technology developments to meet future needs and uses of the ocean.
 - d. Jurisdiction and Ownership - To maximize interests of states, commonwealths, and territories, within State Tidelands, the territorial sea, and the exclusive economic zone.
2. The Western Governors believe that key management questions regarding ocean and coastal habitats, water quality, coastal hazards, maritime commerce, tourism, and research can be better addressed by the federal government through a more coordinated and accountable approach with full participation and cooperation with the coastal states.
3. In acting on future legislation regarding ocean and coastal management, Congress should:
 - a. Provide consent through the U.S. Senate to the United States accession to the Law of the Sea Treaty. In addition, the Congress should clarify ownership and jurisdiction issues within the exclusive economic zone and the territorial sea addressing at a minimum: joint research initiatives, enhanced revenue sharing with states, commonwealths and territories and legal questions regarding the use of the term "territorial sea" in over 68 federal statutes; and
 - b. Provide methods to reduce the current fragmented approach to ocean management at the federal level;
 - c. Re-authorize the Coastal Zone Management Act and other key ocean and coastal management statutes and authorities;
 - d. Provide sufficient funding and technical guidance for states, commonwealths and territories to realistically address important ocean management concerns regarding ocean habitats, water quality, maritime commerce, tourism, and research, and to support existing and new efforts to create regional approaches to ocean and coastal collaboration and coordination; and
 - e. Acknowledge and support the emulation of environmentally sound development and sustainable resource harvest where it already exists.

4. The Western Governors also believe that the U.S. needs to recognize that American Flag Pacific Island commonwealths and territories have inherent jurisdictional rights and responsibilities pertaining to the conservation, exploration, and development of the resources in their EEZs that stem from traditional rights, federally approved covenants, international law, and customs and conventions.
5. The Western Governors commend the U.S. Commission on Ocean Policy for their report and call on Congress and the Administration to thoroughly examine and implement those recommendations supported by states' Governors, and thereby ensuring that states' ocean and coastal needs are met.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Western Governors' Association (WGA) shall convey this resolution to the President of the United States, the Secretaries of the Departments of Commerce, Interior, Justice, and State, and to relevant committees and subcommittees of Congress.
2. This resolution shall serve as a basis for organizing the positions of Western states, commonwealths, and territories for any applicable legislation or administrative action.

This policy resolution was originally adopted by the Western Governors in 1991 and readopted in 1994 as Resolution 91-022. It was modified and readopted in 1997 as Resolution 97-018, and in 2000 as 00-018.