

Public comment letters
(received Fall 2015)



September 30, 2015

Northeast Regional Planning Body
Ecosystem-Based Management Working Group

Submitted via email to the Northeast Regional Planning Body Executive Secretary

Dear Working Group Members:

On behalf of Conservation Law Foundation (CLF), I am writing to strongly support the Ecosystem-Based Management Working Group and the charge that has been put before it by the Northeast Regional Planning Body (RPB). We are grateful to the RPB for acting upon the comments of many stakeholders who called for the formation of this Working Group to inform and guide the ecosystem-based management (EBM) framework of the Northeast regional ocean plan and the associated identification of important ecological areas (IEAs).

Ecosystem-based management (EBM) is the first of nine priority objective of the National Ocean Policy¹ (as articulated in the Final Recommendations of the Interagency Ocean Policy Task Force) which calls for the adoption of “ecosystem-based management as a foundational principle for the comprehensive management of the ocean, our coasts, and the Great Lakes”.² The Final Recommendations, adopted by the National Ocean Policy, state that coastal and marine spatial planning “is intended to improve ecosystem health and services by planning human uses in concert with conservation of important ecological areas, such as areas of high productivity and biological diversity, areas and key species that are critical to ecosystem function and resiliency; areas of spawning, breeding and feeding; areas of rare or functionally vulnerable marine resources and migratory corridors.”³ Further, the Final Recommendations specifically call for assistance from scientific and technical experts to analyze “the ecological condition and relative ecological importance or values of areas within the planning area, including identification of areas of particular ecological importance using regionally-developed evaluation and prioritization schemes.”⁴ We are pleased that the RPB recognizes the Northeast regional ocean plan should be built on a foundation of EBM and that it wisely created this expert Working Group to support and inform the development of the EBM framework as well as several key components of the regional ocean, most notably IEAs. Given the short time frame for completing the regional ocean plan, CLF believes that the Working Group should focus its efforts over the next 4-6 months on the following two tasks articulated in the charge:

¹ Executive Order 13547, *Stewardship of the Ocean, Our Coasts and the Great Lakes*. Fed. Reg. 43023. Thursday, July 22, 2010.

² White House Council on Environmental Quality, *Final Recommendations of the Interagency Ocean Policy Task Force* (July 19, 2010), p. 6, available at http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf.

³ *Ibid.* p. 44.

⁴ *Ibid.* p. 57.

- Support the research, identification, evaluation and application of approaches and methods to define and characterize important ecological areas. CLF strongly recommends that the Working Group focus its efforts over the next several months on providing guidance on the development and application of a methodology for identifying IEAs with a goal of identifying IEAs for inclusion in the final NE regional ocean plan. We believe that the extensive efforts over the past several years to build and populate the ocean data portal and to conduct extensive data analyses to advance our understanding of New England's ocean ecosystem now enables the RPB, with support from the Working Group, to advance this critically important element of the regional ocean plan. We are aware of similar work by the Mid-Atlantic RPB and recommend that the Working Group collaborate with efforts in the neighboring region, as appropriate, without slowing the progress of the Northeast regional ocean plan.
- Review analyses and mapping overlays of human use and ecological data, including compatibility considerations. Compatibility of uses with the natural environment and compatibility among uses is a core goal of the ocean plan and is essential to its effective implementation. The Working Group should provide input and feedback into the design of a compatibility determination framework to be incorporated into the regional ocean plan.

In addition to the above priority tasks we also strong encourage the Working Group to inform and guide the presentation and descriptive framing of the EBM in the regional ocean plan. At the RPB meeting in June of 2015, several members of the RPB stressed the need to better articulate how the regional ocean plan will put into motion an EBM approach for regional ocean management. The Working Group should provide guidance and feedback on how to structure the regional ocean plan and clearly describe the EBM framework and associated elements.

To the extent that enough research has been completed to produce useful benthic and pelagic habitat maps, we encourage the Working Group to review and provide feedback on the development of these maps and corresponding data, along with guidance on incorporating this information into the IEA analysis. Otherwise, we recommend that this task be sequenced after the above three tasks are completed.

Likewise, we would support the Working Group providing guidance on science priorities and options for monitoring ocean health and evaluating the effectiveness of the ocean plan, including reviewing progress towards achieving ocean planning goals and implementing EBM. This too is an essential element of EBM. However, we think this work should come after the initial two tasks are complete.

Thank you all for devoting your time and considerable expertise to the RPB and the development of the nation's first ecosystem-based regional marine spatial.

Sincerely,



Priscilla M. Brooks
VP and Director of Ocean Conservation



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September 30, 2015

TO: Northeast Regional Planning Body
Ecosystem Based Management Work Group

Submitted via email to the RPB Secretariat

Dear Members of the Northeast Regional Planning Body Ecosystem Based Management Work Group:

The Nature Conservancy is writing to express our strong support for the Ecosystem Based Management Working Group (EBM WG) as it begins its work on behalf of the Northeast Regional Planning Body (RPB). The work group has at its disposal the resources it needs to take many important steps to advance ecosystem approaches to management in the Northeast. We stand ready to support your efforts to do so. As you begin your work this week, we encourage you to focus on short term deliverables that will become critical pieces of the Northeast regional ocean plan.

First and foremost, the Conservancy supports the work group's focus on developing a process and criteria that may be used by the RPB to identify Important Ecological Areas (IEAs). As pressures from new and existing ocean resource uses increase, we need a shared understanding about where the most diverse, vulnerable, and ecologically valuable places are located. The work over the past year by the Marine Life Data and Analysis Team (MDAT) represents a major step in developing a new level of understanding of marine resources. When combined with the growing body of knowledge relating to IEAs in the Northeast, the EBM workgroup has a robust foundation from which create and refine the process and criteria that may be used to identify IEAs. The Conservancy encourages the work group to use products from the MDAT team and others to develop such a process that then may be included in the regional ocean plan.

Second, the Conservancy strongly believes that developing a compatibility framework is essential for successful ocean planning. Consistent with term of reference #3, providing clear guidance on "compatibility considerations" will create a shared understanding among RPB member agencies to support consistent decision making.

By developing methods to identify IEAs and a compatibility framework, the working group and the RPB will provide useful context for the regional ocean plan, for government agencies implementing the plan and for stakeholders. Once the IEAs and a compatibility framework are implemented through the regional ocean plan, the work group and the RPB can turn their attention to longer term essential activities like ecosystem monitoring and identification of science/research priorities.

Thank you all for your dedication to advancing EBM. The health of our shared marine resources will benefit from your hard work.

Sincerely,

Sally McGee, Northeast Marine Program Director
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New England Fishery Management Council

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E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

October 7, 2015

Mr. Grover Fugate, RPB State Co-lead
Mr. Richard Getchell, Tribal Co-lead
Ms. Betsy Nicholson, RPB Federal Co-lead
NOAA/GARFO
55 Great Republic Drive
Gloucester, MA 01930

Dear Northeast Regional Planning Body Co-Leads:

This spring, the Northeast Regional Planning Body will achieve a major milestone: completion of its draft regional ocean plan. While I may be a bit premature, you are to be congratulated for this pending accomplishment. What makes this accomplishment even more noteworthy is the fact that this will likely be the first plan of its kind in the United States. It reflects well on the federal, state, and tribal partners in this region.

My understanding is that the draft plan will be made available for public comment, probably in April. Given the trendsetting nature of this plan, and the vast number of ocean users it will affect, I encourage you to provide a full 90-day comment period. This is the maximum period called for in the National Ocean Council guidelines. Further, I request that the 90-day period extend at least through May 15. The RPB asked to discuss the plan at our April 19-21 Council meeting. A comment period that ends mid-May will give the staff time to incorporate the Council discussion into our written comments. In addition, to facilitate the April discussion, you may want to consider a briefing on the plan at our January Council meeting.

Thank-you for considering these requests. I look forward to your reply and our continuing cooperation on ocean planning issues.

Sincerely,

Thomas A. Nies
Executive Director

cc: Katie Lund
John Weber
Nick Napoli



October 13, 2015

Northeast Regional Planning Body
Ecosystem-Based Management Working Group

Submitted via email to the Northeast Regional Planning Body Executive Secretary

Dear Working Group Members:

It has come to my attention that there may have been a misunderstanding related to Conservation Law Foundation's recommendations to the Northeast Regional Planning Body's Ecosystem-Based Management Working Group, sent in our letter dated September 30, 2015. In that letter, Conservation Law Foundation (CLF) strongly encouraged the Working Group to focus its attention on "supporting the research, identification, evaluation and application of approaches and methods to define and characterize important ecological areas for inclusion in the Northeast Regional Ocean Plan." There was apparently a misunderstanding regarding our recommendations on the inclusion of benthic and pelagic habitat information into the identification of important ecological areas. In our letter, CLF recommended that:

To the extent that enough research has been completed to produce useful benthic and pelagic habitat maps, we encourage the Working Group to review and provide feedback on the development of these maps and corresponding data, along with guidance on incorporating this information into the IEA analysis. Otherwise, we recommend that this task be sequenced after the above three tasks are completed.

To be clear, CLF fully supports and recommends incorporating benthic and pelagic habitat information in to the methodology for identifying important ecological area to the extent that this information is available and in a form that can be incorporated into the analysis. Our intent in the original letter was to signal that if this information was not available, that lack of information should not hinder the work of the RPB to identify important ecological areas with the best scientific information available. In subsequent conversations with scientists, it is apparent that such information is available and can be incorporated into the analysis. We strongly support the inclusions of these critical factors in the analysis and identification of important ecological areas.

Thank you all for devoting your time and considerable expertise to the RPB and the development of the nation's first ecosystem-based regional marine spatial plan.

Sincerely,

Priscilla M. Brooks
VP and Director of Ocean Conservation

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November 13, 2015

Betsy Nicholson
Federal Co-Lead for Northeast Regional Ocean Planning
NOAA Ocean Service
Greater Atlantic Regional Office
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Dear Ms. Nicholson and RPB members:

On behalf of the Fisheries Survival Fund (“FSF”), we submit the following comments on the Northeast Regional Planning Body’s (“RPB’s”) work to develop the Northeast Regional Ocean Plan (“ocean plan”) in advance of its upcoming meeting on November 16-17 in Portland, ME. FSF represents the significant majority of full-time limited access permit holders in the Atlantic scallop fishery. Our members are home-ported along the Atlantic coast from Massachusetts and Connecticut south through New Jersey, Virginia, and North Carolina.

As you know, FSF has engaged extensively in the planning process for offshore energy and other ocean projects in the Northeast and Mid-Atlantic throughout the past several years, and has provided the RPB with several comment letters regarding these experiences. FSF is particularly concerned with (1) the management context for offshore projects including interagency coordination and stakeholder outreach; and (2) improving the quality and consideration of existing use data during the offshore permitting and environmental review processes.

FSF is extremely encouraged by several of the draft documents that the RPB will consider at its meeting next week. In particular, the “Best Practices for Agency Coordination” document addresses numerous serious concerns we have about effective consultation both between agencies and with affected user groups. We commend the RPB on the thoughtful development of this document, and strongly urge you to include it in the final ocean plan. These practices will improve communication and assist in identifying, preventing, and mitigating conflicts associated with offshore activities.

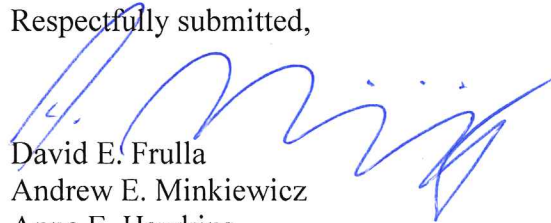
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November 13, 2015
Page Two

FSF similarly thanks the RPB, its working groups, and its staff for the work each has done related not only to the compilation of useful data sources, but the identification of gaps and future research priorities within that data. We stress that, as biological and economic conditions are not static, it is important that no agency or project applicant relies too heavily on any existing data set. Since aggregated data is often outdated or incomplete, its presentation may lead to misconceptions about current uses and resources. This is particularly true about activities such as the scallop fishery that already have complex management regimes. Moreover, because fisheries data in particular often does not exist on a fine enough spatial scale to fully inform project siting decisions, it is critical that the primary use of ecosystem data in the ocean plan is to identify areas for further inquiry, rather than as a basis for decisions. This matter also highlights the need for improved monitoring and research in the region, which the draft ocean plan documents likewise productively address.

We appreciate the opportunity to submit these comments, and look forward to continuing to work with the RPB as it refines its ocean plan leading up to the release of a draft for public comment. Please do not hesitate to contact us if you have any questions or if we can provide additional information.

Respectfully submitted,



David E. Frulla
Andrew E. Minkiewicz
Anne E. Hawkins

Counsel for Fisheries Survival Fund

November 16, 2015

Northeast Regional Planning Body

As most of you know, I'm here as an individual, a fisherman, without pretenses of being a professional planner or having a science background, solely as one whose life and livelihood are interconnected with the state of the ocean. I've read through the meeting documents wondering what sage advice to give the Planning Body in going ahead with the ocean plan. Some of the questions that arose in me were the same as you yourselves suggested at the stakeholder meeting, "Does the plan identify and support... opportunities toward conserving, restoring and maintaining healthy ecosystems," or "Does it increase the understanding of compatibility between past, present and future ocean users." These were among many matters that were discussed there, were well noted by the staff, and I hope will help shape the final plan. I have thought it best then to relate my impression that the draft plan itself appears too weighted towards the effective decision making goal, along with agency coordination, and the permitting processes. Every section of the outline is prefaced with, "Related agency coordination activities", or "Enhancement of agency practices." I believe it's not enough to make the agencies well oiled efficient machines, we should be giving them direction as well. Providing all the data and maps one thing, but that is not the extent of the regionality of this process. That would come with the inclusion, in the plan, of our wants and choices as to our culture, economy, and our ocean's health and productivity. We've heard a lot of voices during this process, from the stakeholder meetings, from the surveys and studies, and even with a glance back at the history of our region. We as New Englanders, have a deep attachment to our ocean, a love of its recreational opportunities, and a desire to restore and protect its ocean environment. We value and support our traditional ocean uses, but at the same time ask that they adapt to more sustainable practices. We'd ask that new uses be compatible with their prospective ecosystems and to be supportive of the local cultures and economies. Any part or parcel of proposed projects should be weighted heavily as to its effect on ocean health or the established uses and economies of the area. Our plan should specifically include the desires and needs of this region, as well as ask that the various State and Federal Agencies recognize and include them in any decision making process. Only then would I consider the plan truly whole and useful.

Richard C. Nelson

Capt. F/V Pescadero

Friendship, Maine

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Submitted Thursday, December 17th, 2015

Submitted electronically to:

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Tribal Outreach Coordinator and Former Tribal Chief

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Betsy Nicholson (Federal Co-Lead)

Northeast Regional Lead, National Oceanic and Atmospheric Administration

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Re: Recommendations for Draft Northeast Ocean Plan, Effective Stakeholder Engagement and Final Plan Implementation

Dear Northeast Regional Planning Body:

The New England Ocean Action Network (NEOAN) applauds the Northeast Regional Planning Body (NE RPB) on their collective progress thus far in finalizing a draft Northeast Ocean Plan. In support of your ongoing efforts, NEOAN is pleased to submit comments in regards to specific components of the draft Northeast Ocean Plan in light of the looming forty-five day comment period, as well as provide recommendations for incorporating robust stakeholder engagement into plan implementation. Created in 2011, NEOAN is a diverse group of ocean users and stakeholders committed to ensuring that all ocean users have an opportunity to be involved in the development of the Northeast Ocean Plan.¹ We look forward to the completion and implementation of a Northeast Ocean Plan that embraces an adaptive, ecosystem-based approach and employs a robust stakeholder engagement process, to the benefit of thriving coastal economies and healthier oceans. While the majority of NEOAN's focus has been on the

¹ *New England Ocean Action Network*, accessed December 9, 2015, www.newenglandoceanaction.org.

planning process itself, we look forward to shifting perspective to future implementation, as we believe that successful ocean planning is contingent upon robust stakeholder engagement.

NEOAN provides the following comments and recommendations to the NE RPB:

Support for Regional Planning Body Functioning as Primary Implementation Coordinating Body

NEOAN supports the concerted efforts of the Regional Planning Body to determine an effective model that will guide both the implementation of the northeast ocean plan and monitor ongoing progress after the Northeast Ocean Plan is submitted to the National Ocean Council (NOC). The most recent Regional Planning Body meeting, held on November 16th and 17th in Portland, resulted in strong vocalized support by several attending members for the continuation of the Regional Planning Body as the appropriate implementing apparatus. NEOAN concurs support for the NE RPB's continuation, because:

- Pre-existing relationships forged between state, federal, and tribal Regional Planning Body members—the intrinsic value of which will result in the completion of the nation's first regional ocean plan—must be continued to successfully initiate implementation and ensure ongoing cross-agency and tribal support.
- An “all in” approach involving the Northeast Regional Planning Body as the implementing body will furthermore act as a salient metaphor for the impending new administration, not only as a clear symbolic message that state, federal and tribal entities embrace the Northeast Ocean Plan, will use the best available data, and employ interagency best practices, but also will reinforce regional support for the National Ocean Policy and the positive implications for ocean planning in New England.
- As “...tribes will benefit from improved coordination with Federal agencies, better information for decision-making, and support for regional priorities and solutions,”² The Regional Planning Body is therefore the only applicable option through which tribes are likely to continue to have equal representation and input, to guarantee—in partnership with state and federal agencies—that tribes will receive the multi-faceted benefits foretold by the National Ocean Policy.
- Likewise, stakeholders, who have been an important and essential part of this process from the beginning, look to the Regional Planning Body and its foundation in the National Ocean Policy, as their key and guarantor for continued participation in subsequent actions or decisions.

NE RPB members highlighted valid concerns regarding the availability of future funding for the overall functionality of the Body and ongoing support from contracted staff. NEOAN acknowledges that expectations would need to be adjusted and leveraged accordingly depending upon funding and political considerations, and we urge the NE RPB to identify a set of possible operating methods that would maintain the RPB as the functioning Body to implement and maintain the Ocean Plan, to account for various uncertainties (i.e. continued funding, marginal funding, no funding).

² White House National Ocean Council, National Ocean Policy Implementation Plan (April 2013), available at: <https://www.whitehouse.gov/administration/eop/oceans/implementationplan>.

Formation of a Stakeholder Liaison Committee

NEOAN calls for the establishment of a stakeholder liaison committee by the fall of 2016, as a vehicle through which to formalize stakeholder input as a priority for implementation moving forward, and to also employ the resulting committee as a vehicle uniquely positioned to convey the specific impacts and benefits of the Northeast Ocean Plan to the diverse spectrum of ocean users in the New England region.

The National Ocean Policy Executive Order explicitly states, in part, the purpose of regional ocean plans as, "...ensuring a comprehensive and collaborative framework for the stewardship of the ocean, our coasts, and the Great Lakes that facilitates cohesive actions across the Federal Government, as well as participation of State, tribal, and local authorities, regional governance structures, nongovernmental organizations, the public, and the private sector."³ "Cohesive actions," as stated by the National Ocean Policy, are translatable in the northeast as agency best practices, and the resulting guidelines and recommendations will make specific reference to pre-project or application review processes within the existing regulatory framework. Implications for stakeholders will require regular stakeholder engagement efforts intended to gauge and evaluate success of best practices at the ground level.

NEOAN recommends the formation of a stakeholder liaison committee in order to:

- Represent a formalized medium through which the Northeast Regional Planning Body can successfully implement a robust stakeholder engagement process to build durability into the Ocean Plan;
- Utilize informed stakeholders to help conduct regionally diverse outreach, and education to build support and understanding of the ocean planning process and the Plan;
- Ensure that the interests of regionally diverse stakeholders from all ocean sectors are considered and help inform RPB decisions and actions.
- Provide a mechanism of accountability for the RPB to the public for ocean management decisions.

Successful stakeholder engagement is an invaluable, sizable and time-consuming undertaking. NEOAN recommends that the NE RPB begin to conceptualize the formation of a stakeholder liaison committee, to be implemented no later than the fall of 2016, to be viewed as an essential tool through which stakeholders are prioritized as essential and engaged as partners in agency best practices.

While concerns raised in the past regarding the formation of a stakeholder body have been primarily focused on budgetary constraints, post-2016, NEOAN recommends that participating members of the stakeholder liaison committee elect universally to participate at their own personal or organizational cost. With further consideration of a reduced NE RPB budget in the long-term, we recommend that the NE RPB convene in person stakeholder liaison committee meetings, open and free to the public, prior to full in-person meetings of the NE RPB, using regional government buildings and other space that is free of cost. Costs may be further defrayed for smaller-scale "update meetings," through the use of webinars and conference calls.

³ Executive Order 13547, Stewardship of the Ocean, Our Coasts and the Great lakes. Fed. Reg. 43023. Thursday, July 22, 2010.

Early Release of Draft Northeast Ocean Plan Chapters for Public Review

Public comment during the most recent NE RPB meeting identified the need for the public to have access to draft chapters of the Northeast Ocean Plan as they become available. NEOAN supports and recommends such a process, as it provides a balanced solution for stakeholders to both have the vital time required to digest these sizable documents carefully, and to focus on the forty-five day comment period as a window through which to formulate input that will be most useful for both the NE RPB and the diversity of stakeholders who have invested time and effort in the multi-year planning process. Furthermore, the majority of organizations invested in ocean planning encompass stakeholder memberships with a mirrored level of interest in the final product, and early release of draft chapters will allow these organizations to synthesize relevant content and develop effective outreach plans in support for the Northeast Ocean Plan, to garner more public support for the process and the plan. This process would help ensure that the forty-five day window for public comments on the draft Ocean Plan would be as practical as possible, while keeping the process on track.

Recommendations for a Transparent and Public Stakeholder Comment Period

The NEOAN recognizes that the proposed forty-five day public review period for the draft Northeast Ocean Plan is necessary to guarantee that the final plan is approved of by the National Ocean Council before the end of the current administration, and as such, we urge the NE RPB to provide a public comment process that is transparent, publicly accessible, and regularly updated on a daily or at most, a weekly basis.

This approach is not meant to eliminate alternative options for submitting comments to the NE RPB, such as mailing comments or emailing directly, but rather to be put forth as the best means of public commenting to augment the transparency of the process in the forty-five day comment period.

To achieve this, NEOAN recommends that an online, publicly-accessible stakeholder comment forum that presents all letters and comments produced during the forty-five day comment period be established, for immediate and automated release of such comments as they are submitted. This document could be designed using an online questionnaire form for the public to submit comments on the draft plan. The form could be generated with specific questions about the draft plan, each with a required checkbox for the commenter to indicate the nature of comments offered: large scale changes, improvements, no change, with an “other” write-in field. NEOAN recommends that the majority of questions about the plan be relevant to the plan itself to afford the opportunity for stakeholders to elaborate as they deem necessary, rather than only answer specific questions to which the NE RPB is expressly seeking additional input but the commenter may not have interest or informed feedback to provide. An example of this would be to ask, “Does Chapter 1 fully express the aspirational nature of the NE planning process, and if not, what might be added to improve this?”, or, “Does Chapter 3 include the necessary components for agency use of existing data, and account for gaps in understanding? If not, how could this be improved?”, rather than to ask a majority of very specific questions like, “Does the plan for individual IEA components relate to and support other sections of the Draft Plan and understanding, while applying lessons learned from other similar efforts, to the greatest extent possible?”, where such a reply would be articulated by a concerned commenter in routine public process but may not be a consideration by the general public.

Stakeholders could directly upload letters and comments at the end of this questionnaire form, with a required checkbox at upload that allows for the multiple checkbox selection of issue areas commented

upon (i.e. stakeholder process, IEAs, monitoring, etc.), with an “other” write-in field for selections not provided.

The form could automate the generation of a synthesis document that would digest all comments and define them by condensed key points and arranged by popularity, further allowing for the public and NE RPB to see trends. Updated automatically, this synthesis document would provide an accurate visualization and arrangement of stakeholder priorities on a spectrum of content within the draft plan.

This approach would provide a transparent and up-to-date, largely automated system for the public to view full comments and comment synthesis data in real time, throughout the short window of forty-five days. This would increase the accountability of the NE RPB to the public and allow for stakeholders across the region and all sectors to be privy to all public comments, as they surface.

Should it be of value to the NE RPB, members of NEOAN could generate a sample online form to submit as a working sample, along with the backend Excel Document, which would tally all replies, and is the part that could be coded for the NE RPB's website to publicly display results to the forum as they are submitted. NEOAN could provide with this sample form a one-page technical document to explain how to code and incorporate the forum data into the website, and generate a widget for the NE RPB that could be present in the sidebar of all the NE RPB's webpages during the public comment period, for the public to easily access the online comment form.

Recommendation for a Sand and Gravel Public Workshop

In its most current public draft, content within Section 3.3.8 regarding sand and gravel data remains “to be determined.”⁴ Public interest in regards to sand and gravel remains a high priority for all stakeholder groups, given the potentially wide-sweeping impacts for commercial fisheries, critical wildlife habitat, recreation threats, coastal erosion, and offshore wind energy, to name only a few examples. NEOAN asks that a public sand and gravel workshop be scheduled for the winter of 2016, as it is critical that stakeholders have a forum to contribute to the final content housed in Section 3.3.8, rather than reacting to content generated solely by either the Regional Planning Body or the Ecosystems Based Management work group. In appreciation of financial constraints, NEOAN recommends that the NE RPB secure a venue that is free of charge, so very limited additional funds would be required to house this critical public meeting.

Include Individual Non-Consumptive Ocean Recreation Use to Section 3.3.5

NEOAN urges the NE RPB to include individual non-consumptive recreation (NCR) data to Section 3.3.5 of the draft Northeast Ocean Plan. Individual NCR use is the most widely practiced form of ocean use⁵ and the largest single contributor to New England's ocean economy,⁶ and accordingly, as the NE RPB

⁴ Northeast Regional Planning Body, Northeast Ocean Plan Outline Chapter 3 Addendum (November 2015), available at <http://neoplan.org/wp-content/uploads/2015/11/Northeast-Ocean-Plan-Chapter-3-Addendum.pdf>.

⁵ Point 97, Surfrider Foundation, and SeaPlan, Characterization of Coastal and Marine Recreational Activity in the U.S. Northeast (October 2015), available at: http://neoplan.org/wp-content/uploads/2015/10/Recreation-Study_Final-Report.pdf.

⁶ “Market Data,” *National Ocean Economics Program*, assessed December 9, 2015, <http://www.oceaneconomics.org/Market/ocean/oceanEcon.asp>.

and partners have collected data to help characterize such use and articulate additional gaps in understanding that need to be filled, it is concerning to see individual NCR use missing from Section 3.3.5. Individual NCR is an ocean use that arguably impacts and cross-cuts through most, if not all, stakeholder interests, as many New England residents and tourists visit our region to enjoy our healthy beaches and for this use. While NEOAN supports the current inclusion of NCR data as it relates to boating, whale watching, scuba, and coastal recreation areas data within Section 3.3.5, individual NCR use data must be included as well, in order to accurately reflect the multi-faceted nature of ocean recreation in New England.

Indeed, some of the biggest conflicts and staunchest opponents of development projects have been from individual users, such as coastal homeowners, beach goers, and surfers.

The plan needs to address how the compatibility of ocean uses goal will be achieved, and the individual NCR ocean use should be a big part of that discussion.

Possibilities for agency use of the data might include:

- Identifying high value areas for individual NCR activities to assess threats to these areas and develop methods for protection and evaluation of compatibility between uses and the environment.
- Threat assessments that look at impacts to offshore wildlife viewing and diving from offshore energy development or economic and social impacts to nearshore recreation from sea level rise and increased erosion.
- BOEM could host a workshop with regional NCR and tourism stakeholders to develop methods for analyzing potential cumulative impacts of wind leasing and siting decisions on recreational areas and surf reefs. Based on the workshop's findings and recommendations, BOEM could take action to conduct, in coordination with NOAA, a study of such impacts, and then take steps to protect recreational areas from impacts to the fullest extent consistent with applicable law, safeguarding these areas and protecting the region's ocean economy.

We thank you for your consideration of these recommendations. We encourage you to visit our website at <http://newenglandoceanaction.org/> to learn more about the New England Ocean Action Network, and we look forward to the completion of a draft Northeast Ocean Plan in March 2016.

Sincerely,

NEOAN

Melissa Gates
Northeast Regional Manager
Surfrider Foundation

Priscilla Brooks
Vice President and Director of Ocean Conservation
Conservation Law Foundation

Richard Nelson
Lobsterman and Captain, FV Pescadero
Friendship, Maine

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Mary Ann Horrigan
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**Conservation Law Foundation * Island Institute * Ocean Conservancy *
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December 21, 2015

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Also submitted electronically to klund@northeastoceancouncil.org

RE: Recommendations on the development and implementation of the Northeast Regional Ocean Plan

Dear Mr. Getchell, Mr. Fugate, and Mrs. Nicholson:

On behalf of Conservation Law Foundation, Island Institute, Ocean Conservancy, and the Surfrider Foundation, we are pleased to provide comments to the Northeast Regional Planning Body (NERPB) to help inform your work as you further develop the five chapters of the draft Northeast Regional Ocean Plan (NEROP) presented at the November Northeast Regional Planning Body meeting.¹ Our organizations strongly support the development and implementation of the nation's first comprehensive, ecosystem-based regional ocean plan as one

¹ <http://neoceanplanning.org/events/november-2015-NEPBPB-meeting/>

of the primary mechanisms for implementing the goals and priorities of the National Ocean Policy² and the final recommendations of the Interagency Ocean Policy Task Force.³ We commend the NERP on the progress it has made thus far and look forward to the public release of the draft NEROP in just a few months time.

Here follow recommendations on stakeholder engagement, plan implementation and funding, maintenance of the Northeast Ocean Data Portal, compatibility assessment, an information base to understand vulnerability in a shifting climate, and the identification and use of important ecological areas (IEAs) for your consideration as you work to complete the draft NEROP:

Stakeholder Engagement: Regional Ocean Plan Implementation and Decision Making Processes

In order to ensure ongoing and meaningful stakeholder engagement in the implementation and ongoing evolution of the NEROP, we recommend the establishment of a standing stakeholder liaison committee, as well as the development and implementation of a set of best practices around stakeholder consultation in ocean management decision-making.

a. Establishing a Standing Stakeholder Liaison Committee:

We support the creation of a regional stakeholder liaison committee by the fall of 2016 to support and inform the NEROP and provide the opportunity for ongoing and crosscutting regional dialogue and information sharing among a variety of stakeholders and the NERP. We believe this is a critical action necessary for the successful implementation of the NEROP and to ensure that the interests of regionally diverse stakeholders from all ocean sectors are considered in future NERP decisions and actions. The process for initial committee selection should be transparent and open. This formal committee should be complemented by additional stakeholder and science outreach, which can be tailored to particular issues and/or geographic regions.

b. Stakeholder Involvement in Decision Making

We support the NERP's Best Practice for Agency Coordination (2015) recommendation to engage stakeholders early in the project development planning process, which should be adequately transparent. Stakeholders should be identified using existing datasets and stakeholder networks, as well as by leveraging relevant state, federal, and tribal relationships. Once stakeholders are identified, best practices should be implemented in a way that ensures that these stakeholders have a meaningful opportunity to engage in decision-making and have a local voice in permitting decisions for ocean use near their communities.

The employment of the best practices document will result in the generation of valuable knowledge from stakeholders, and the use of that local knowledge can lead to better decisions for agencies. Tapping into local knowledge and understanding of ecosystem elements will enhance

² Executive Order 13547, Stewardship of the Ocean, Our Coasts and the Great Lakes. Fed. Reg. 43023. Thursday, July 22, 2010.

³ White House Council on Environmental Quality, Final Recommendations of the Interagency Ocean Policy Task Force (July 19, 2010), available at http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf

the legitimacy of the planning process among stakeholders and will result in more informed decision-making and ultimately, more successful ocean management.

In regards to the following Chapter 3 provision about long-term exclusive uses of ocean space (i.e. offshore wind farms, cables, offshore aquaculture): “[F]ederal agencies should commit to utilizing the Human Use data and the existing relationships built at the NERP level to determine who will be directly impacted by long-term exclusive uses,” we recommend that:

1) Prior to the submittal stage of an ocean development project, developers, government authorities, and other third party bridging organizations be guided by a best practices process to develop community engagement strategies that solicit and incorporate local knowledge into the given proposal. This type of comprehensive engagement should continue well into the implementation stage of any project.

2) Developers, community members, and government agencies work collaboratively to develop a shared understanding of what the benefits and impacts of a project are, both to the community and the ecosystem, and how the benefits and impacts of the project relate to each other.

3) The NERP invest in human-centered social science research and communication within communities to enhance our understanding of coastal communities’ relationships to the sea and how various activities and management actions impact coastal communities and the ecosystem. We expect this research will contribute to better decision-making regarding sustainable ocean management and ultimately a stronger more successful ocean economy. Research methods may include surveys, interviews, or focus groups.

It is important to reiterate that the NERP is simply guiding this process. Therefore, the NERP must clearly identify these best practices in the plan so that the agencies, states, tribal nations, project developers, and industries implementing the plan are clear on what their responsibilities are.

The NERP should specify in the NERP that implementation of these best practices for stakeholder engagement will be a priority during the first year of the plan.

Plan Implementation and Funding

We strongly concur with the NERP at the November 2015 meeting that the planning work should continue post-2016 in order to implement, monitor, and adaptively manage the NERP. We strongly support the continuation of science and monitoring, periodic review of and amendments to the NERP, as well as ongoing stakeholder engagement after its final approval by the National Ocean Council in the second half of 2016.

Securing the necessary resources to support this critical ongoing work is essential to the ultimate success of the NERP, particularly for the ongoing maintenance and updating of the Northeast Ocean Data Portal, which is central to the NERP and a vital component of day-to-day ocean management. The unique data tools provided by the NERP contribute to the ability of state, tribes, and federal agencies to satisfy their missions and relevant statutory obligations and to improve collaboration and inclusion of stakeholders. Therefore, we urge NERP member

agencies, with particular emphasis on federal agencies required by the National Ocean Policy to comply with the NEROP, to make funding commitments within the NEROP and assume responsibility for data portal updates, maintenance, and development, ocean plan monitoring, further research and data integration outlined within the science and research priorities of the NEROP, and stakeholder engagement. We also strongly urge the NERPB to articulate this responsibility in the NEROP. We recommend that the following language be incorporated into the NEROP in Chapter 4.2:

“Federal NERPB member agencies believe that the Northeast Ocean Data Portal is fundamental to the successful implementation of the regional ocean plan and will contribute to the agencies’ ability to satisfy their missions and statutory mandates. Accordingly, the federal NERPB member agencies commit to working together to provide the financial, staff and/or other resources necessary to ensure the ongoing maintenance and update of the Northeast Ocean Data.”

Maintaining the Northeast Ocean Data Portal

Agencies should be responsible for maintaining and updating the Northeast Ocean Data Portal as new data products become available, as well as building a long-term plan for the portal. Stakeholders should be engaged to educate the public on the data portal as well as contribute the data portal based on their expertise.

We urge the NERPB to commit to maintaining and expanding the Northeast Data Portal as a means to ensure that agency decision-making is a result of use of “the best available data.” Furthermore, language must be included in the NEROP that outlines and delineates specific data priorities, responsible agencies, and a timeline for maintenance of the portal. Our organizations assert that maintaining “best available data” can be achieved by the following steps:

- Determine and undergo steps to maintain the website’s overall design and written content and to ensure continued functionality of operational components and data development;
- Target stakeholders and embrace a robust engagement process to both educate the public on data portal purpose and utility and to also fill data gaps;
- Generate a long-term plan that identifies data gaps, identifies champions to fill those gaps, and determines the timeline through which the portal will be expanded and improved;
- Create a sustainability plan, which will outline action items that will result in long-term funding sources for the maintenance and expansion of the data portal.

Should certain agencies already confirm a commitment to specific maintenance action items, each action, along with its agency champion, should be explicitly noted within Chapter 4.

In addition, we believe a focus for the coming year should be to fill the data gaps that exist regarding non-consumptive recreational use and lobster fishing. These activities are vital to our coastal economy and to New England culture. Accounting for any existing data on these activities in the NEROP and articulating a plan for filling these data gaps should be a high priority in 2016, and should be explicitly noted in the NEROP.

Compatibility Assessment

We encourage the NERPb to include in the NEROP a discussion, initial framework, and an explicit provision for the development of a robust compatibility assessment among human uses and among human uses and the marine environment, to be completed in the coming year. Recommendations on how to incorporate this information into decision-making should also be developed.

The NERPb identified “compatibility among past present and future uses” as one of three goals established for the Northeast regional ocean planning process. Therefore, the NEROP must contain a discussion and, at the very least, an initial framework for compatibility assessment. We believe that this should be a fundamental component of the NEROP that will ultimately contribute to better and more effective management of the ocean. We recognize that a regional compatibility assessment regarding ocean uses and the marine ecosystem is a significant undertaking and will need more time. We therefore recommend that the NEROP contain an explicit provision for the development of a robust assessment of compatibility between human uses and between human uses and the marine ecosystem, as well as recommendations for incorporating this information into decision-making, to be completed in 2016.⁴

Building an Information Base to Understand Vulnerability in a Shifting Climate

We encourage the NERPb to prioritize research towards understanding the impact of climate change on the ocean and building a comprehensive information base supported by the NEROP and Northeast Ocean Data Portal. The NERPb should host an annual meeting engaging science experts, stakeholders, and resource management communities focused on understanding our region’s vulnerability in a shifting climate.

With regards to the NEROP’s Research Priorities in Chapter 5, our organizations strongly support research towards building a comprehensive information base to understand the vulnerability of our regional ocean ecosystems to the changing climate (Section 5.4 Changing Conditions). Virtually every government and academic research institution in the region with an interest in ocean ecosystems has made the impact of climate change on the ocean a major research priority. The NEROP can galvanize broad collaboration across the region to improve our understanding of the impacts of climate change on the ocean ecosystem, gather and make available related scientific data on the Northeast Ocean Data Portal, and enable more informed decisions about the management of the ocean in the face of climate change. To that end, we recommend that there be included in Section 5.4 a provision for periodic public meetings, at a minimum once per year, hosted by the NERPb, to convene the science, stakeholder, and resource management communities to discuss new research on the impacts of climate change in the Northeast regional ocean planning area. We also recommend that the NERPb include an action item in the Chapter 5 to make explicit the need to tap fishermen, non-consumptive ocean recreation users, tribal peoples, and other ocean user stakeholders for their on-the-water knowledge and observations in building this understanding. This could be accomplished initially by including dedicated sessions on stakeholder observations and data collection during the

⁴ Northeast Regional Planning Body, *Framework for Ocean Planning in the Northeast United States* (February 2014), available at <http://neoceanplanning.org/wp-content/uploads/2014/02/NE-Regional-Ocean-Planning-Framework-February-2014.pdf>

annual meeting recommended above. Alternatively, the NERPБ could create a stakeholder working group to explore options for tapping this important source of local knowledge.

Important Ecological Areas

We urge the NERPБ to identify IEAs in the NEROP and to include in the NEROP and various agency guidance documents, explicit provisions that call on NERPБ agencies, when faced with decisions regarding activities proposed in IEAs, to operate within their existing authorities to use the data, maps, and other information pertaining to the identification of IEAs to give increased scrutiny to proposed activities and to conserve IEAs to the fullest extent consistent with applicable law.

Our organizations strongly support the identification of IEAs as a core component of the NEROP. Ecosystem-based management (EBM) is the first of nine priority objectives of the National Ocean Policy,⁵ which calls for the adoption of “ecosystem-based management as a foundational principle for the comprehensive management of the ocean, our coasts, and the Great Lakes”.⁶ The Final Recommendations, adopted by the National Ocean Policy, state that coastal and marine spatial planning “is intended to improve ecosystem health and services by planning human uses in concert with conservation of important ecological areas, such as areas of high productivity and biological diversity, areas and key species that are critical to ecosystem function and resiliency; areas of spawning, breeding and feeding; areas of rare or functionally vulnerable marine resources and migratory corridors.”⁷ Further, the Final Recommendations specifically call for assistance from scientific and technical experts to analyze “the ecological condition and relative ecological importance or values of areas within the planning area, including identification of areas of particular ecological importance using regionally-developed evaluation and prioritization schemes.”⁸ We are pleased that the NERPБ recognizes that the NEROP should be built on a foundation of EBM, including the identification of IEAs, and that you wisely created an Ecosystem Based Management Working Group to source expert insight to support and inform the development of the EBM framework as well as several key components of the NEROP.

With the release of IEA maps, we will have a shared understanding of where core ecologically important ocean areas are located. We do not expect that the delineating boundaries of these new areas will be perfect or that additional data gathering, particularly in light of a rapidly changing climate, will be unneeded. To that end, we support the inclusion of additional research on IEAs and their components as an element of the Chapter 5 Research Priorities. However, acknowledging that more detail is needed does not detract from the landmark achievement to catalogue a portion of our ecological wealth within the NEROP or from the NERPБ agencies’ responsibility to take action to conserve these areas.

⁵ Executive Order 13547, *Stewardship of the Ocean, Our Coasts and the Great Lakes*. Fed. Reg. 43023. Thursday, July 22, 2010.

⁶ White House Council on Environmental Quality, *Final Recommendations of the Interagency Ocean Policy Task Force* (July 19, 2010), p. 6, available at http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf.

⁷ *Ibid.* p. 44.

⁸ *Ibid.* p. 57.

The NEROP and various agency guidance documents should include explicit provisions that call on NERPB agencies, when faced with decisions regarding activities proposed in IEAs, to use their existing authorities to use the data, maps, and other information pertaining to the identification of IEAs to give increased scrutiny to proposed activities and to conserve IEAs to the fullest extent consistent with applicable law.

Calling for conservation does not automatically generate “no go zones” where all activities are discouraged; we believe that in some instances, multiple uses may be able to occur within IEAs so long as they do not detract from the areas’ functioning and sustainability. We urge you to clearly articulate this in the NEROP to enhance understanding.

As part of this commitment to conserve key areas within the bounds of their existing authorities, the NERPB agencies should consider the intersection of IEAs and human uses to better understand potential conflict and the opportunity for compatibility. This work fits squarely within the NERPB’s goal of *Compatibility Among Past, Current, and Future Ocean Uses* and in particular its Objective 1, *Increase Understanding of Past, Current and Future Interactions Among Ocean Uses and the Ocean and Coastal Ecosystem*. We encourage the NERPB, with guidance from the Ecosystem Based Management Working Group, to work with relevant agencies to flesh out guidance from January through March – once we have both the ecological and human use data synthesis products in hand and before the draft NEROP is released for public comment. This guidance should clearly identify agency-specific actions that should be adopted to first avoid and second minimize the adverse impacts of industrial uses to IEAs.

Conservation Law Foundation, Island Institute, Ocean Conservancy, and the Surfrider Foundation thank the NERPB for the opportunity to provide comments at this critical juncture in the Northeast Regional Ocean Planning process. Our organizations stand ready to assist in this important undertaking, and we look forward to the NERPB’s great accomplishments through 2016.

Sincerely,

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