

Jameson SC (2008) Ocean zoning in United States Federal Waters. Marine Ecosystems and Management 2(1), In: more sources of information <<http://depts.washington.edu/meam/COZ.htm>>

Ocean Zoning in United States Federal Waters

By Stephen C. Jameson, Executive Director of Coral Seas, Inc. (www.coralseas.com); E-mail: sjameson@coralseas.com

The topics of improved ocean governance, ecosystem-based management, and ocean zoning are gaining interest and momentum among people and organizations. New ocean governance strategies are emerging that primarily focus on state waters, with designs for varying degrees of regional cooperation. This state-focused strategy is warranted because there are many difficult challenges that must be overcome to integrate the federal government into the larger ocean governance process. Because of the critical role the federal government must eventually play in improving US ocean management, a look at the seemingly forgotten history of ocean zoning in US federal waters is warranted.

The history of federal ocean zoning in the US can be traced back to 1977 and President Jimmy Carter's Environmental Message to Congress calling for accelerated growth of the US National Marine Sanctuary Program, which at the time consisted of only two fledgling sites. Seeing the demand for holistic ocean management and understanding the ad hoc nature of government decision-making and the problem of gaps and overlaps of federal regulations, NOAA leadership decided to use title III of the Marine Protection, Research and Sanctuaries Act (MPRSA) of 1972 (16 USC 1431 et seq) to zone and manage US Federal waters. To implement this new ocean zoning and management vision, the NOAA Office of Ocean Management was formed in 1978 and the US National Marine Sanctuary Program was transferred to this new office. The next step was to obtain cooperation from all the US government agencies with jurisdictions or interests in US Federal waters to facilitate an integrated ocean management approach (now evolved into the concept of "ecosystem-based management"). A briefing document was produced outlining this new ocean management vision, and soon after, a big interagency meeting was held to explain the concept of ocean zoning and integrated management to all the government agencies affected. The result of the meeting, which I attended, was a firestorm of bureaucratic outrage and turf fighting because the MPRSA overlapped many existing laws and regulations. For example, the Department of Defense was concerned over restrictions on military operations and the Department of Interior was concerned over intrusions into their responsibilities to exploit the sea bed and subsoil resources via the Outer Continental Shelf Lands Act. The new Office of Ocean Management caused so much controversy and anxiety among government agencies that the office was soon dissolved and the US National Marine Sanctuary Program was transferred back to the Office of Coastal Zone Management. Spurred by concern of an ocean "take over" by the Marine Sanctuary Program and over concern regarding the impacts on oil and gas activities on the outer continental shelf, a comprehensive review of the Marine Sanctuaries Program was ordered by Congressman John Breaux (D-LA) to reign in any future ocean management or zoning efforts and to define clear "boundaries" for the Marine Sanctuary Program (Comptroller General of the US 1981).

LESSONS LEARNED

Make sure the Captain is onboard before sailing. The big lesson learned from the failure of the Office of Ocean Management is that improved ocean governance, ecosystem-based ocean management and ocean zoning at the federal level are not going to happen unless the President of the United States, who controls the Federal bureaucracy, is fully supportive. It is an extremely complicated, contentious and expensive proposition where at least 20 Federal agencies implementing over 140 federal ocean-related statutes are involved — none of which likes to change or give up turf. The big mistake the Office of Ocean Management made was they did not have the President and Cabinet onboard before sailing into uncharted waters. The result was a very quick shipwreck.

Make sure you have a legislative anchor. The Office of Ocean Management tried to make ocean management and ocean zoning happen via internal cooperation and administrative reorganization. The lesson learned is you need the power of law to provide a framework for any restructuring of the federal government and to hold it together over time. The new Ocean Conservation, Education and National Strategy for the 21st Century Act (H.R. 21 2007) that was introduced in January 2007 would provide this anchor. As the 2007 paper by Young et al. emphasize in their last paragraph: “It would be naïve to suppose that a decision can be made to adopt place-based management and then proceed to let the system run on its own. Like good relations, governance systems require constant attention and a capacity to adapt to changing circumstances to perform well and remain resilient over time.”

KEYS TO FUTURE SUCCESS AT THE FEDERAL LEVEL

Sail with the rising tide. Timing is critical for successful implementation. The window of opportunity to make the dream of improved federal ocean governance a reality is relatively small and is upon us NOW. With presidential campaigns heating up and administration platforms being developed, it is critical to get presidential contenders on board to incorporate major programs — which improved ocean governance programs are — into their presidential agendas. Having the President onboard early makes the chances of success for a new legislation effort much higher. This will require concerted lobbying and development of well thought out written strategies that candidates can evaluate and “buy into”. One example of such a strategy was provided by Eichbaum who proposes a hybrid “Federalist” system with a cabinet-level National Marine Council reporting directly to the President and Regional Marine Councils. Trying to make all this happen after a new presidential administration is underway, with major priorities already set and commitments made, is not likely to succeed. Considering the fact that the 2008 election is viewed by many as a “change election” with dramatic turnover potential at the presidential and congressional level it is a window of opportunity that should not be missed.

Elect shipmates who will rock the boat. Being able to elect leaders willing to accept the challenge is also critical to success. Unfortunately, finding visionary leadership for ocean zoning and ecosystem-based management at the presidential and congressional level of the US government is not a simple or easy matter and this gets to the root of the problem. The big question is, CAN our present system of government produce visionary environmental leaders willing to rock the boat? The fact that no US president or congress has attempted to tackle these critical ocean management issues reflects the filtering mechanism built into our current election system. In the US, business and special interests control government (presidents, senators and congressional representatives) through campaign contributions and professional lobbying, so at the end of the day you tend to get elected officials beholden to these groups with ocean governance and other critical environmental issues falling off the radar screen. It will be interesting to see in the upcoming 2008 presidential and congressional “change” elections if the present US political system can produce the “visionary leaders” we all so desperately need.

Chart a safe course. Developing an effective system of federal government in the US that puts environmental quality before corporate profits is also critical for success. Our present system of government is designed to maximize corporate profits, not to maximize clean air and clean water or improve ocean governance via ocean zoning and ecosystem-based management. How will we get these new, more effective governance systems when our present governance system is so controlled by business and special interests? Balancing capitalism, and its resulting culture, with environmental quality is the key challenge we face especially in this era of climate change, increasing human population and dwindling natural resources. Ultimately success will require humans to develop a new inner vision and reorientation of the basic establishments that determine the relationship between humans and the planet. These include religious and spiritual traditions, governments, international and global organizations, business corporations, educational establishments, science and technology, communications media and civil society. In the near term, citizens must demand stronger campaign finance reform and lobbying laws to limit the power of business and special interests over our president and elected representatives. Only then will we have a federal system of government receptive to concepts like ecosystem-based management and ocean zoning.

Reach your destination. If true ecosystem-based management is the ultimate goal, then federal waters must be included in the strategy. As discussed above, there are many difficult challenges to overcome to achieve improved federal ocean governance in the US. It is therefore not surprising that emerging ocean governance strategies are primarily focused in state waters. This state-based strategy has potential near-term merit for resolving state and regional challenges and can provide useful role models for the federal government. However, if true ecosystem-based management is the goal, it cannot be accomplished effectively by limiting its scope to just coastal waters within the three-mile limit of a state’s jurisdiction. It must also include federal, as well as international waters because marine ecosystems do not recognize political boundaries.