

DOC HASTINGS, WA
CHAIRMAN
DON YOUNG, AK
JOHN J. DUNCAN, JR., TN
LOUIE GOHMERT, TX
ROB BISHOP, UT
DOUG LAMBORN, CO
ROBERT J. WITTMAN, VA
PAUL C. BROUN, GA
JOHN FLEMING, LA
MIKE COFFMAN, CO
TOM McCLINTOCK, CA
GLENN THOMPSON, PA
JEFF DENHAM, CA
DAN BENISHEK, MI
DAVID RIVERA, FL
JEFF DUNCAN, SC
SCOTT R. TIPTON, CO
PAUL A. GOSAR, AZ
RAÚL R. LABRADOR, ID
KRISTI L. NOEM, SD
STEVE SOUTHERLAND II, FL
BILL FLORES, TX
ANDY HARRIS, MD
JEFFREY M. LANDRY, LA
JON RUNYAN, NJ
BILL JOHNSON, OH
MARK AMODEI, NV

TODD YOUNG
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

February 23, 2012

EDWARD J. MARKEY, MA
RANKING DEMOCRATIC MEMBER
DALE E. KILDEE, MI
PETER A. DeFAZIO, OR
ENI F.H. FALEOMAVAEGA, AS
FRANK PALLONE, JR., NJ
GRACE F. NAPOLITANO, CA
RUSH D. HOLT, NJ
RAÚL M. GRIJALVA, AZ
MADELEINE Z. BORDALLO, GU
JIM COSTA, CA
DAN BOREN, OK
GREGORIO KILILI CAMACHO SABLÁN, CNMI
MARTIN HEINRICH, NM
BEN RAY LUJÁN, NM
JOHN P. SARBANES, MD
BETTY SUTTON, OH
NIKI TSONGAS, MA
PEDRO R. PIERLUISI, PR
JOHN GARAMENDI, CA
COLLEEN W. HANABUSA, HI

JEFFREY DUNCAN
DEMOCRATIC STAFF DIRECTOR

The Honorable Nancy Sutley
Chairwoman
Council on Environmental Quality
722 Jackson Place
Washington, DC 20503

The Honorable John P. Holdren
Director
Office of Science and Technology Policy
Executive Office of the President
725 17th Street Room 5228
Washington, DC 20502

Dear Chairwoman Sutley and Director Holdren:

I am writing to you as the co-chairs of the National Ocean Council created under Executive Order 13547, which implemented the final recommendations of the Interagency Ocean Policy Task Force and created a new National Ocean Policy. In addition to the National Ocean Council, the Executive Order created, among other things, an expanded federal bureaucracy to manage ocean activities and resources and new policies that could close off parts of the ocean to job-creating economic activities. On January 11, 2012, the National Ocean Council issued a draft Implementation Plan that identifies more than 50 proposed actions across nine subject areas, including actions to develop regional coastal and marine spatial plans, otherwise known as ocean and coastal zoning, to regulate agricultural and commercial activities in areas far removed from the ocean, and to limit local stakeholder involvement in management decisions.

Particularly worrisome is the mandatory ocean and coastal zoning initiative, which could place huge portions of our oceans off limits to all types of recreational and commercial activities as well as restrict on-land activities, resulting in the loss of millions, if not billions, of dollars in economic activity. This additional layer of federal bureaucracy will also create uncertainty for employers, deterring them from investing in new ventures or creating jobs. The Coastal and Marine Spatial Planning initiative involves vague and undefined objectives, goals, and policies

that could be used to stop federally permitted activities and lead to frivolous litigation, further hindering our economic growth.

Comment Period Deadline Needs to be Extended

A notice was published in the Federal Register on January 18, 2012 announcing the opportunity to provide public comments on the draft Implementation Plan. The comment period is scheduled to close at midnight on February 27, 2012. Given the sweeping scope and complexity of the Implementation Plan, I request that the comment period be extended for an additional 90 days. This additional time is necessary to ensure that the communities and stakeholders that would be affected by the Implementation Plan, including those inland rural and urban areas that are not geographically close to a coastal area but may nonetheless be affected by the Ocean Policy, are given an adequate opportunity to review the proposal and prepare comments that will be used to inform any final plan. I also understand a Coastal and Marine Spatial Planning handbook will be released in the near future. I suggest the comment period for the draft Implementation Plan be extended to allow for comment on the handbook.

I also request that any public comments on the draft Implementation Plan be made available in their entirety on the Internet as soon as possible after receipt, and not in summary form at the time any final plan is released. This information should be made available in a format that is easily accessible and readily searchable by the public. Please explain why the National Ocean Council has not previously posted public comments in their entirety on the Internet, such as on the Regulations.gov website, as soon as possible after receipt. I note that at several public meetings and the Committee's hearings on the National Ocean Policy, witnesses have noted that the other public comments on the National Ocean Policy were neither easily viewed nor easily searched for on the National Ocean Council's website.

Funding and Activities of National Ocean Council

While I certainly support efforts to improve the use of federal funds and coordination across federal agencies regarding the responsible and productive management of our ocean resources, I have a number of significant concerns that the Ocean Policy will stifle economic growth and job creation through an unnecessary expansion of the federal bureaucracy and an uncertain regulatory environment. This Committee has broad jurisdiction over matters involving the oceans, fisheries and wildlife, international fishing agreements, mineral resources on public lands, oceanography, and marine affairs, including coastal zone management. In order to fulfill our oversight responsibilities, I request your cooperation in providing the following information, organized by request number or question, by the close of business on March 5, 2012.

1. It is my understanding that representatives from the federal departments and agencies on the National Ocean Council assisted in developing the draft Implementation Plan. Please provide a list with the names and titles of the representatives from each federal department or agency that participated in developing the draft Implementation Plan. The list should identify which section or sections of the draft Implementation Plan each representative worked on.

2. Please identify whether any contractors were involved in the development of the draft Implementation Plan. If yes, please provide copies of all documents related to the solicitation, award, and performance of any contract to assist in the development of the draft Implementation Plan, including any task orders, work assignments, or other communications with such contractor.
3. Please identify the staff who worked on the draft Implementation Plan on behalf of your respective offices, including any who were on detail, fellowships, or temporary assignment from another federal agency or department or from a non-federal entity under the Intergovernmental Personnel Act, the name of the individual's employing agency or entity and, if applicable, the individual's GS level.

The National Ocean Council convened a workshop between June 21-23, 2011 in Washington, DC, with state, local, and tribal officials to discuss implementation of the National Ocean Policy. The workshop was facilitated by, and a summary report of the workshop's proceedings was prepared by, a non-governmental entity.

4. Please provide copies of all documents and communications related to the solicitation, award, and performance of any contract or cooperative agreement to host and facilitate this workshop, including any task orders and work assignments.
5. Please provide copies of all documents and communications related the development of the list of non-federal participants and invitees for the workshop.
6. Please provide copies of all documents and communications related to the development of the summary report of the workshop proceedings, including drafts of the report.
7. Please answer the following questions:
 - a. Did the National Ocean Council, any of its participating federal departments or agencies, or the vendor selected to facilitate the workshop use any non-federal money or donation of in-kind services to pay for the organizing, activities of, or attendance at the workshop? If yes, please identify the organization that made any such payment or donation, the amount paid or donated, and a description of the activity or activities provided by each such payment or donation.
 - b. What, if any, federal departments or agencies provided funding for the workshop? Please identify the amount provided by each agency or department and from what appropriation or budget justification line item the funding came?
 - c. Did the National Ocean Council, or any of its participating federal departments or agencies, pay for the travel and/or lodging expenses of any non-federal participants or attendees to the workshop? If yes, please provide a list identify the name of the federal department or agency that paid for the

travel and/or lodging, the number of attendees who had their travel and/or lodging paid by each federal department or agency, the amount paid by each federal department or agency, and the name of the organization or agency on whose behalf the individual attended the workshop.

- d. Has the National Ocean Council or any of the participating federal departments or agencies entered into any other contract or cooperative agreement with a non-federal entity related to the development of the National Ocean Policy or the draft Implementation Plan? If yes, please provide copies of all documents and communications related to the solicitation, award, and performance of any such contract or cooperative agreement, including any task orders and work assignments.

Under section 4(d) of Executive Order 13547, the co-chairs of the National Ocean Council are charged with regularly convening and presiding at meetings of the Council, determining agendas for such meetings, and directing the work of the Council.

8. Please provide a list identifying the dates and locations of all meetings of the full National Ocean Council as well as any subcommittee or workgroups thereof. Please also provide copies of all agendas, presentations, transcripts, recordings, notes, and minutes prepared in connection with such meetings.

In February 2011, the National Ocean Council established a Governance Coordinating Committee composed of representatives from state, local, and tribal governments. I understand the Governance Coordinating Committee has held a number of meetings since its formation. Please provide answers to the following questions:

9. Under what specific statutory authority was this Governance Coordinating Committee formed?
10. What, if any, criteria guide the selection of participants for the Governance Coordinating Committee?
11. Is the Governance Coordinating Committee and its activities subject to the Federal Advisory Committee Act, 5 U.S.C. App.? If no, please explain why?
12. Please provide a list identifying the date and locations of any meetings, including conference calls, of the full Governance Coordinating Committee or any subcommittee thereof? Please provide copies of all agendas, attendance lists, recordings, transcripts, and minutes for such meetings or conference calls.
13. Was any non-federal money or in-kind donation of services used by the National Ocean Council or its participating federal departments or agencies to pay for the organizing and hosting of meetings or conference calls of the full Governance Coordinating Committee or any subcommittee thereof? If yes, please identify the organization that made any such payment or donation, the amount paid, and a description of the activity or activities provided by each such payment or donation.

14. What, if any, federal departments or agencies provided funding for any meetings, conference calls, or other activities of the Governance Coordinating Committee? Please identify the amount provided by each agency or department and from what appropriation or budget justification line item the funding came?
15. Did the National Ocean Council, or any of its participating federal departments or agencies, pay for the travel and/or lodging expenses of any non-federal participants or attendees to meetings or conference calls of the Governance Coordinating Committee or any subcommittee thereof? If yes, please provide a list identifying the name of the federal department or agency that paid for the travel and/or lodging, the number of attendees who had their travel and/or lodging paid by the federal government, the amount paid, and the name of the organization or agency on whose behalf the individual attended.

Under section 5(a) of Executive Order 13547, the National Ocean Council is authorized after its first year of operation to make modifications to its structure, functions, and operations to improve its effectiveness and efficiency.

16. Please provide a list summarizing any changes or modifications that the National Ocean Council has made to its structure, functions, and operations pursuant to this section.

Please contact me, or have your staff contact Byron R. Brown, Senior Counsel for Oversight, Office of Oversight and Investigations, on (202) 225-2761 with any questions regarding this request, or to make arrangements for the production of the requested material. An attachment to this letter provides additional information about responding to the Committee's request, including definitions and instructions for compliance.

Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Doc Hastings", written in a cursive style.

Doc Hastings
Chairman
Natural Resources Committee

Responding to Committee Document Requests

A. Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, recorded notes, letters, notices, confirmations, receipts, checks, envelopes, presentations, pamphlets, brochures, interoffice and intra office communications, electronic mails (e-mails), notations of any type of conversation, telephone call, voice mail, phone mail, meeting or other communication, diaries, analyses, summaries, messages, correspondence, circulars, opinions, work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and electronic, mechanical, and electric records or representations of any kind, and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, discussions, releases, personal delivery, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this document request. The singular includes the plural. The masculine includes the feminine.
4. As used herein, “referring” or “relating” means and includes “constituting,” “pertaining,” “evidencing,” “reflecting,” “describing,” or “having anything to do with,” and in each instance, directly or indirectly. These terms mean, without limitation, any reference or relationship which either (a) provides information with respect to the subject of the inquiry, or (b) might lead to individuals who, or documents which, might possess or contain information with respect to the subject of the inquiry.

B. Instructions

1. In complying with this document request, you are required to produce all responsive documents, materials, or items that are in your possession, custody, or control, whether held by you or your past or present agents, employees, representatives, subsidiaries, affiliates, divisions, partnerships, and departments acting on your behalf. You are also required to produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. No records, documents, data or information called for by this request shall be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.

2. In the event that any entity, organization, or individual denoted in this document request has been, or is also known by any other name than that herein denoted, the document request shall be read also to include them under that alternative identification.
3. Each document produced shall be produced in a form that renders that document capable of being printed or copied.
4. Documents produced in response to this document request shall be produced together with copies of file labels, dividers, envelopes, or identifying markers with which they were associated when this document request was served. Documents produced to this document request shall also identify to which paragraph from the document request such documents are responsive. Moreover, please include with your response, an index identifying each record and label (preferably by bates stamping) the documents. The Committee prefers, if possible, to receive all documents in electronic format.
5. It shall not be a basis for refusal to produce documents that any other person or entity also possesses documents that are non-identical or identical copies of the same document.
6. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, memory stick, or computer back-up tape), state the form in which it is available and provide sufficient detail to allow the information to be copied to a readable format. If the information requested is stored in a computer, indicate whether you have an existing program that will print the records in a readable form.
7. If compliance with the document request cannot be made in full, compliance shall be made to the extent possible and shall include a written explanation of why full compliance is not possible.
8. In the event that a document is withheld, in whole or in part, based on a claim of privilege, provide the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter of the document; (d) the date, author, and any recipients; and (e) the relationship of the author and recipients to each other. Claims of privileges are considered under Committee on Natural Resources Rule 4(h) and, similar to all common-law privileges, are recognized only at the discretion of the Committee.
9. If any document responsive to this document request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, custody, or control.
10. If a date or other descriptive detail set forth in this document request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

11. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.

12. Production materials should be delivered to:

Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington D.C. 20515