



March 9, 2009

Mr. John Weber
Ocean Services Manager
Massachusetts Office of Coastal Zone Management
100 Cambridge Street, Suite 900
Boston, MA 02114

Dear Mr. Weber,

On behalf of Conservation Law Foundation, Mass Audubon, and the Ocean Conservancy, founding members of the Massachusetts Ocean Coalition, we commend you and your fellow staff of the Massachusetts Executive Office of Energy and Environmental Affairs (EEA) on the development of the *Ecological Valuation Index* (EVI) for the Massachusetts Ocean Management Plan. The Massachusetts Ocean Coalition represents 45 diverse member organizations who are dedicated to an Ocean Management Plan that balances commercial and recreational activities with ocean conservation. The EVI has been developed as a tool to help “identify and protect special, sensitive or unique estuarine and marine life habitats” (SSU) as mandated by *Chapter 114 of the Acts of 2008* and uses spatial analysis techniques to systematically evaluate the ecology of Massachusetts’ state waters and identify areas that need to be protected. We have reviewed the draft document “Developing an Ecological Valuation Index for the Massachusetts Ocean Management Plan” and offer the following comments;

1. In the first paragraph, under section 1.2., the document refers to the statutory requirement to submit the draft ocean management plan for formal public review through “legislative hearings” by June 30, 2009. This sentence should be clarified to indicate that the required public hearings will be convened by the Secretary of EEA, not the legislature. The MA Oceans Act does provide that the legislature “may” hold public hearings on the plan.
2. With respect to the term “special, sensitive or unique” we recommend that the term should be based strictly on ecological attributes and should not include economic considerations. We believe that the intent of the legislature in mandating the identification and protection of “special, sensitive, or unique estuarine and marine life and habitats” was to focus on the ecological characteristics of the ocean planning area.

3. We recognize the tremendous work that has gone in to data collection thus far and recommend that the final EVI document include a exact accounting of all the data that was considered for EVI including identification of data chosen for inclusion and data that was discarded and an explanation of why a particular data set was included or not. In addition, to the maximum extent possible, we recommend that the EVI draft document include a discussion of the potential implications of any data limitations and recommendations for steps to remedy such data limitations.
4. The importance of developing an Ocean Management Plan which is based on sound and current scientific data cannot be overstated. In this regard, we are concerned that areas that are characterized by incomplete data sets and/or a low level of confidence in the underlying data could inappropriately be designated as "low ecological value" and therefore be left unprotected. For example, the EVI draft narrative refers to turtle data that was deemed to have fatal flaws and was therefore "excluded from the analyses". In the absence of reliable and complete data, the Coalition recommends that a precautionary level of protection be provided to that particular species or area where data is lacking and that a plan be crafted to collect supplemental data to further refine habitat protection needs. To that end we recommend that a precautionary buffer be established around areas where data is lacking and that there be heightened data requirements and performance standards for any potential development in such sites.
5. As discussed at the March 4, 2009 Ocean Advisory Commission meeting and as described in Table 1, when charting the classifications of SSUs from EVIs and Levels of Confidence in Data into categories of "high", "medium" and "low", it was suggested that only areas with a high EVI rating and high level of data confidence would be designated as an SSU. We are concerned that this approach may not provide enough protection to "special, sensitive or unique estuarine and marine life and habitats" as required by law. It is possible and likely that there are areas identified as potential SSUs but for which there is not enough data to confirm such a designation. We recommend that any EVI/data confidence ratings identified as "medium" should be reviewed carefully and decisions should emphasize protection.
6. More detail should be given on the decision to set 2% of the planning area as the limit describing rare species. This appears arbitrary and should be species specific.
7. It is unclear how species listed under the federal and state Endangered Species Acts are factored in the EVI and how areas containing these severely depleted species will get the enhanced protection they need. The EVI document needs to specifically address this issue.
8. The EVI document should include a description of the specific fish and shellfish species that will be included in the assessment. We again recommend that the assessment use data for all species counted in the trawl survey and not just those of commercial interest. Fish abundance data is one of the best indicators of marine

biodiversity and therefore the EVI analysis should not solely rely upon commercially caught species.

9. As also noted at previous Ocean Advisory Commission meetings, aquatic wildlife does not conform to lines on maps and their frequent movement in the ocean must be addressed and protected. We therefore support the inclusion of temporally variable data sets as well as those that are spatially distinct. We recommend also that the Science Advisory Council discuss the issue of connectivity and how SSUs should be established in manner that takes into account the movement of marine wildlife and the extent of their habitat needs.
10. In section 3.4 and Table 7, it is unclear as to how the datasets will be specifically scored and across what area. Will each dataset be scored against the criteria in each planning sub-area? Obviously the response to the assessment questions and the values of each criteria will depend upon the specific area (planning unit) in question. What is the dimension of the planning unit? It is hard to comment on this essential section with out more details.
11. We believe that the report provides a comprehensive set of criteria to both identify and protect SSUs. As discussed above, we recommend that that the EEA planning team, with input from the Science Advisory Council, consider connectivity as a factor in the design of the SSU system.
12. We support the five ecological valuation criteria (*Positive fitness consequences, Rare/distinct, Proportional importance, Naturalness, Vulnerability*) and recommend that, at this time, they be given equal weight in making Plan determinations. We are also aware that the Massachusetts Ocean Partnership is funding further research on habitat *vulnerability* by Benjamin Halpern and urge you to incorporate his findings into the EVI approach and SSU designation – in particular the consideration of vulnerability and its associated weighting in the EVI. As you know, the results of that report will be important in determining whether or not the vulnerability factor should receive special focus.
13. With respect to interpolation of the EVI scores, we recommend the second option as proposed on page 25 of the EVI draft narrative as the best option in order to ensure the protection of areas that have a high value for species and/or ecosystem function. The use of this method is necessary for the protection of areas that are critical for single high value species or ecosystem function. Specifically we recommend that EEA:

“Map all the datasets according to their EVI values, but where datasets overlap select the highest EVI value from the individual datasets for the value to be applied to overlap areas. Areas with highest EVI value, which would include areas of overlap as well as areas from individual datasets with the highest EVI value, would be identified as SSU areas.”

14. Finally, the EVI approach should be reviewed again by the Science Advisory Council once the methodology has been applied and a preliminary set of SSUs identified.

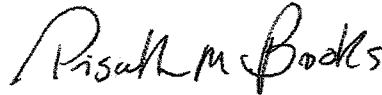
In order to ensure a healthy and well managed ocean for the Bay State, the identification and protection of SSUs is critically important and must be used as the basis for decision-making. This first-in-the-nation Ocean Management Plan is being watched carefully by coastal states on the national level, and the development of the EVI, which fully incorporates abiotic and biotic data, can be a model blueprint and example for others.

We appreciate the opportunity to comment on the draft EVI narrative and we look forward to providing additional comments on this methodology as it is applied and as opportunities arise in the context of our continued participation in the development of the Massachusetts Ocean Management Plan.

Sincerely,



Jack Clarke
Mass Audubon



Priscilla M. Brooks
Conservation Law Foundation



Susan Little Olcott
Ocean Conservancy



Matthew Boger
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