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Rethinking Ocean Planning and Policy

By Zeke Grader

Planning. It's our way of creating order out of chaos. Every commercial fisherman plans his or her fishing trip. It's something we do everyday in our life from childhood. It's from planning that we measure progress. There's just about nothing in life that we individually or as a society do not try to plan for.

As a society we also plan for uses of the land, and the more intricate plans – where certain uses are planned for or restricted – we call “zoning.” In modern society our cities are zoned to separate residential and residential services, such as schools and churches, from downtown offices and retail, and those two from heavy industry. We also enact protections for our land, whether it be creating parks, preventing urban sprawl, safeguarding farmlands or setting aside wilderness areas.

In most instances there are now state plans for coastal uses (excepting Alaska right now) under the rubric of the federal Coastal Zone Management Act (CZMA). Even in the oceans, plans exist for uses that are permitted or prohibited. Shipping lanes have been established. There are sites for dredge spoil disposal and even (off some states) for garbage dumping.

Mostly through state regulation or federal fishery management plans, our ocean waters have likewise been “zoned”

for where fishing can take place, or where certain types of fishing or use of certain fishing gears (e.g., bottom trawl) is prohibited. Most recently, some states (e.g., California and Oregon) have embarked on creation of marine protected areas (MPAs) or “marine reserves” – although it is questionable how much protection these areas provide since they're mostly just no fishing zones and don't do anything to halt other harmful uses, including municipal discharges and polluted run-off.

One of the first issues PCFFA became engaged in shortly after its formation in 1976 was regarding the California coastal plan. The plan that the Legislature was crafting was pursuant to a 1972 voter initiative (Proposition 20) passed to protect public access to the coast, protect key coastal values and plan for future use of the state's coastal zone. PCFFA worked for language in the 1976 legislation to ensure that commercial fishing was declared a “coastal dependent use” and that “commercial fishing facilities within the coastal zone are to be protected, and where feasible, upgraded.”

PCFFA was among of the first “economic” interests to declare its support for a strong coastal plan. Other interests, viewing the language PCFFA had developed for commercial fishing protection, including recreational boating and aqua-

culture, soon scrambled aboard asking for similar language for their own uses. Even the fish processors, whose inclination was to join with heavy industry and land developers and fight coastal planning, eventually and begrudgingly went along.

No place along the West Coast was under more threat than California from coastal development. In urban areas particularly, commercial fishing operations were in danger of displacement by recreational boating marinas and office complexes, along with condominium and other coastal residential development. Think of Newport Beach or Marina del Rey.

The passage of the California Coastal Act of 1976 has subsequently protected commercial fishing facilities in places such as San Diego or Ventura Harbor. It helped with the creation of the Spud Point Marina in Bodega Bay and upgrading commercial fishing facilities along most of the coast. The Act, under the federal CZMA “consistency clause,” was used to protect commercial fishermen from a scheme by the Port of Oakland and the US Army Corps of Engineers to dump San Francisco Bay dredge spoils in a key Dungeness crab fishing area near Half Moon Bay.

The 1988 dredging litigation brought by the Half Moon Bay Fishermen's Mar-



keting Association and other fishing groups, under the Coastal Act, stopped the dumping in the nearshore fishing grounds. That suit helped create the nation's first deepwater dumpsite (in 1,200 fathoms) and a reuse program for clean dredge materials for creation of wetlands in the San Francisco Bay and upgrading levees in the Delta.

There have been losses of commercial fishing facilities within California's coastal zone, but due to the economics of fishing, not by being forced out by developers. Unfortunately there is no protection for fishing infrastructure once it is gone, even temporarily, and no provision for getting it back. However, if it were not for California Coastal Act and similar statutes in other states, there would be far less fishing infrastructure left on the West Coast. Coastal land use planning has worked for commercial fisheries.

For the past few decades it has thus been quite natural to think about ocean planning or "ocean zoning." It seemed like common sense to expand upon some of the de facto plans or zones that already existed.

Proposals over the years for offshore oil and gas drilling, disposal of decommissioned ships (including those for "artificial reefs"), aquaculture, deep sea mining, and more recently for renewable energy projects from wave to wind, all seemed to dictate the need for some form of ocean planning or ocean zoning. This was an item of discussion many of us had with the two fishing representatives on the Pew Oceans Commission – Pat White of the Maine Lobstermen's Association and Pietro Parravano of PCFFA.

In the discussions about ocean zoning – the term was morphing into "marine spatial planning" – were those about a national ocean policy. The idea was that there would be a national policy for the protection of our oceans and preservation of those uses deemed beneficial. It would entail governance provisions for planning for existing and future ocean use. Included in the recommendations of both ocean councils was the notion of interagency regional bodies consisting of representatives of agencies and tribal governments whose actions affect the ocean or its use.

At the time, we felt that establishing some form of regional ocean interagency body made a great deal of sense from a fishery perspective as part of a national ocean policy. Our reasoning was that since the last two reauthorizations of the Magnuson-Stevens Act (1996, 2006) made it explicitly clear that overfishing was prohibited and, moreover, overfished stocks were to be rebuilt, fish habitat protected (from fishing, anyway) and bycatch minimized.

Overfishing would no longer be a problem. Instead, the future threats to fish conservation and our fisheries would be from non-fishing activities. Salmon fishermen already knew these well from the destruction done to salmon streams by logging, mining, agriculture, pollution, dams and diversions. We recognized that other fish stocks are or could be at peril from other human activities, including pollution and run-off, loss of wetlands and impaired estuaries, as well as activities in the ocean such as offshore oil drilling (and the subsequent spills) and open-water aquaculture.

Congress had made it clear in the 1985 Magnuson Act reauthorization that it was not about to give the fishery councils veto authority over non-fishing activities affecting the conservation of fish. Other than their seldom-used "bully pulpit," the regional councils and NMFS were largely helpless, under the MSA anyway, to do anything but regulate fishing activity under their charge to conserve fish stocks. We felt that giving the fishery councils, or NMFS, a seat on a regional ocean interagency body should help bring attention to and get action on non-fishing activities affecting the health of fish stocks or fisheries.

There was only one problem: the regional councils did not see it that way, and felt somehow that the interagency panels would be infringing on the council's turf. It stands to reason that the councils would see it that way; they are populated by mostly small-minded people appointed to look after their own narrow personal or sectorial interests – "getting the most they can for them and theirs." They are joined by state agency representatives sent to look out after state interests, which are not necessarily fish, but as often as not include hydro-

power or oil and gas, agribusiness or urban development, timber and mining. The balance of the council membership is filled out with second and third tier bureaucrats. It is little wonder that these councils are timid bodies outside of their own meeting halls, and certainly not outspoken advocates for fishery conservation and management.

Going into the late 2009 regional workshops of the President's Interagency Ocean Policy Task Force there was still a feeling that a national ocean policy, with a National Ocean Council, interagency cooperation and marine spatial planning could do some good for fisheries, particularly in light of the limited reach of the regional fishery councils and NMFS under the MSA, and given the new and existing non-fishing threats to our fisheries. Since that time, however, a considerable amount of rethinking and soul searching has taken place.

First, of all, would fishery interests just be walked over in any form of interagency setting? We had already witnessed NMFS playing the role of handmaiden to the BPA and power interests when it came to Columbia River hydropower operations and salmon protection. We had witnessed much the same in California as the politicos in NMFS overruled their scientists and were ready to let San Joaquin Valley agribusiness and Southern California developers walk away with Central Valley flows – until fishermen sued them. NOAA's performance during the BP *Deepwater Horizon* disaster was pathetic. Were we really ready to allow these same people to represent our livelihoods in an interagency oceans body?

Coupled with that was the fact that the fishing industry – most of the small boat, family fishing groups at least – does not have the time, nor the money for the lawyers and lobbyists to attend and work such an interagency body. Big oil, big ag, and aquaculture giants such as Marine Harvest would likely have their way there, and fishermen would get screwed.

And, second, when it came to planning, there was the question of what was going to be planned for. This has become increasingly a concern given the fact that this Administration's NOAA seems



intent on pushing ahead with the Bush policy promoting open-ocean aquaculture

– mainly the highly destructive finfish type such as they recently sponsored off Hawaii. And, despite all the rhetoric about the need to reduce carbon emissions and develop renewable energy sources, this Administration is still backing new drilling in the Arctic and off the Atlantic Coast.

What this means is that our potential “ocean planners” think offshore drilling and aquaculture are equally acceptable uses of the ocean. Rather than being protected from these two forms of decidedly non-sustainable uses, fishermen are likely to find their fishing grounds further impinged upon by planners with no concept of protecting productive fisheries or fish habitat.

Added to this will be the push from a cadre of self-serving environmentalists and academics who’ve persuaded the public that we can conserve marine life by simply locking up vast areas of ocean from fishing (but don’t touch their funder’s oil and gas operations, eco-tourism, sewage outfalls or run-off) through MPAs. At that point our faith in marine spatial plan-

ning substantially diminished.

Fishermen enjoy different levels of protection in the planning process, depending on what state they’re in. In California it’s quite a bit, in Maine not so much, and currently in Alaska none. In an ideal world an ocean policy with interagency panels and marine spatial planning would enhance our fish and fisheries.

But we’re living in anything but an ideal world right now. Our fear is that what few protections fishermen and fish now enjoy could be substantially compromised by weak fishery council or agency representatives, along with planners who have neither the courage nor good sense to say no to bad uses of the ocean, but would, instead, cordon-off fishermen from much of the water our fleets have plied for centuries. 🐟

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