



USET

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*Transmitted Electronically
To ocean@ostp.eop.gov*

December 15, 2022

Brenda Mallory
Chair
Council on Environmental Quality
730 Jackson PI NW
Washington, DC 20504

Dr. Jane Lubchenco
Deputy Director for Climate and Environment
Office of Science and Technology Policy
Eisenhower Executive Office Building
1650 Pennsylvania Ave
Washington, DC 20506

Dear Chair Mallory and Deputy Director Lubchenco,

On behalf of the United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we submit these comments in response to the Dear Tribal Leader Letter (DTLL) issued by the Council on Environmental Quality, the Office of Science and Technology Policy, and the Domestic Climate Policy Office ("Executive Offices") on October 14, 2022. The Executive Offices issued this DTLL on behalf of the Ocean Policy Committee (OPC), which is co-chaired by the White House Office of Science and Technology Policy and the White House Council on Environmental Quality, and serves as the Congressionally mandated, Cabinet-level body charged with coordinating ocean policy across federal agencies regarding the development of an Ocean Climate Action Plan (OCAP). The OCAP will promote Ocean, coastal, and Great Lakes-based activities that can provide climate solutions and will focus on topics like conservation, green shipping, marine renewable energy, and marine carbon dioxide removal. USET SPF appreciates the Executive Offices holding a Tribal consultation to discuss these important issues and receive input from Tribal Nations in developing the OCAP.

USET Sovereignty Protection Fund (USET SPF) is a non-profit, inter-tribal organization advocating on behalf of thirty-three (33) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico.¹ USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and in assisting its membership in dealing effectively with public policy issues.

¹ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe–Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), , Mi'kmaq Nation (ME), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi Indian Tribe (VA) and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

Because there is Strength in Unity

Introduction

Tribal Nations are sovereign nations whose territories cover both terrestrial and marine spaces including the ocean.²³ For many Indigenous cultures, the ocean holds a supreme cultural value, significance, and identity.⁴⁵ The Ocean is often respected as a relative and as a provider of traditional foods, and other cultural and natural resources that Tribal Nations have depended on since time immemorial. Many non-Indigenous solutions to the Climate Crisis and sea level rise impacts have not accounted for Indigenous knowledge and value systems, which often include ecosystem-based management, as well as prioritization of non-human relations and environment over human benefits and use.⁶ For many Tribal Nations, the relationship with the Ocean is one of stewardship and reciprocity. Examples of this stewardship and reciprocity include caring for and protecting coastal ecosystems, sustainable fishing and harvesting practices, and ceremonial offerings to show respect for the Ocean.⁷ In recent decades, Tribal Nations have also been involved in regional Ocean partnerships and action plans. For example, representatives from USET SPF member Tribal Nations served and continue to serve on regional Ocean partnership committees such as the Northeast Regional Ocean Council (NROC) and the Mid-Atlantic Committee on the Ocean (MACO). Tribal Nation representatives have served on these regional Ocean partnership committees since their founding during the Obama-Biden Administration 2008-2016.

We acknowledge that the Climate Crisis is very real and anthropogenic climate change is also impacting the Ocean, such as warming waters and Ocean acidification. We acknowledge secondary impacts from runoff pollution, which is causing harm for many marine species and ecosystems, and, in turn, harming the well-being of many human communities, especially Tribal Nations that depend on the Ocean and its resources. As Climate Change alters Oceanic habitats, many species, such as the North Atlantic Right Whale, are forced to relocate for foraging and survival.⁸ This endangered keystone species survival is further tested due to changing Ocean currents. Climate Change is weakening the Atlantic Meridional Overturning Circulation (AMOC) system; the system responsible for circulating water from South- to-North Atlantic. A weakened system results in the recent increase in frequency and severity of global natural disasters, such as wildfires and droughts; complete AMOC system collapse ramifications are unknown.⁹

While we would support certain aspects of the OCAP, such as the protection and restoration of ecosystems that sequester carbon and support biological diversity, expansion and protection of marine protected areas, responsible and sustainable energy development, and decarbonizing shipping, we would also caution against placing an undue burden on the Ocean to solve the Climate Crisis. We would caution the OPC on any aspects of the OCAP that could run the risk of replicating environmental degradation and environmental justice situations on Ocean spaces as those that have occurred on terrestrial spaces.

² Leonard K. Sustaining Tribal Fisheries: U.S. Economic Relief Policies during COVID-19. *Sustainability*. 2021; 13(22):12366. <https://doi.org/10.3390/su132212366>

³ *Ibid.* Leonard K. (2021).

⁴ Bender, M., Bustamante, R., & Leonard, K. (2022). Living in relationship with the Ocean to transform governance in the UN Ocean Decade. *PLoS Biology*, 20(10), e3001828. <https://doi.org/10.1371/journal.pbio.3001828>

⁵ Leonard, K., Buttigieg, P. L., Hudson, M., Paul, K., Pearlman, J., & Juniper, S. K. (2022). Two-eyed seeing: Embracing the power of Indigenous knowledge for a healthy and sustainable Ocean. *Plos Biology*, 20(10), e3001876. <https://doi.org/10.1371/journal.pbio.3001876>

⁶ Leonard, K. (2021). WAMPUM Adaptation framework: eastern coastal Tribal Nations and sea level rise impacts on water security. *Climate and Development*, 13(9), 842-851. [Full article: WAMPUM Adaptation framework: eastern coastal Tribal Nations and sea level rise impacts on water security \(tandfonline.com\)](https://doi.org/10.1016/j.poclean.2021.102629).

⁷ *Ibid.* Leonard, K. (2021).

⁸ Brennan, C.E., Maps, F., Gentleman, W.C., Lavoie, D., Chassé, J., Plourde, S., and Johnson, C.L. (2021). Ocean circulation changes drive shifts in Calanus abundance in North Atlantic right whale foraging habitat: A model comparison of cool and warm year scenarios. *Progress in Oceanography*, 197: 102629. <https://doi.org/10.1016/j.poclean.2021.102629>.

⁹ Orihuela-Pinto, B., England, M.H., and Taschetto, A.S. (2022). Interbasin and interhemispheric impacts of a collapsed Atlantic Overturning Circulation. *Nature Climate Change*, 12, 558-565.

Furthermore, we would caution on any aspects of implementation of OCAP that exclude Tribal Nations in the leadership, decision-making, and planning processes. For example, Tribal Nations are particularly concerned with the rapid development of offshore wind and its potential environmental impacts and impacts to submerged sacred sites and offshore cultural resources. Tribal Nation-led planning will reduce the risk of marine environmental degradation of natural and cultural resources and will keep the door open for effective co-management and stewardship among Tribal Nations, federal, and state agencies.

Question 1: Background

USET has an [Office of Environmental Resource Management](#) (OERM), which has operated since 2012 (previously as the Environmental Liaison Office since 2004). Within USET-OERM is the [Climate Change Resilience Program](#), which has operated since 2017 in partnership with the Bureau of Indian Affairs Tribal Climate Resilience Program and the Department of the Interior Northeast/Southeast Climate Adaptation Science Centers (NE/SE CASC). The USET-OERM Climate Change Resilience Program assists Tribal Nations with climate change adaptation planning. The program also connects Tribal Nations with resources at NE/SE CASC and other federal agencies such as the National Oceanic and Atmospheric Administration (NOAA) to support Tribal adaptation planning and resilience to climate change. Many Tribal Nations within the USET Region are coastal communities with cultural territories extending out into the Atlantic Ocean and the Gulf of Mexico. Coastal Tribal Nations within the USET Region are already engaged in Ocean-based climate solutions such as restoring and protecting coastal ecosystems, developing living shorelines, restoring oyster reefs as well as restoring and protecting salt marshes, beaches and dune areas.¹⁰ Tribal Nations within the USET Region also have representatives serving on regional Ocean partnership committees such as the Northeast Regional Ocean Council (NROC) and the Mid-Atlantic Committee on the Ocean (MACO). The USET-OERM Climate Change Resilience Program works with Tribal Nation representatives of NROC and MACO on presentations on the state of Climate Change impacts on the Ocean, examples of Indigenous-led adaptation frameworks,¹¹ and other resources available for Tribal Nations for climate action planning in terrestrial, coastal, and marine spaces.

Question 2: Critical Actions

It is critical to give the highest priority to Ocean-based climate solutions that can be implemented and sustained over multiple generations. Examples include coastal habitat restoration work that can account for rising sea levels, such as restoration plans for salt marsh migration inland. Salt marshes also serve a function of carbon sequestration.¹² Other long-term Ocean-based climate solutions include the development and support of living shorelines, oyster reefs and other critical ecosystems. Such ecosystems not only build resilience to wave action and storm surge but will continue to improve water quality and continue to provide foods to Tribal Nations and coastal communities for generations. Expansion of the extent and level of protection of marine protected areas also should serve as a priority action with long-term implications and consideration for future generations of human beings, marine life, and ecosystems.

Question 3: Knowledge, Science, and Technology

OCAP must include the findings and recommendations from Indigenous-led research on the effectiveness and impacts of Ocean-based solutions. The number of Indigenous-led research projects in academic and scientific institutions is growing, however, it is equally important to include the lessons learned and wise practices from both formal research and informal best practices studies and situational assessments by

¹⁰ *Ibid.* Leonard, K. (2021).

¹¹ *Ibid.* Leonard, K. (2021).

¹² Baranes et al. (2022). Sources, Mechanisms, and Timescales of Sediment Delivery to a New England Salt Marsh, *Journal of Geophysical Research: Earth Surface*. DOI: [10.1029/2021JF006478](https://doi.org/10.1029/2021JF006478).

Tribal Nations, Tribal agencies, and Tribal blue economy enterprises. In this spirit, Tribal Nations must be supported with funding and personnel to execute Indigenous-led research to inform action plans.¹³

Indigenous Knowledge can also be highlighted to inform solutions. However, Indigenous Knowledge must ultimately lead the conversation and the planning of action items from the OCAP. This includes leading discussions and ultimately, consent on how Indigenous knowledge is used in planning. In [comments](#) submitted in October 2022, USET SPF noted that before the federal government can effectively implement Indigenous Knowledge into its science and policy decision-making processes, federal employees must receive comprehensive training on working with and communicating effectively with Tribal Nations. Effective and transparent communication and understanding of the federal government's trust and treaty obligations to Tribal Nations are essential, core components to implementing Indigenous Knowledge effectively and respectfully into federal decision-making. Federal employees must understand that federal actions have direct and indirect impacts and consequences on Tribal Nations and our citizens. USET SPF also noted that the federal government should actively protect sensitive Indigenous Knowledge and cultural information from being accessed through mechanisms such as Freedom of Information Act (FOIA) requests or from being shared on publicly available maps, guides, and other online tools/databases. We emphasized that this is especially important in protecting our sensitive information and Indigenous Knowledge from being accessed by entities such as academic institutions, local and state governments, and industry.

Effective and appropriate inclusion of Indigenous Knowledge also requires expanded funding to support the work of Tribal Historic Preservation, Cultural, and Natural Resource Officers and Managers. In the aforementioned comments, USET SPF noted that costs associated with reviewing permit applications, environmental assessments and impact statements, Section 106 reviews under the National Historic Preservation Act, and other activities associated with federal actions and undertakings can be extremely high. This would be especially true in marine spaces under the OCAP and is currently impacting Tribal Nations, as U.S. federal Ocean uses grow exponentially. Federal agencies must actively identify and advocate for upfront funding to support Tribal government staff in Indigenous-led research and research collaborations with external partners, since these will often include the use and sharing of Indigenous Knowledge. Appropriate compensation must also be provided to Tribal departmental staff and spiritual and cultural elders expressly identified and recognized by Tribal leaders, since they participate and serve in critical roles in the sharing of Indigenous Knowledge. Such an approach would also support workforce development in Tribal Nations to implement Ocean-based climate solutions.

Tribal Inclusion in OCAP and Climate Change Planning and Adaptation

As sovereign governments to which the federal government holds trust and treaty obligations, Tribal Nations must be treated as equal partners alongside states and federal agencies in the identification and implementation of the aforementioned Ocean-based climate solutions. It is critically important that the Executive Offices understand and appreciate that our inclusion is not simply a matter of equity or environmental justice, but a mandate of our centuries-long political and diplomatic relationship with the United States. And in accordance with the federal government's obligation to promote Tribal sovereignty and self-determination, Tribal Nations also must be fully empowered to fulfill responsibilities of Ocean kinship, reciprocity, and stewardship so the Ocean may exist, thrive, and naturally evolve. The OCAP will need a focus on promoting and enabling Ocean Justice in the planning and work. To clarify, Ocean Justice is concerned with recognizing, taking action, and access and distribution of resources in ways to achieve the goal of the Ocean's well-being.¹⁴ In addition, critical actions of the OCAP must also account for Tribal Ocean Justice, which includes (1) recognizing Tribal Nations as sovereign right holders over marine

¹³ Testimony of Dr. Kelsey Leonard Before the House of Representatives Natural Resources Committee Legislative Hearing on Ocean Climate Action: Solutions for the Climate Crisis, 116th Cong. 2 (2020) (testimony of Dr. Kelsey Leonard).

¹⁴*Ibid.* Leonard, K. (2021).

spaces, (2) Tribal Nations as leaders in decision-making and co-management of Ocean-based resources, (3) Tribal Nations are equitable beneficiaries of Ocean benefits and not bearers of disproportionate burden due to uses of the Ocean, and (4) Tribal Nations are empowered to fulfill responsibilities for Ocean kinship and stewardship.¹⁵ For example, federal Ocean-based legislation such as the Coastal Zone Management Act (CZMA) must also be revised to include Tribal Nations.

Tribal Nations need to be recognized as rights holders with sovereignty in marine environments.¹⁶ Tribal Nations are still impacted by colonialism. For example, we exist on a fraction of our original homelands, often with very limited or cut-off access to coastal and Ocean resources, and we continue to face challenges when attempting to re-acquire lands or access to coastal areas and marine resources. Tribal Nations continue to bear the brunt of increasing water stress with sea level rise impacting well-based drinking water and wastewater management systems in Tribal communities.¹⁷ All general workforce development opportunities under the OCAP should include workforce development opportunities for Tribal citizens.

As previously stated, Tribal Nations are very concerned with offshore wind development and its impact to marine natural and cultural resources. Development on terrestrial spaces requires consultation with Tribal Nations, environmental impact assessments, and compliance with Section 106 of the National Historic Preservation Act (NHPA). Although the development of offshore wind projects also requires these, Tribal Nation governments have been inundated with requests for consultation while at the same time not provided adequate time, staff support and expertise (e.g., marine archeologists) for thorough review of these projects. Furthermore, Indigenous knowledge, Tribal Nation histories, and stewardship principles are largely left out of the process. The OCAP should include provisions to support adequate review of projects by Tribal Nations and ensure opportunities for Indigenous knowledge to inform the process.

The OCAP will include actions that will impact fisheries. The right of Tribal Nations to manage and develop our own fisheries and to maintain our subsistence and ceremonial fishing activities is protected under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) Articles 5 and 20.^{18,19} Tribal Nations have successfully managed fisheries for thousands of years.²⁰ The trust and treaty obligation includes supporting Tribal Nations in the management of fisheries and also keeping Tribal Nations at the decision-making table on par with federal agencies and states. Although federal agencies and states were included upfront in decision-making regarding the allocation of resources for fisheries impacted from global crises such the COVID19 Pandemic, Tribal Nations, especially those on the Atlantic, were not included resulting in Tribal fisheries being forced to seek Coronavirus Aid Relief and Economic Security (CARES) Act resources from states.²¹ This was a grotesque failure of the federal government's trust and treaty obligation. The OCAP must ensure that recent failures of the trust and treaty obligation are not repeated.

The OCAP must be co-designed with Tribal Nations. The exclusion of Tribal Nations as decision-makers in all stages of planning may further adaptation oppression replicating environmental justice issues found in terrestrial spaces on Ocean spaces. Furthermore, the exclusion of Tribal Nations is a failure in the

¹⁵ *Ibid.* Leonard, K. (2021).

¹⁶ *Ibid.* Testimony of Dr. Kelsey Leonard

¹⁷ *Ibid.* Leonard, K. (2021)

¹⁸ United Nations. (2007) United Nations Declaration on the Rights of Indigenous Peoples. [UNDRIP E_web.pdf](#)

¹⁹ *Ibid.* Leonard K. (2021).

²⁰ McGreavy, B.; Ranco, D.; Daigle, J.; Greenlaw, S.; Altvater, N.; Quiring, T.; Michelle, N.; Paul, J.; Binette, M.; Benson, B.; et al. (2021). Science in indigenous homelands: Addressing power and justice in sustainability science from/with/in the Penobscot River. *Sustain. Sci.*, 16, 937–947. [Science in Indigenous homelands: addressing power and justice in sustainability science from/with/in the Penobscot River \(qcseglobal.org\)](#).

²¹ *Ibid.* Leonard, K. (2021).

execution of trust and treaty obligations to Tribal Nations. We recommend the establishment of an Indigenous Advisory Committee for OCAP that includes representation from Indigenous knowledge holders, elders, youth, and Tribal Leaders charged. This committee should also have inclusive regional representation of the diversity of Oceanic Tribal Nations.

The OCAP should also incorporate past actions developed by Tribal Nations in the regional Ocean Action Plans published in 2016 under the Obama Administration, including the Northeast Ocean Plan²² and the Mid-Atlantic Regional Ocean Action Plan²³.

Partnerships and Collaboration

As sovereign nations, Tribal Nations need to be leaders in decision-making and co-management of shared Ocean resources. Studies that have attempted to understand coastal management decision-making have not included Tribal Nation agencies (e.g., Tribal Environmental Departments) and have focused decision-making and planning based on input from city, state, federal or municipal governments.²⁴

Conclusion

Tribal Nation cultural spaces include contemporary and historic landscapes that maybe submerged or have the potential for future inundation. And the federal government has a trust and treaty obligation to promote our sovereignty and facilitate the protection of our cultures and sacred sites. As such, Indigenous Knowledge and understanding of how to live with water and Ocean connections that survive today must be accounted for and valued in the development of climate action solutions. What is ultimately needed are Ocean-based climate solutions that are not only inclusive of Indigenous input but are actually designed by Tribal Nation agencies and Indigenous peoples.²⁵ As OSTP works to draft the OCAP the approach taken may be how to “use the Ocean” while not exacerbating climate change; however, Tribal Nations take the approach of how to live with the Ocean as a relative and as a place of connection. Just because we can does not mean we should. In this way, the OCAP should emphasize a precautionary approach and utilize Ocean-centered governance asking instead “What does the Ocean need?”²⁶

USET SPF appreciates the Administration’s and the Executive Offices’ efforts to include Indian Country in these important discussions on the development of the Ocean Climate Action Plan and we welcome further engagement as this initiative proceeds. Should you have any questions or require further information, please contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at LMalerba@usetinc.org or 615-838-5906.

Sincerely,



Kirk Francis
President



Kitcki A. Carroll
Executive Director

²² https://neooceanplanning.org/wp-content/uploads/2018/01/Northeast-Ocean-Plan_Full.pdf

²³ <https://www.boem.gov/Mid-Atlantic-Regional-Ocean-Action-Plan/>

²⁴ *Ibid.* Leonard, K. (2021).

²⁵ *Ibid.* Leonard, K. (2021).

²⁶ *Ibid.* Bender, M., et al. (2022).