

July 26, 2017

**U.S. Department of Commerce: National Oceanic and Atmospheric Administration Review of National Marine Sanctuaries and Marine National Monuments Designated or Expanded Since April 28, 2007**

Docket ID NOAA–NOS–2017–0066

The undersigned Great Lakes-area environmental and conservation organizations appreciate the opportunity to comment on the U.S. Department of Commerce’s review of 11 National Marine Sanctuaries, especially the Thunder Bay National Marine Sanctuary (Thunder Bay or sanctuary). **We respectfully urge the Department of Commerce to retain the boundary and marine sanctuary protections for Thunder Bay National Marine Sanctuary.**

Thunder Bay is currently the only fresh water marine sanctuary and is home to one of America's nationally-significant collections of shipwrecks. In 2014, Thunder Bay’s boundaries were expanded after a thorough process. The Depart of Commerce is now reviewing this expansion of Thunder Bay from 448 square miles to 4,300 square miles pursuant to Executive Order 13795, Implementing and America-First Offshore Energy Strategy.

Our comments address the three points provided in, Section 4(b)(i) of the Order:

- “(A) An analysis of the acreage affected and an analysis of the budgetary impacts of the costs of managing each National Marine Sanctuary or Marine National Monument designation or expansion;
- (B) An analysis of the adequacy of any required Federal, State and tribal consultations conducted before the designations or expansions; and
- (C) The opportunity costs associated with potential energy and mineral exploration and production from the Outer Continental Shelf, in addition to any impacts on production in the adjacent region.”<sup>1</sup>

**Oil and gas drilling in the Great Lakes, including Lake Huron, home to Thunder Bay, is prohibited under federal and state law.** Congress included a permanent ban on drilling in the Great Lakes in the 2005 Energy Policy Act. The state of Michigan banned drilling in its waters in 2002.<sup>2</sup> **Further, the original designation and the expansion of Thunder Bay included transparent, inclusive and participatory processes with input from a broad range of stakeholders.**

## **Background**

Thunder Bay is currently the only fresh water marine sanctuary. The sanctuary encompasses an area called “Shipwreck Alley” due to the large number and variety of ships now lying on the lake bottom due to extreme weather and other conditions. The sanctuary contains a unique and important maritime and trade history of the Great Lakes as well as the U.S. The expanded Thunder Bay sanctuary is an important economic driver, drawing tourists, divers, researchers,

and students to the area and generating business in the recreational boating and tours, diving, and hospitality industries.

The original sanctuary boundaries included the area Michigan designated as the Thunder Bay Underwater Preserve in 1981. The sanctuary's original 448 square mile area included 50 discovered shipwrecks. There are approximately 200 vessels in and around the Thunder Bay area. The 2009 updated Final Management Plan for the sanctuary noted the significant number of wrecks located outside of the original sanctuaries boundary.<sup>3</sup> The expansion of Thunder Bay included 47 additional known shipwrecks.

#### **Review of Thunder Bay under Executive Order 13795 section 4(b)(i):**

##### **(A) An analysis of the acreage affected and an analysis of the budgetary impacts of the costs of managing each National Marine Sanctuary or Marine National Monument designation or expansion**

Thunder Bay, as expanded in 2014, covers 4,300 square miles of waters in Lake Huron, adjacent to Alcona, Presque Isle and Alpena counties. NOAA and Michigan jointly manage Thunder Bay. Management of the sanctuary involves the Office of National Marine Sanctuaries and the state as well as the Thunder Bay Sanctuary Advisory Council (advisory council), which consists of federal, state and local government officials, business representatives, members of scientific and educational organizations, user groups, non-profits, and members of the community.

As detailed below, the 2014 expansion of Thunder Bay was the result of the process provided in National Marine Sanctuaries Act (NMSA)<sup>4</sup>, and was in full compliance with the National Environmental Policy Act (NEPA) and all other federal and state laws.

Within the expanded sanctuary are wrecks notable for their variation and preservation, due to the cold waters of Lake Huron, and their accessibility to the public. It is this combination that makes the shipwrecks nationally significant, meriting sanctuary status. Further, the expanded area brings additional important protections to the many shipwrecks in the area, augmenting protections under Michigan state law.<sup>5</sup>

The expanded sanctuary is significant for bringing protection to a greater area of shipwrecks and added economic benefits to communities. According to the Final Environmental Impact Statement (FEIS) for the 2014 expansion, the sanctuary generated \$435,000 in outside funding to support on-water research and resource protection. The 2009 Management Plan also indicated substantial grant funding supporting the sanctuary. The Friends of Thunder Bay National Marine Sanctuary (FTBNMS) also receives grant funding in support of the sanctuary. Grants to FTBNMS are important to the sanctuary and the community in terms of bolstering use of the sanctuary and tourism.<sup>6</sup> Further, one study of visitor spending, found that the Thunder Bay yielded a total of \$92 million in sales, \$35.8 million in personal income to residents, \$51.3 million in value added and 1,704 jobs.<sup>7</sup> The Thunder Bay visitor center draws approximately 60,000 visitors annually (to a town of 11,000 residents).<sup>8</sup>

Significantly, NOAA's FY 2016 budget request for Sanctuaries and Marine Protected Areas (after the expansion of Thunder Bay) sought a decrease in funding: "NOAA requests a decrease of \$1,361,000 to sanctuary operations, including reductions to scalable activities such as vessel operations within the National Marine Sanctuary System. At this level, NOAA will continue to fund mission critical functions and support continued implementation of management plans across the Sanctuary System."<sup>9</sup> The benefits to the local areas of the expanded sanctuary, broad community support and engagement far outweigh any budgetary impacts. **There is no budgetary, or other reason, to review the expanded boundaries of Thunder Bay.**

**(B) An analysis of the adequacy of any required Federal, State and tribal consultations conducted before the designations or expansions**

The shipwrecks of Thunder Bay merit the protection and recognition sanctuary designation brings. Thunder Bay was established under the NMSA which authorizes the Secretary of Commerce (Secretary) "to designate and protect as a national marine sanctuary areas of the marine or Great Lakes environment that are of special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities."<sup>10</sup>

Thunder Bay's first Management Plan was included in the Final Environmental Impact Statement for the establishment of the sanctuary in 2000. That process included extensive public input. The process of updating the management plan began in 2006 and included extensive public and community input resulting in the 2009 Final Management Plan. The public was invited to participate in meetings held in Alpena, Presque Isle and Alcona Counties, and in Lansing, offering a broad range of stakeholders a chance to engage in person, as well as through written comments.<sup>11</sup>

Importantly, the expansion of the sanctuary was raised in the development of the 2009 Management Plan. In May 2007 the sanctuary's advisory council voted to accept the resolution of a sanctuary boundary working group to expand Thunder Bay's boundaries.<sup>12</sup> The expansion effort reflected the interest of communities in the area to increase tourism and recreational opportunities associated with the sanctuary, including diving, snorkeling, kayaking, and glass bottom boat trips to view shipwrecks. The expansion also promised increased research and educational opportunities.

NOAA began the process of proposing to expand Thunder Bay, consistent with the 2009 Management Plan, with a scoping document, three public meetings, and an extended comment period. NOAA published a proposed expansion in June of 2013, holding three public meetings and a public comment period. This process included working with the U.S. Coast Guard and the Environmental Protection Agency, and government to government consultation regarding tribal fishing rights. In May of 2014, NOAA issued a revised proposed rule for the expansion of Thunder Bay, reflecting input from stakeholders including the Governor of Michigan and local governments. The revised proposal excluded the ports of Rogers City and Presque Isle from the proposed expansion, and also removed the Port of Alpena from the original sanctuary. The

revised proposed rule also specifically clarified that the expansion would have no impact on tribal fishing rights and it addressed concerns shippers had raised.

NOAA issued a final rule expanding Thunder Bay on September, 5, 2014 along with the Final Environmental Impact Statement (FEIS). The final rule and the FEIS include responses to specific comments the agency received from a broad range of interests. In addition, the FEIS provides that “The proposal for an expanded Thunder Bay National Marine Sanctuary was developed over many years by the Thunder Bay National Marine Sanctuary Advisory Council. **This dedicated group consisted of representatives of divers, fishermen, educators, tourism, economic development, and local elected officials.**”<sup>13</sup>

The full support for the expansion is detailed on the Thunder Bay Sanctuary web page.<sup>14</sup> This support includes actions noted in the 2009 Plan, and support from local communities, editorial boards, national and local groups, and business interests.

In sum, the process of expanding Thunder Bay began in 2007 with initial review of options and opportunities for public engagement, and concluded with the 2014 expansion.

**There is ample record of extensive consultation with federal, state and local governments and tribal interests – as well as engagement with the public, tourism and business interests, and others to support the 2014 expansion. There is no basis for reviewing or revising the boundary of Thunder Bay back to its pre-2014 status.**

**(C) The opportunity costs associated with potential energy and mineral exploration and production from the Outer Continental Shelf, in addition to any impacts on production in the adjacent region**

We are deeply disturbed that the Department of Commerce is reviewing marine sanctuaries in the context of Executive Order 13795 - Implementing an America-First Offshore Energy Strategy.

It appears that the examination of energy and mineral extraction is limited to the Outer Continental Shelf areas. **Oil and gas drilling in (and under) the Great Lakes, including Lake Huron, home to Thunder Bay, is prohibited under both federal and state law.** Congress included a permanent ban on drilling in the Great Lakes in the 2005 Energy Policy Act. The state of Michigan banned drilling in and under its waters in 2002.

The real opportunity costs that must be evaluated are those garnered by local communities, the state, and beyond, related to the continued protections and recognition associated with sanctuary status. The FEIS details the many ways that the sanctuary not only draws in visitors and events like regional diving trade shows, but also provides educational and outreach opportunities across the region.<sup>15</sup> In detail: “The sanctuary conducts substantial education and outreach activities designed to reach multiple audiences including educators, students, tourists and the local community, among others. National and regional diving trade shows, maritime archaeological workshops and academic symposiums are important venues to meet with divers. These events

and activities provide opportunities to discuss concerns in the dive community, reinforce the benefit of responsible diving through presentations and outreach literature, and build partnerships.” The Air National Guard, in its response to the NEPA process, recognized the economic value tourism brings to the Thunder Bay region.<sup>16</sup>

The long list of research partners includes not only Michigan based institutions but also East Carolina University, Woods Hole, and the University of Texas. In 2011 alone nearly 100 researchers logged in 278 nights of stays in Alpena area lodgings, adding to the local economy.

Alpena, MI, which is home to the Maritime Heritage Center (which houses the sanctuary offices), offers information on visiting the sanctuary including on-water recreation in the sanctuary and visiting the shallow water shipwrecks.<sup>17</sup> The sanctuary sponsors an annual Maritime Festival that draws large crowds and brings in corporate and local support and features local businesses.<sup>18</sup> To facilitate access to shipwrecks close to shore, Alpena offers a guide for those using kayaks or other ways of easily accessing the sanctuary. There are also numerous diving and boat tour companies that serve tourists and recreational access to the sanctuary as well as supporting the local economy.<sup>19</sup> The Alpena News recently editorialized that the “Sanctuary proves its value once again” in covering educational opportunities within the sanctuary.<sup>20</sup>

The Thunder Bay expansion is seen as an opportunity for economic growth in the two new counties the sanctuary now borders: “The expanded sanctuary, that now includes waters adjacent to Alcona County, is seen as an opportunity for economic growth.”<sup>21</sup> According to Roger Baumgardner, who joined the sanctuary’s advisory council in May of 2017: “I believe in my heart that the sanctuary is the greatest thing to happen in northeastern Michigan in the last 20 years.”<sup>22</sup>

The success of Thunder Bay has inspired two other efforts to designate marine sanctuaries in the Great Lakes – Wisconsin-Lake Michigan National Marine Sanctuary (Manitowoc, WI) and Lake Ontario National Marine Sanctuary.<sup>23</sup> Both of these efforts recognized the tremendous economic opportunities a marine sanctuary designation brings to local economies. Four New York Counties support the Lake Ontario marine sanctuary designation noting Thunder Bay generates in excess of \$100 million annually and supports 1,500 jobs.

**Thunder Bay provides significant economic benefits to the three counties it now borders. There is no basis for downsizing the sanctuary in any context, but particularly in the context of Executive Order 13795, Implementing an America-First Offshore Energy Strategy.**

## **Conclusion**

Thunder Bay National Marine Sanctuary, as expanded in 2014 should be maintained in its current size. The expansion of Thunder Bay reflected significant opportunities for public comment and consultations with government entities and tribes. It is clear that NOAA listened to input throughout the process. The fact that Thunder Bay is the only fresh water marine sanctuary

is recognition of the critical heritage of the Great Lakes. **We respectfully urge the Department of Commerce to retain the boundary and marine sanctuary protections for Thunder Bay National Marine Sanctuary.**

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<sup>1</sup> 82 Federal Register 28827 (June 26, 2017) ; Executive Order 13795, April 28, 2017.

<sup>2</sup> Mich. Comp. Laws §§ 324.33938, 324.32503.

<sup>3</sup> Thunder Bay National Marine Sanctuary Final Management Plan, 2009, pg. 2

<sup>4</sup> National Marine Sanctuaries Act, 16 U.S.C. 1431 et seq.

<sup>5</sup> 79 Fed. Reg. 52960 (September 5, 2014), at 52961, detailing added protective benefits that come with Sanctuary status including “prohibiting hand taking of artifacts even if they are located away from the original shipwreck.”

<sup>6</sup> “*Besser Foundation awards sanctuary friends group 200K in grants*,” The Alpena News, July 25, 2017.

<sup>7</sup> Thunder Bay National Marine Sanctuary Socioeconomic Fact Sheet, NOAA (available at <http://sanctuaries.noaa.gov/science/socioeconomic/factsheets/thunderbay.html>).

<sup>8</sup> *Id.*

<sup>9</sup> NOAA, FY 2016 Budget Summary, at pg. 9.

<sup>10</sup> *Supra*, note 1, at 28827.

<sup>11</sup> 2009 Management Plan at 6.

<sup>12</sup> 2009 Management Plan, at 6.

<sup>13</sup> *Supra*, note 4. .

<sup>14</sup> Thunder Bay National Marine Sanctuary, homepage, retrieved from <http://thunderbay.noaa.gov/management/boundarycom.html> .

<sup>15</sup> *Thunder Bay National Marine Sanctuary Final Environmental Impact Statement Boundary Expansion*, August 2014, at 59.

<sup>16</sup> *Supra*, note 4, at 100.

<sup>17</sup> *Visit Alpena, Sanctuary of the Great Lakes*, available at <http://www.visitalpena.com/adventures/maritime-history/>

<sup>18</sup> 2016 Thunder Bay Maritime Festival Flyer, available at [http://thunderbay.noaa.gov/pdfs/maritime\\_fest\\_brochure\\_2016.pdf](http://thunderbay.noaa.gov/pdfs/maritime_fest_brochure_2016.pdf) .

<sup>19</sup> List of dive and boat tour companies, information for Thunder Bay and things to do around Alpena and Thunder Bay National Marine Sanctuary and list of *shipwrecks*, available at <http://www.michiganpreserves.org/thunder.htm>

<sup>20</sup> “*Sanctuary proves its value once again*”, Editorial, The Alpena News, July 18, 2017.

<sup>21</sup> “Baumgardner appointed to sanctuary board”, The Alpena News, May 18, 2017.

<sup>22</sup> *Id.*

<sup>23</sup> “*Marine Sanctuary meeting March 24 in Manitowoc*,” USA Today, March 2, 2017; *Great Lake Ontario National Marine Sanctuary*, press release, September 4, 2015 available at <http://www.seagrant.sunysb.edu/media/LakeOntario-NMSNomination-090415.pdf>.