

September 12, 2022

**RE: NOAA Fisheries Equity and Environmental Justice Strategy**

Dear Assistant Administrator Coit and Mr. Rauch:

On behalf of the undersigned organizations representing environmental justice advocates, non-extractive ocean users, and science and policy experts, we thank you for your leadership and attention to advancing equity and environmental justice (EEJ) throughout NOAA Fisheries' science, conservation and management activities through the draft Equity and Environmental Justice Strategy ("Strategy"). A commitment to equity and justice in ocean and coastal policy decisions *must* underpin stewardship of the nation's ocean resources and its habitat. As the Strategy is finalized, please incorporate the following recommendations to ensure more meaningful implementation across NOAA Fisheries, the regional fishery management councils, and the agency's related activities. We are also standing by and willing to offer further support or clarification on the recommendations below.

**Important considerations found within the draft Strategy**

Of the actions outlined in the draft Strategy, we appreciate the recognition of the need for meaningful involvement of underserved communities, whereby NOAA Fisheries intends to seek out, identify and facilitate involvement of those potentially affected by decision-making. While there will likely be a temptation to maintain the status quo with the well-established, current mechanisms of engagement, the rapid pace of climate change and resulting impacts on marginalized communities will further burden these communities, thus increasing the urgency of deeper engagement. Creating infrastructure through staff liaisons at field offices to build relationships within communities will be a key component to realizing this commitment (Empowering Environment; Action 7). We encourage NOAA Fisheries to truly facilitate the involvement of all who are affected—both directly and indirectly.

NOAA Fisheries has several mandates for science-based management of fisheries and protected resources. While this is key to data-driven and actionable decision-making processes, if left as implemented, these can marginalize a significant body of knowledge built over millennia of stewardship of essential ecosystems. The commitment to include local and traditional ecological knowledge (TEK) in fisheries, climate, and ecosystem-based science (Research and Monitoring for Equity; Action 4) is essential to ensure the agency can better serve all who rely on the health of our ocean and its resources.

Fisheries policy process is nuanced, complicated—particularly for those just being welcomed into these conversations—and has a culture dominated by the interests of the fishing industry. This creates significant barriers to meaningful engagement of underserved communities. A training program to provide constituents the information and tools needed to confidently and productively engage in fishery management decision processes (Inclusive Governance; Action 7) is a commendable and vital pathway to meaningfully involving affected individuals and communities by lowering a significant barrier to accessing the policy process. In addition, we

appreciate NOAA Fisheries' recognition that much more work is needed to identify underserved communities affected by its work and reconsider the scope of its stakeholder engagement. We suggest the agency include this issue with more specificity in its "Inclusive Governance" Actions, including dedicated outreach and analysis to improve recognition of underserved communities.

### **Fully acknowledge past harms and the need for progress**

Fundamental to creating inclusive decision-making processes is an acknowledgement of both past injustices and the current biases embedded in today's systems and processes. Especially as a guiding document intended to lead on how regional bodies will foster more inclusive and just practices, this Strategy must begin by more specifically confronting how NOAA Fisheries and Council actions have systematically adversely impacted certain communities<sup>1</sup> and provide a vision for how meaningful involvement supports and will strengthen NOAA Fisheries and Council efforts. To effectively accomplish this recommendation, NOAA Fisheries and Councils must fully identify the underserved communities impacted by their work (Page 6, Barriers to Equity and Environmental Justice, Item 1). Acknowledging past harms affirms underserved communities' marginalization, and fosters an environment conducive to building transformative relationships between underserved communities and field office liaisons. While the reference to the Executive Orders motivating this work (pages 4 and 5) help make the case for equity and environmental justice as a mandate, any effective work to achieve equity must reference the unequal starting places of those involved and outline the need to correct imbalance.<sup>2</sup> These acknowledgements are foundational towards achieving justice for underserved communities.

Examples of past actions by the agency that, whether intentionally or unintentionally, have led to skewed access to fishery resources include: limited access privilege programs that have resulted in consolidation of fisheries in the hands of a small number of powerful companies and bycatch policies that appear to favor industrial over subsistence users. The agency's credibility in EEJ efforts will continue to be undermined by failure to acknowledge past mistakes, past decisions that have had inequitable outcomes, and the mishandling of equity situations. Without setting this baseline and carefully referencing the progress we have yet to make, this Strategy will not be an effective tool to guide step down implementation plans at regional levels as it intends.

### **Specific metrics for measurable progress and goals for accountability**

The goals and possible metrics outlined in this Strategy *may* provide a helpful basis for data collection and tracking. However useful this information may be, in order to make meaningful progress, this Strategy must also set benchmarks and measurable goals, and outline a cycle for review, evaluation, data sharing and updates so we all have a transparent mechanism to understand the pace of progress for the agency. NOAA Fisheries may consider adapting the

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<sup>1</sup> For example, "Barriers to Equity and Environmental Justice" Item 2 on page 6 acknowledges that allocations based on historical ownership prioritize commercial interests over underserved communities. Along with acknowledgement of other such systematic issues, these barriers require further detail on how future actions will work to correct the imbalance.

<sup>2</sup> Center for the Study of Social Policy, ["Key Equity Terms and Concepts: A Glossary for Shared Understanding"](#)

SMART Goals concept,<sup>3</sup> or a similar framework, for the goals, objectives and actions outlined in the Strategy. As framed, the goals are not actually results-driven or measurable.

The majority of actions suggest tracking numbers or percentages of programs, policies, etc. that include EEJ, but these don't necessarily hold NOAA Fisheries accountable to equity goals. However, a target—for example, at least 40 percent of benefits supporting underserved communities and communities of color—would allow for measurable progress, accountability, and support review and revision of actions for better implementation. To that end, all proposed metrics should include a minimum goal. For actions involving training and evaluating staff or making EEJ considerations in policies and plans, this should be required for all such actions. For example, rather than solely tracking a number, *all* internships in NOAA Fisheries should be paid (Outreach and Engage Equitably, Action 5). In funding allocations, we recommend a minimum goal of 40 percent—in line with the Justice40 Initiative—directed to underserved community efforts and EEJ activities, as is referenced in “Equitably Distribute Benefits,” Action 3.

In addition to results-driven goals, a true commitment to EEJ must involve specific and reasonable timelines for measuring progress and incorporating feedback. This Strategy should include a review cycle where NOAA Fisheries can substantively measure engagement and understand progress towards positive impact on underserved communities. Staff, the public, NOAA Fisheries' stakeholders and, most especially, the communities this Strategy intends to meaningfully engage must have target dates to which we can expect to hold NOAA Fisheries accountable to the stated goals and actions and provide recommendations for strengthening the implementation process. A commitment to collaborative review of progress with a framework for how this will be incorporated is a key step to building trust and demonstrating accountability toward underserved communities.

### **NOAA Fisheries leadership and Council conduct**

The foundation for success of this EEJ Strategy must come from NOAA Fisheries itself. While implementation of the Diversity and Inclusion Strategic Plan<sup>4</sup> is a helpful start, training and capacity-building specific to environmental justice and equity issues must be implemented across NOAA Fisheries and the Councils. We recommend adapting the suite of actions under *Environmental Justice Staff Training and Support* found on page 15 of the California Coastal Commission's Environmental Justice Policy<sup>5</sup> and incorporating them into the NOAA Fisheries EEJ Strategy. This includes hiring and building internal champions, and mandating diversity, equity, justice, unconscious bias and related training across the agency, advisory bodies and Councils.

Considering the influence of the Councils and their substantive involvement in NOAA Fisheries decision making processes, this Strategy should also require Council implementation of NOAA Fisheries' EEJ principles in management decisions, and a review and update of all Council

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<sup>3</sup> University of California, “[SMART Goals: A How to Guide.](#)”

<sup>4</sup> NOAA Fisheries, “[Diversity and Inclusion Strategic Plan 2022–2025.](#)”

<sup>5</sup> California Coastal Commission, “[Environmental Justice Policy.](#)”

Operating Procedures to uniformly and comprehensively include principles of diversity, equity, justice and harassment prevention with NOAA maintaining strict and clear oversight. If Council-led implementation is to accomplish any meaningful progress on EEJ goals, NOAA Fisheries must provide clear directives, effective training and strict accountability. Noting NOAA Fisheries has ultimate authority over the conduct of Councils and Council members and the Strategy's commitment to creating an empowering environment, this must also include a zero tolerance policy for misconduct. This Strategy is an opportunity to institutionalize a commitment to creating safe, equitable and inclusive spaces in a code of conduct, as well as establish that any Council member, staff or advisory body member who violates these policies will be suspended or expelled from participation and membership in Council and related entities or activities.

### **Enhancing Council diversity**

The most critical path to equity and environmental justice in fishery management would be a commitment to require that at least one of each Council's members is from an environmental justice community, and that these members are offered compensation for their time and effort. Currently dominated by commercial and recreational fishing interests, the stakeholder-driven process within the regional fishery management councils has little to no representation of the broader public's interests, especially for those from communities that have been systematically marginalized. As NOAA Fisheries works to build these community-level relationships, input from underserved communities should inform the full suite of barriers to Council engagement that NOAA works to address through a final Strategy. For more equitable access to decision-making and to better support vibrant and healthy oceans for *all* communities, Council composition must include a broader range of voices, particularly subsistence fishers, Tribal communities, conservation voices and non-consumptive users. We suggest an added action to the Strategy committing the Secretary of Commerce to such Council appointments, and ultimately working toward seeking Congressional authorization or mandate to modify the requirements for the nomination and appointment process to require representation from environmental justice communities and Tribal communities.

### **NOAA Fisheries employment practices**

Equity is important at all levels of the agency and cannot be achieved without equal access to the employment pipeline. As a key step to becoming an organization that reflects the diversity of the communities served, NOAA should prohibit unpaid internships at the agency and for any entity using agency funding. Internships are an important pathway to professional success, an effective recruiting tool and provide valuable experience to future career professionals. A lack of pay, however, means that many otherwise qualified candidates cannot take part in internship programs because these individuals must prioritize paid employment based on life circumstances dictating their immediate needs.<sup>6</sup> We ask that NOAA Fisheries require EEJ policies and actions apply to contractors and grantees, with a focus on ensuring equity in the employment pipeline. All labor, including internships and other opportunities, must be fairly paid.

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<sup>6</sup> University of Wisconsin-Madison's Center for Research on College-Workforce Transitions, "[The doors of opportunity are closed for many students: barriers to internship participation.](#)"

### **Guidance for more meaningful public engagement**

While we respect the intended flexibility of this Strategy to guide implementation plans that are regionally and culturally relevant, without clear directives and metrics, this will lead to inconsistencies in implementation—particularly in relation to guidance on meaningful public engagement. The final version of this Strategy should establish clear protocols and a framework for information sharing, as well as for meetings and meeting accessibility so that we can move towards making safer and more welcoming spaces for new individuals and communities to engage.

This Strategy should standardize the essential components of Council, advisory body and other NOAA Fisheries-related meetings. At a minimum, this should include a commitment to make all meetings transparent with clear, publicly-accessible agendas that include training materials and other information on how and when to engage in topics of interest. In addition, for safety and inclusion purposes, all meetings—including Council meetings—should be run by an objective facilitator to ensure timeliness for accessibility and more equitable input from all participants. Guidance for meeting accessibility should include coordination with Tribes and local governments, federal agencies or non-governmental organizations to determine venue and to provide staffed offsite stations for the public to listen to Council proceedings and offer comments remotely. To develop standards and guidance on meetings and information sharing, we recommend drawing from and adapting relevant components of the EPA's Guide<sup>7</sup> and recommendations from the Leadership Counsel for Justice and Accountability.<sup>8</sup>

Creating an empowering environment is an important overarching objective to first ensure that NOAA Fisheries is taking steps to build and rebuild the infrastructure and culture necessary for successful EEJ Strategy implementation. However, we recommend prioritizing “Outreach and Engage Equitably” as relationship building and understanding of underserved communities’ needs should inform all following objectives. Adding language to this objective that signals a commitment to addressing and incorporating those needs, beyond understanding and information sharing alone will better support effective relationship building with those communities.

### **Definitions and language updates for effective implementation**

While acknowledging the need for consistency across Federal agencies in how “Equity,” “Environmental Justice” and related terms are defined, and noting these terms will be updated according to anticipated guidance from interagency groups, we recommend the following updates and additions to the list of important definitions for this Strategy (pages 3 and 4).

- Consider adding both Social and Racial Justice in addition to Environmental Justice, as they are indisputably intertwined and recognizing intersectionality should be a priority for this Strategy.
- Separately and clearly define the terms Diversity, Inclusion, and Accessibility, including NOAA Fisheries-specific language.

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<sup>7</sup> Environmental Protection Agency, “[Public Participation Guide](#).”

<sup>8</sup> Leadership Counsel for Justice and Accountability, “[Recommendations to Promote Equitable Public Participation...](#)”

- In addition to the outcome-oriented language, expand the definitions of Environmental Justice and Equity to include process as it relates to NOAA Fisheries. (Process considerations were more clearly articulated for Underserved Communities and the definitions following.) For example, achieving equity also requires different levels of support based on needs. The Strategy would benefit from further describing how this relates to the agency's work.
- Specify in the definition of "Public," those that may be "directly and indirectly" affected by NOAA Fisheries programs and decisions.
- Update the definition of "Stakeholders" to include communities, as the referenced EPA definition does. The definition in the draft Strategy could be narrowly interpreted and preclude those with non-extractive or non-consumptive interests affected by NOAA Fisheries work and policies.
- Even specific to a fisheries context, the description of "underserved communities" must be broadened to include, among others, those with non-extractive, subsistence, and cultural value interests in the health of the ocean and ocean resources.

We recommend definitions from the Center for the Study of Social Policy as a reference to guide these updates.<sup>9</sup>

For further clarity and direction in achieving equity and environmental justice goals, we request the following line edits to the Strategy as still applicable after consideration of the recommendations above.

- In order to be effective, the language should reflect that this document outlines a mandate for NOAA Fisheries. "Encourage" and "consider" should be replaced with terms like "require" or "incorporate." (Page 9, Objective: Empowering Environment; page 12; page 13, actions 1 and 2; page 19, action 3)
- Similarly, for incorporating "EEJ considerations," strike the word "considerations." (Pages 9, 13, 20 and 22)
- Strike "applicable" and "appropriate." All staff should be responsible for advancing EEJ throughout the agency, and meaningful metrics and accountability should be across all contracts. (Page 10, Action/Metrics 2 and 3)
- Beyond providing the option, participation in trainings should be required. Update "provide" to "provide and require" and/or update the metrics to target 100 percent of staff, Council and advisory body members. (Pages 10 and 11, Actions 4 and 8)
- NOAA Fisheries programs, policies and activities can impact the quality of life for underserved communities and create challenges broader than food security and economic. Please include "non-economic" challenges as an additional consideration. (Page 13, Action 4)
- To account for the perspectives of underserved communities across a broader range of activities in NOAA Fisheries' purview, include habitat "protection" in addition to restoration. (Page 15, Action 1)
- Correct the reference to the appropriate Advisory Council, presumably the "White House EJ Advisory Council." (Page 18)

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<sup>9</sup> Center for the Study of Social Policy, ["Key Equity Terms and Concepts: A Glossary for Shared Understanding"](#)

- Further specify the partnership aspect of pilot education and training programs by updating “create” with “co-create.” (Page 20, Action 8)

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Thank you for recognizing the importance of equity and environmental justice in all aspects of NOAA Fisheries’ services. We appreciate this Strategy as a first step to progress on these principles, and the opportunity to provide input so that underserved communities may have a clearer entry point to further inform the path forward. However, for meaningful progress, this Strategy must affirm EEJ principles as a mandate throughout the agency and affiliated entities with specific, measurable goals and actions. We must be able to track progress and hold NOAA Fisheries accountable to positive outcomes for, with, and in service of underserved communities.

Sincerely,

Anupa Asokan  
Senior Oceans Advocate  
Natural Resources Defense Council

Marce Gutiérrez-Graudiņš  
Founder and Executive Director  
Azul

Kristin Butler  
Associate Legislative Representative  
Earthjustice

Ivy N. Fredrickson  
Senior Staff Attorney  
Ocean Conservancy

Beth Lowell  
Vice President, United States  
Oceana