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December 14, 2011

Amy Painter  
National Sea Grant Office  
1315 East-West Highway R/SG  
Silver Spring, MD 20910

RE: National Sea Grant Law Center Response to the November 2010 Site Review

Dear Amy,

Please accept this letter as the National Sea Grant Law Center's formal response to the Site Review Team's Review of the NSGLC that took place from 9-10 November 2010. The SRT's report was delivered to the NSGLC on January 21, 2011. As indicated in the cover letter to the SRT's report, the *Sea Grant Program is expected to respond to each recommendation*, explaining how it has implemented, how it plans to implement, or why it chooses not to implement each course of action. A suggestion, on the other hand, is an idea that is presented for consideration. The *Sea Grant Program is not accountable for responding to suggestions*, but is encouraged to consider implementing those deemed useful and appropriate by program leadership. The SRT's report contained one recommendation and nine suggestions. The NSGLC's response is detailed below.

**Recommendation:** *It is recommended that the NSGLC Director devote full time and attention to the NSGLC and have no responsibilities for the MASGC Legal Program. If this shift were made, both programs would be strengthened. For example, the individual identities of the two programs would be more apparent; the NSGLC Director would have more time to devote to other projects; it would provide enhanced advancement and professional development opportunities for the current MASGC Legal Program Research Counsel; and it would remove the disadvantage caused by MASGC Legal Program's inability to compete for NSGLC competitive grants. Also, a different management scheme for the NSGLC and the MASGC Legal Program may eliminate what appears to be a double position on the Sea Grant Legal Network with regard to Chair rotation. A different management scheme might also require a re-assessment of the physical location and organizational position of the NSGLC, which currently is physically co-located with and reports directly to the Mississippi Law Research Institute. One potential alternative would be a department in the UM Law School.*

The NSGLC has chosen not to implement this course of action. The NSGLC Director is responsible for ensuring the overall success of the program and overseeing all programmatic, fiscal, and administrative matters. The Director develops and implements the NSGLC strategic plan, develops and promotes NSGLC products and services, and identifies and pursues partnership and funding opportunities. In addition, as an Adjunct Faculty member at The University of Mississippi School of Law, the Director teaches a course each semester and conducts scholarly legal research. The NSGLC Director also serves as the Director of the

Mississippi-Alabama Sea Grant Legal Program (.25 FTE), a component of the Mississippi-Alabama Sea Grant Consortium's Outreach Program.

While the NSGLC agrees that both programs would benefit from a full-time director, implementing that significant of an organizational change is not feasible given the current funding levels of the two programs. At the time of the SRT's review in September 2010, the NSGLC received approximated \$750,000 per year through a Congressional earmark. The NSGLC did not receive any funding in FY11. Future funding is anticipated to be \$375,000 per year, but remains uncertain pending the outcome of the NSGO's National Sea Grant Law Center 2012 grant competition. Funding for the Mississippi-Alabama Sea Grant Legal Program has been stable, but like all Sea Grant Programs, Mississippi-Alabama Sea Grant is anticipating budget cuts in FY13 and beyond. In addition, the University of Mississippi School of Law is facing budget cutbacks due to a decrease in state and federal funding. The dual appointment provides significant opportunities to leverage funds. Given the budget climate and the possibility of a 50% reduction in funding from the NSGO, we do not believe it is advisable to restructure the NSGLC Director's position.

Although funding was the primary reason for not implementing this course of action, it was not the NSGLC's only reason. Following receipt of the SRT's recommendation, the NSGLC began to reflect on the benefits and drawbacks of the dual appointment. The SRT focused primarily on the drawbacks, but there are some significant benefits from the dual appointment. In addition to providing numerous opportunities to leverage funds, this division of the NSGLC Director's responsibilities provides insights into the administration and review of an institutional Sea Grant program and the development and implementation of outreach programs. This dual appointment also allows the NSGLC Director to be involved in discussions and planning at all levels throughout the Sea Grant network, from director-level discussions at the Sea Grant Association meetings to programmatic-level discussions at the Sea Grant Assembly and Communicator meetings. This experience has proven to be invaluable as the NSGLC develops national outreach products and services and has become more fully integrated into the PIE system. Currently, NSGLC believes these benefits outweigh the SRT's concerns regarding MASGLP staff attorney professional development, MASGLP participation in future grant competitions, and the Sea Grant Legal Network. The NSGLC agrees the SRT recommendation raised valued concerns, but believes they can be solved through other means.

**Suggestion:** *The NSGLC should more formally constitute and use its Advisory Board. This might be accomplished by diversifying its composition, agreeing on a non-NSGLC staff chair, engaging Board members more formally in key management activities, such as serving as interviewers when hiring staff, and meeting face-to-face at least once a year. Currently, 30% of the Board is Sea Grant Directors, which may be unnecessary. The NSGLC might want to consider reducing the number of Sea Grant Directors by replacing some with Associate Sea Grant Directors or program leaders, and adding another NGO representative and a local or state government representative.*

In 2012, the NSGLC will take steps to act upon this suggestion. In February 2012, the NSGLC will circulate a call for nominations to begin the search for new Advisory Board members. New members will be drawn from the Sea Grant network (directors and extension program leaders), academia, state and/or local government, and the NGO community. Upon its re-constitution, the Advisory Board will meet once a year face-to-face in Memphis, Tennessee (the closest metropolitan area to the University of Mississippi School of Law) and once by teleconference. During these meetings, the Advisory Board will provide input and guidance on strategic planning, relevancy of proposed projects and activities, and partnership and funding opportunities.

**Suggestion:** *The NSGLC should continue to seek an appropriate working relationship with NOAA General Counsel (separate from interactions with NOAA Regional Counsel).*

It is unclear from the SRT's final report what an "appropriate working relationship" with NOAA General Counsel would be. The Office of General Counsel provides legal advice and counsel for the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce. As such, NOAA

General Counsel attorneys *advocate* on behalf of their client in litigation and during the development of federal policy. Too close an association with NOAA General Counsel could call into question the NSGLC's neutrality on sensitive and controversial issues such as fisheries enforcement. That said, the NSGLC's Advisory Service is available to the NOAA General Counsel as it is to other line offices. The NSGLC will continue to support NSGO's efforts to advertise the Advisory Service within NOAA, including NOAA General Counsel, and remains open to working with the NOAA General Counsel on appropriate research, outreach, and education projects.

**Suggestion:** *The Director should consider including the organizational chart of both programs when giving presentations to help clarify lines of responsibility.*

Agreed. The organizational chart prepared for the SRT's visit will be incorporated into future presentations about the NSGLC.

**Suggestion:** *An RFP that allows for larger core grants and small mini-grants is worth consideration. The current amount of grant funding per proposal should be re-evaluated to ensure that it is sufficient to fund projects that result in significant legal and policy impacts. As with state Sea Grant Programs, in its next federal proposal the NSGLC should consider including a program development sub-proposal which would allow for smaller mini-grants of a timely nature to respond to emerging issues. As within other Sea Grant Programs, such mini-grants could be structured such that they are not reduced by indirect costs and do not require matching funds.*

The NSGLC agrees with this suggestion. Unfortunately, the NSGLC is unable to implement this suggestion at this time due to the reduction in funding. If funding increases in the future, the NSGLC will consider this suggestion when designing future grant competitions.

**Suggestion:** *Incorporate NSGLC legal products into the National Agricultural Law Center's (and similar programs') website and bibliography, and vice versa. Jointly organize and hold symposia in the future on shared topics (e.g., ecosystem valuation, aquaculture). The benefits of doing this would be to increase the relevance of the national products by exposure to a larger audience, foster new relationships, maximize viewership and impact of legal products, and boost recognition of the NSGLC and the Sea Grant Legal Network. Along with increased exposure comes the potential for increased request work load, which can be effectively addressed via the existing prioritization scheme (though, perhaps in a more formalized manner) and should not distract the NSGLC from its core mission and constituency. However, if the Advisory Service load increases greatly, it might be beneficial to revisit the amount of time spent on Sea Grant networking.*

Since the SRT's visit in September 2010, the NSGLC has been working to develop a partnership with the National Agricultural Law Center. Harrison Pittman, Director of the Ag Law Center, and NSGLC Director Stephanie Showalter Otts presented jointly at the recent National Aquaculture Extension Conference in Memphis, Tennessee. The NSGLC provided the Ag Law Center with a list of publications to be included in their bibliography. The NSGLC and the Ag Law Center had also discussed the possibility of a joint webinar series. Unfortunately, due to significant budget cuts and future funding uncertainties, the Ag Law Center has been unable to dedicate resources to this partnership. Despite these difficulties, the NSGLC believes this is a valuable partnership and will continue to share information and explore joint funding opportunities with the Ag Law Center.

**Suggestion:** *To improve continued relevancy, re-examine the policy of not providing model ordinances for Advisory Requests or emerging issues. These offer opportunities for growth of the Sea Grant Network (e.g., many coastal towns will have to adapt to sea level rise). One approach to do this effectively, and still provide neutral legal research and background, would be to survey a range of ordinances and provide interpretations of each.*

The NSGLC will take this suggestion into consideration during its upcoming strategic planning process for the 2014-2018 cycle. The NSGLC has never been asked to provide a model ordinance as part of the Advisory Service, and we have been reluctant to proactively offer that as a service due to the significant staff time required to complete such projects. However, as part of our strategic planning process, the NSGLC has initiated conversations with the Sustainable Coastal Community Development Network regarding key development issues that might be ripe for the development of model ordinances. Depending on the results of those conversations, the NSGLC may incorporate a model ordinance project in a future proposal.

**Suggestion:** *There are opportunities to enhance the role of the NSGLC in the Sea Grant context and the federal context. Sea Grant Knauss Fellows would benefit from knowing about the products and services of the NSGLC. Many of these fellows are new to legal and policy issues and would benefit from a primer. Further, they can be a conduit for meaningful Advisory Requests from NOAA and other federal offices. Finally, these fellows often emerge as future leaders of research, policy, or legislative groups; hence, exposure to the NSGLC could form a basis for future opportunities. Also, the NSGLC could incorporate the NSGLC and its Advisory Service into training for new Sea Grant extension agents. Two potential venues are at the National Sea Grant Academy or the National Aquaculture Extension Conference, both in 2011.*

The NSGLC is committed to enhancing its role both within Sea Grant and our federal partners. The NSGLC works hard to advertise our products and services through our website, email distribution lists, and presentations at a variety of national and regional Sea Grant meetings. We agree that the NSGLC should be incorporated into the National Sea Grant Academy. However, our requests to be included in past Academies have always been rejected by Academy organizers. The NSGLC welcomes the NSGO's guidance and assistance in how we might become involved in future Academy programs.

We also agree that Sea Grant Knauss Fellows could benefit from our products and services and vice versa. One of the NSGLC's current advisory requests on Community Supported Fisheries was submitted by a Knauss Fellow, Joshua Stoll, with NOAA Fisheries. Former Knauss Fellows, such as Kolo Rathburn currently with Senator Wicker, have been strong supporters of our work. The NSGLC, however, has struggled with how best to raise the awareness of the Knauss Fellows given the limited time the Fellows have and the NSGLC's limited staff. In 2007, at the request of the Knauss Fellowship Coordinator, the NSGLC offered an "Ocean and Coastal Law Crash Course" for the Knauss Fellows. The course was designed to provide the incoming class of Fellows with a very general overview of some of the major federal laws affecting ocean and coastal resources and the current policy debates. Given the time constraints and the differing educational backgrounds and host offices of the Fellows, the Law Center designed an agenda to provide the widest exposure to current ocean and coastal legal issues. This decision affected the depth of coverage we were able to provide. Our two primary goals were to provide the incoming Fellows with enough background knowledge to know how to approach an issue and introduce them to the legal resources available through the Law Center. The 2007 course had a total of 25 participants, twelve of which attended for the entire day. While the participant feedback was overwhelming positive, the NSGLC failed to receive any requests for publications or research from that class of Knauss Fellows. Given the NSGLC's limited resources, we decided that type of intensive program was not a worthwhile investment. However, there are other ways to raise the awareness of the Knauss Fellows about the NSGLC. Information about the NSGLC products and services could be incorporated into their orientation materials, for instance. The NSGLC is open to working with the NSGO to act upon the SRT's suggestion.

**Suggestion:** *The role of the NSGLC as a part of Sea Grant and as a part of NOAA needs continuing emphasis. This includes making sure that all relevant logos show up on all publications, hard copy and on the web. This may seem minor, but is important. Also, what may seem minor is the suggestion for a more legible logo (reduce shading around "Sea Grant") for the NSGLC that clearly identifies the Sea Grant part of it.*

The NSGLC was a bit surprised by this suggestion, as we do include all relevant logos (NOAA, NSGO, NSGLC) on the website and on publications. In addition, our logo is modeled after the Sea Grant logo. The NSGLC is committed to ensuring proper recognition for all funders and partners. We are currently considering whether our logo needs to be redesigned and we will ensure that all relevant logos are included on NSGLC products in the future.

**Suggestion:** *The NSGLC could partner with the Sea Grant Education Network for dissemination of its products. Many of these products would be extremely helpful to the Sea Grant educators in better understanding coastal legal and policy issues (e.g., coastal and marine spatial planning, marine debris, invasive species) in the education programs that they develop for students and for educators towards the goal of a public that is literate on coastal and ocean issues. Even something as simple as the "Volunteer Liability" research report (mentioned during the SRT visit) would help those using volunteers for activities, such as beach cleanups and marsh grass plantings. Outside of Sea Grant, NSGLC products would be quite useful for programs, such as the NOAA National Estuarine Research Reserves and U.S. EPA National Estuary Programs.*

The NSGLC's publications are widely distributed to all Sea Grant networks, including the Sea Grant Education Network. The NSGLC is committed to ensuring that all components of the Sea Grant community of aware of new and existing products and services.

Please let me know if you have any questions or would like additional information. Thank you for the opportunity to respond to the SRT's report.

Sincerely,



Stephanie Showalter Otts  
Director, National Sea Grant Law Center