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May 10, 2005

Mr. D. Robert Lohn, Regional Administrator
c/o Maryann Nickerson
National Marine Fisheries Service
7600 Sand Point Way NE - BIN C15700 - Bldg. 1
Seattle, WA 98115-0070

Subject: Comments on the "Pacific Coast Groundfish Fishery Management Plan - Essential Fish Habitat Designation and Minimization of Adverse Impacts" Draft EIS Support of Modified Alternatives of Collaborative Efforts between Environmental Non-Governmental Organizations and Fishermen and Protection and Consideration of Impacts to Coastal Communities

Dear Mr. Robert Lohn:

We appreciate this opportunity to comment on the "Groundfish Essential Fish Habitat Designation and Minimization of Adverse Impacts Draft Environmental Impact Statement (DEIS)." We support the Pacific Fisheries Management Council and National Marine Fisheries Service's efforts to assess the environmental and socioeconomic effects of the alternatives presented in the Draft EIS. Our review of the Draft EIS document and discussions we have had with NMFS staff, including Dr. Rebecca Lent and Mr. Steve Copps, provided us with a good understanding of the intent and variables of the Essential Fish Habitat program. Our comments are broad with respect to the fisheries issues but are focused on the effects of the Essential Fish Habitat program on local coastal communities and fishing dependent harbors.

The Magnuson-Stevens Act and a 2000 court order require the preparation of this DEIS. The purpose of this DEIS is to evaluate the effects of fishing on essential fish habitat and to identify measures that will minimize those impacts to the extent practical. The project will also designate "Habitat Areas of Particular Concern" and identify other actions that encourage the conservation and enhancement of Essential Fish Habitat (source: DEIS). The Pacific Coast Groundfish Management Plan (FMP) will ultimately be amended to incorporate the alternatives selected by the Pacific Fisheries Management Council (PFMC) and as may be approved by the National Marine Fisheries Service (NMFS).

Fisheries and Non-Governmental Organizations

There are an estimated 4-6 permit holders that we believe regularly bottom trawl in the San Luis Obispo central California region. These commercial fishermen have historically moored and offloaded seafood product at Avila Beach/Port San Luis Harbor. We strongly support the environmental non-governmental organizations (NGO's) and these 4-6 commercial fishermen's (and their associated representatives) efforts to agree on designating zones in the study area (such as Alternative C.12 as may be modified) as no-bottom trawl zones. Of course, other areas would remain available for trawling and other types of fishing, both sport and commercial use. As we understand it, the NGO's, individuals and Fishing Associations (local Fishermen's Associations, FMA, PCFFA and others) are working to identify areas they think should be kept open to bottom trawl fishing and those remaining areas that should be closed to bottom trawlers. Again, we strongly support these efforts and recommend that whatever collaborative proposals are eventually submitted to the Pacific Fisheries Management Council be taken seriously and adopted by NMFS and the Commerce Department. We believe that the collaborative efforts of the NGO's and the commercial fishermen will result in the best alternative for the central California coast area regarding designations of the Essential Fish Habitat, while also meeting the requirements of the court order and the Magnuson-Stevens Act, et seq.

Port San Luis Harbor staff is working with the NGO's and some of the fishermen to educate and encourage the development of information for the GIS mapping of the Alternatives in the draft EFH EIS. The outcome, which is subject to modification, may also include some of the local trawl permits and vessels being purchased with private funds.

We respectfully request both the PFMC and NMFS allow the NGO's to continue working with the trawl fishermen, the group most greatly impacted by this process, in order to prepare recommendations on open trawl areas and trawl closed zones within the central California coast study region. We expect these groups to present a preliminary zoning plan at the PFMC meeting in June 2005. We support any alternative submitted by a collaborative effort of NGO's and commercial fishermen.

In addition, we respectfully request that both the Pacific Fisheries Marine Council and the National Fisheries Marine Service accept and support any Alternative submitted by these groups in a joint effort as one of the preferred alternatives in the EFH EIS. We believe that the fishermen and NGO's should be allowed, if not encouraged, to continue their collaborative work to identify essential fish habitat, to designate habitat areas of particular concern, to minimize, to the extent practical, the adverse effects of fishing on the essential fish habitat, and to identify other actions that will encourage the conservation and enhancement of the essential fish habitats within any modified Alternative for the central California coastal region.

Ports, Harbors and Coastal Communities

There are many small ports and harbors that have a symbiotic relationship with the fisheries industries, both sport and commercial, within the EIS study region. These small craft harbors rely on the fisheries to provide steady jobs and act as an economic engine, keeping the community vibrant. In the case of central California harbors, the past few years of increased regulatory actions have had a drastic effect on the ability of the fishing fleets to continue making a profit. This decline, in turn, has a direct effect

on the coastal host community (harbors and marinas). The implementation of regulatory closures or restrictions will have a deleterious economic effect on these local coastal communities. We ask that both the PFMC and the NMFS carefully consider the socioeconomic effects of any designation of essential fish habitat in the central California region.

We understand that it is very difficult to quantify the exact social and economic effects of the proposed closures and cannot offer, at this time, solid evidence of those effects, other than our past experience and day-to-day observation of the fishing industry and the benefits it provides to our communities. There is a synergy that occurs which is un-measurable in terms of cash value that also needs to be considered in the development of fishing regulations, including the designation of essential fish habitats on the west coast. The public visits the ports and harbors and loves to get their fresh seafood while watching the boats offload their catch. Without community interest, these small craft harbors become stagnant and turn into yacht harbors for the wealthy, or marine malls selling plastic sharks and T-shirts. The small independent business persons (fishermen) are forced out and the working harbors cease to exist. We have seen this in southern California harbors and hope that that does not happen here. With this in mind, please use care in implementing the EFH's and HACP's and take our comments into consideration.

We have attached our specific comments to this letter for your consideration in preparing the final "Environmental Impact Statement for the Essential Fish Habitat Plan on the West Coast for the Pacific Fisheries Management Council." In advance, we appreciate your consideration of these comments and observations.

Again, we thank the Council and Fisheries Service for your attention to this alternative. We are available for future discussions on this issue. Should you require additional information please contact me by phone at (805) 595-5409, ext. 14, or by email at jaye@portsanluis.com.

Sincerely,

Jay K. Elder
Harbor Manager
Port San Luis Harbor District

Encl.: Attachment A – Detailed Comments

cc: Harbor Commission
Dr. Rebecca Lent, Dept. Asst. Administrator – Regulatory Programs, NMFS
Mr. Steve Copps, Sr. Policy Analyst, NMFS
Mr. Don Hansen, Chair, PFMC
Port San Luis Commercial Fishermen's Association



Memorandum

To: Mr. D. Robert Lohn, Regional Administrator
c/o Maryann Nickerson
National Marine Fisheries Service
7600 Sand Point Way NE - BIN C15700 - Bldg. 1
Seattle, WA 98115-0070

From: Port San Luis Harbor District
Avila Beach, CA

Date: May 10, 2005

Re: Comments on the “Pacific Coast Groundfish Fisheries Management Plan -
Essential Fish Habitat Designation and Minimization of Adverse Impacts” Draft EIS

The following are comments offered for consideration with regard to the “Draft Environmental Impact Statement on Pacific Coast Groundfish Fisheries Management Plan Essential Fish Habitat Designation and Minimization of Adverse Impacts.” The Proposed Action is to amend the “Pacific Coast Groundfish Fishery Management Plan (“FMP”) pursuant to section 303(a)(7) of the Magnuson-Stevens Act, to (1) describe and identify essential fish habitat (EFH) for the fishery, (2) designate Habitat Areas of Particular Concern, (3) minimize to the extent practicable the adverse effects of fishing on EFH, and (4) identify other actions to encourage the conservation and enhancement of EFH. The project area for this action extends from the seaward boundary of the Pacific Coast Exclusive Economic Zone shoreward to the inland extent of estuaries.

We appreciate the opportunity to offer these comments, which focus on the possible effects of the proposed action on coastal fishing communities in the central California coast study area (Port San Luis/Avila Beach to Pillar Point - Princeton).

There are numerous alternatives offered and considered in the Draft EIS that would have distinct effects on the coastal fishing communities. We are also aware that the socioeconomic effects of the proposed action are difficult to calculate due to the lack of available hard data for both the fisheries

biomass and onshore activities related to the fishing industry. The fisheries models and economic models are models and, as such, are subject to a margin of error. We appreciate the efforts of the NMFS staff economists who have worked hard to develop these economic models and are not being critical of the work presented here. However, we believe there is much to be learned about the socioeconomics of any essential fish habitat designation that may be adopted. We urge the Council and NMFS to proceed with caution as we are dealing with a very tender social community which is on the verge of collapse. As we all agree, the estimates of the rockfish biomass is still uncertain and we support the continued funding of monitoring and research to improve the science of rockfish biomass determination to continue the sustainability of these important fisheries.

In general, the calculations that use the “Habitat Suitability Probability” (“HSP”) are acceptable and raise the question of “What is the definition of Essential Fish Habitat?” We believe that the entire ocean is an essential fish habitat and, therefore, any human use would have an impact to its protection designation. We also understand that essential fish habitat is defined in the statutes, but in reality, we must make a reasonable determination that allows human interaction with the habitat as long as the final effect of the human factor does not reduce the species (in this case, rockfish) below the sustainability levels set by the NMFS and PFMC. We request that you continue to allow human use of the resources to the greatest extent feasible for the benefit of both fishing and harbors. We believe that we can co-exist in the environment by properly designating some areas for the protection of the essential fish habitat and other areas for resource harvest and harbor functions.

Alternatives to Designate and Describe Essential Fish Habitat (“EFH”)

This Draft EIS states that the “Actions taken by a Council to minimize adverse effects of fishing on EFH may include fishing equipment restrictions, time or area closures, harvest limits, or other measures. Any such measures would be designed to reduce ongoing effects to fish habitats and/or promote recovery of disturbed habitats. These measures may result in socioeconomic effects for the affected sectors of the fishing industry, but would be designed to promote sustainable fisheries and long-term socioeconomic benefits. The environmental consequences of proposed actions would be evaluated in applicable NEPA documents before they are implemented.” The designation of EFH’s is a good idea but should only be adopted if the socioeconomics and historic uses (specifically fisheries and harbors) of those areas are seriously considered, understood and protected in the final EIS. We do not believe that the long-term cumulative socioeconomic effects on harbors in the designation of EFH’s were fully explored, identified or mitigated in this draft EIS. More work is required to identify and mitigate the long-term socioeconomic impacts of any designation of EFH’s on coastal harbors and the fishing industry.

A.1: The no action plan or status quo encompasses 317,690 sq. miles. We do not support this alternative for obvious reasons.

A.2: Designate the entire region west of the 3,500 meter as EFH (100% of HSP is greater than zero); encompasses 187,741 sq. miles. We do not support this alternative as it could have severe effects on the existing fishing and harbor industries that rely on the resources in that designated area.

A.3: Designate the region as EFH (100% of HSP is greater than zero); encompasses 87,160 sq. miles. Same comment as A.2 above.

A.4: Designate the region as EFH (60-90% of HSP overfished areas, precautionary areas, all other ground fish and all seamounts); encompasses 79,481 sq. miles. May support if some areas were opened to all gear types for continued fishing.

A.5: Designate the region as EFH (70% of HSP is greater than zero); encompasses 78,569 sq. miles. May support if adequate areas were opened to all gear types for continued fishing and limited effects to coastal communities.

A.6: Designate the region as EFH (30% of HSP is greater than zero); encompasses 66,589 sq. miles. May support if adequate areas were opened to all gear types for continued fishing and limited effects to coastal communities.

With regard to the matter of the errors on some of the essential fish habitat maps generated from information collected on the managed species, we wish to reserve the right to comment further if there are substantial differences in those maps from what is represented in the Draft EIS.

Alternatives to Designate Habitat Areas of Particular Concern (“HAPC”)

This Draft EIS states that the “Designation of HAPC’s, like designation of EFH generally, does not have any direct environmental or socioeconomic affect, but may result in indirect effects greater than those associated with EFH because resource managers and regulators are likely to place a high priority on protecting areas that have been designated as HAPC’s.” The designation of HAPC’s is a good idea but should be adopted only if the socioeconomics and historic uses of those areas are seriously considered by the PFMC and NMFS in the final EIS. The long-term effects of designation of HAPC’s must be further considered in the final EIS with a focus on the probability of further regulation restricting the fisheries and possibly the functions of ports and harbors in these designated zones. We do not believe that the long term cumulative effects of the designation of HAPC’s were fully explored and identified in this draft EIS. More work is required to establish the long-term impacts of any designation of HAPC’s.

B.1: The no action plan or status quo. We do not support this alternative as we understand that HAPC’s must be identified and designated.

B.2: Estuaries designation: This alternative is understandably an important one and is supported. However, many estuaries also include harbors and marinas and the effects of a HAPC on any of these coastal dependent harbors could have an effect on the basic functions of harbors and marinas and should be seriously considered in the process. We do not believe that this Draft EIS fully explores the possible effects of such a designation on ports, harbors and marinas located in or near estuaries. More work needs to be done with regard to the continued ability of harbors to perform basic maintenance functions such as dredging and repairs to facilities.

B.3: Canopy Kelp: This alternative is also an important one and is supported. Again, however, we urge the consideration that a 100% designation of all kelp forest (current and historic) could have an effect on some commercial harvest operations and, of course, some harbors and marinas. Excluding some areas should be considered, which might have a negative effect on the harvesters and or coastal communities with facilities in or near kelp forest.

B.4: Sea Grass: See our comments on B.3. Clearly an important species, but must consider the impacts to ports, harbors and marinas and their continued ability to continue in maintaining their facilities and providing services.

B.5: Core Habitat (upper 10% of overfished and precautionary species): Clearly an important alternative and is supported. However, there may be some areas which should be excluded to allow continued fishing and harbor functions, as may be historic and established by past or current use. Additional consideration on the effect to historic and existing use by fishermen and harbors is required.

B.6: Rocky Reefs: Again, this is an important alternative and is supported. However, there may be some areas that should be excluded to allow continued fishing and harbor functions, as may be historic and established by past or current use. Additional consideration on the effect to historic and existing use by fishermen and harbors is required.

B.7: Areas of Interest: This is an important alternative and is supported. However, there may be some areas that should be excluded to allow continued fishing and harbor functions, as may be historic and established by past or current use. Additional consideration on the effect to historic and existing use by fishermen and harbors is required.

B.8: Oil Production Platforms: The artificial reef alternative is not supported. Also consideration of existing lease sales, (Mineral Management Service) especially in the Santa Maria Basin should be discussed. Designation of EFH and HAPC's of those existing Outer Continental Shelf (OCS) lease sites should be done to protect the habitat from future oil exploration and production on the central coast.

B.9: Process for New HAPC Designations: Great idea, but another process also needs to be developed. The "Process to Un-Designate HAPC's" should be designed for the possibility of future re-designation or changes to this HAPC program. Please add the decommissioning of HAPC process to this alternative.

Alternatives to Minimize Adverse Impacts to EFH

This Draft EIS states that the "Federal and state agency actions that may adversely affect EFH trigger consultation and/or recommendations under sections 305(b)(2)-(4) of the Act. Under section 305(b)(4)(A) of the Act, NMFS must provide EFH Conservation Recommendations to federal and state agencies regarding any action that would adversely affect EFH."

"EFH recommendations from NMFS or a Council to federal or state agencies are non-binding. Nevertheless, as a result of EFH coordination, consultations, and recommendations, Federal or state

agencies may decide to restrict various activities to avoid or minimize adverse effects to EFH. Such restrictions could result in project modifications that lead to higher costs for the applicants for federal or state permits, licenses, or funding.”

“Costs associated with consultations will likely vary depending on the number of species associated with an EFH designation, and the amount of habitat designated as EFH. If an entity chooses not to participate in consultations, then the EFH designation will ultimately have no effect on that entity. If consultations result in conservation recommendations, then there are likely to be increased costs in the short-term and possibly in the long-term depending on the amount of offsetting benefits realized from enhanced habitat productivity resulting from EFH designation.”

This Draft EIS fails to fully consider the probable effects of the EFH designation on coastal communities, especially ports, harbors and marinas. The final EIS should detail what the effects might be to these coastal facilities if designation of EFH’s are adopted and include the community’s facilities. The increase in costs to mitigate an EFH in a harbor location may have an adverse socioeconomic effect and/or close down existing facilities which support coastal access, commerce, recreational uses and marine transportation corridors.

C.1: No Action: No comment.

C.2: Depth-based Gear –specific Restriction:

C.2.1: For the central California region, we believe that this action is already in place and, if so, would support the status quo, with some exceptions that might open up some historic trawl zones to allow some take with bottom gear.

C.2.2: For the central California region, we believe that this action is already in place and, if so, would support the status quo. We would object to the prohibition of all fixed gear shoreward of 150 fathoms and request that some fixed gear be allowed in the region, specifically in areas of historic take.

C.2.3: We would not support this alternative option as it would have a significant impact on the historic fisheries and harbor functions.

Consideration of the effects of all the C.2 options should be analyzed for the economic and social impacts to the coastal communities.

C.3: Close Sensitive Habitat:

C.3.1: “Greater than or equal to the recovery index where the value is greater than one. Closed to all gear types.”(?) We would support this option if the pelagic fisheries and other less invasive bottom gear fisheries would still be allowed in the EFH zones.

C.3.2: “Greater than or equal to the recovery index where the value is greater than one. Closed to all gear types.”(?) We would support this option if the pelagic fisheries and other less invasive bottom gear fisheries would still be allowed in the EFH zones.

C.3.3: Same comment as above.

C.3.4: Same comment as above.

Consideration of the effects of all the C.3 options should be analyzed for the economic and social impacts to the coastal communities. The use of the 100 hours rule and the limited time period (i.e.,

2000-2002) is not reasonable. We strongly suggest that the period be expanded to include at least the past ten - if not the past twenty - years of trawling. The one hundred hour rule may be sufficient, but we would request that the NMFS and PFMC take into consideration the trawl fleet reply for this central coast area on this matter. There is a limited fleet here and the time periods (hours and years) used may not be applicable for our small fleet.

C.4: Prohibit the Geographic Expansion of Fishing: Areas that have not been fished recently (2000-2002) would be closed to fishing to protect areas that are potentially pristine.

C.4.1: Trawl fisheries would be prohibited from fishing in areas that were untrawled during 2000-2002.

C.4.2: Apply the expansion limit to all bottom-tending gear types. The closure would extend west from a line approximating the 2,000 m (1,094 fm) depth contour to the seaward margin of the EEZ.

Consideration of the effects of all the C.3 options should be analyzed for the economic and social impacts to the coastal communities. The use of the 100 hours rule and the limited time period (i.e., 2000-2002) is not reasonable. We strongly suggest that the period be expanded to include at least the past ten - if not the past twenty - years of trawling. The one hundred hour rule may be sufficient, but we would request that the NMFS and PFMC take into consideration the trawl fleet reply for this central coast area on this matter. There is a limited fleet here and the time periods (hours and years) used may not be applicable for our small fleet.

C.5: Prohibit a Krill Fishery: We support as long as other fisheries and the harbor functions are not impacted and continue to be allowed.

C.6: Close Hotspots: Prohibits trawling in hotspot areas, where – in this case – hotspots are defined as habitat that has high probability of being EFH for a large number of groundfish. Areas that are associated with 50 or more species/lifestage combinations would be closed to bottom trawling.

We support this as long as other types of non-trawling fisheries are allowed in the “Hotspot” areas.

C.7: Close Areas of Interest: Closes any combination of the areas of interest HAPC’s designated under Alternative B.7 to fishing by specified gear types. (The 21 areas of interest listed under Alternative B.7 are underwater features, such as seamounts and submarine areas, or are currently under some form of protection.) Closures affect the following activities:

Option C.7.1: Close areas of interest to bottom trawling.

Option C.7.2: Close areas of interest to all bottom-contacting fishing activities.

This is an important alternative and is supported. However, there may be some areas that should be excluded to allow continued fishing and harbor functions, as may be historic and established by past or current use. Additional consideration on effect to historic and existing use by fishermen and harbors is required.

C.8: Zoning Fishing Activities: Limits the use of bottom-tending fishing gear to specified zones.

First, all areas deeper than the 2,000 m (1,094 fm) contour along the continental slope extending to the maximum westward range of groundfish EFH are closed to certain bottom-tending fishing gear types, according to the options described below.

Second, a five-year transition period to gear specific zones is established for the remaining area inside the 2,000 m contour, which remains open to these activities, subject to any other restrictions, for the five years from implementation (e.g., 2007-2011). Third, during this five-year period, NMFS conducts the research necessary to delineate zones where specified fishing activities would be permitted. At the end of the five-year transition period, the gear-specific zones come into effect and any remaining unzoned area is closed to affected gear types, according to the options described below. (Restrictions applied outside 2,000 m remain in effect.)

In identifying fishing zones, NMFS must demonstrate that any unavoidable adverse impacts would be minimal and temporary, based on the best scientific information available.

Option C.8.1: Fishing zones are established for bottom-contact trawls, dredges, and similar bottom-tending mobile fishing gear. Other bottom-contacting gear types are unaffected by the zoning system, including the prohibition outside 2,000 m.

We support as long as some bottom trawl and bottom-contact fishing is allowed and that all other types of fisheries are not impacted (i.e., pelagic and mid-water trawl/net).

Option C.8.2: Fishing zones are established for all bottom-contacting gear types, including bottom longlines, traps, and pots. The immediate closure outside of 2,000 m applies to all bottom-contacting gear types. In addition to establishing the zoning system, NMFS will conduct a gear substitution and modification research program, intended to redesign bottom fishing gear to reduce damage to habitat. This program will have a significant cooperative research element by employing fishermen in the design and testing of new gear.

We support as long as some bottom trawl and bottom-contact fishing is allowed and that all other types of fisheries are not impacted (i.e. pelagic and mid-water trawl/net).

The zoning system will be regularly modified to incorporate new information about habitat sensitivity and recovery factors, gear impacts on habitat, and to accommodate use of newly developed or modified gear.

This is an important statement that requires a follow up mitigation measure and policy to insure it is implemented.

C.9: Gear Restrictions: Specific gear modifications and prohibitions that are based on that interaction. The following gear restrictions would be implemented in areas identified as EFH for groundfish:

- C.9.1: Prohibit roller gear larger than 15 inches on bottom trawls.
- C.9.2: Prohibit the use of flat trawl doors (i.e., require cambered doors).
- C.9.3: Limit the length of a single longline groundline to 3 nm.
- C.9.4: Employ Habitat-Friendly Anchoring System.
- C.9.5: Prohibit dredge gear.
- C.9.6: Prohibit beam-trawl gear.
- C.9.7: Prohibit set-gillnets in waters deeper than 60 fm.
- C.9.8: Prohibit dingle bar gear (troll groundfish gear).

We support these mitigation measures and policies.

C.10: Central California No-trawl Zones: Based on a project being undertaken by two environmental advocacy organizations, The Nature Conservancy (TNC) and Environmental Defense Fund (EDF). Involves private funds used to purchase groundfish limited entry trawl licenses and vessels in concert with the designation of no-trawl zones off the central California coast. The project area extends from Point Conception to Davenport, California, and includes adjacent offshore seamounts (Gumdrop, Guide, Pioneer, Davidson, and Rodriguez).

TNC/ED have identified 23 permit holders they believe regularly trawl inside the project area. Most home port in Morro Bay, Moss Landing, Monterey, or Half Moon Bay. TNC/EDF intend to purchase a significant majority of the bottom trawling permits and vessels in this region if the Council/NMFS designates a significant portion of the project area as no-bottom-trawl zones.

TNC/ED will identify areas they think should be designated no-trawl zones using the GIS data developed as part of this EIS in combination with a participatory process involving trawl fishermen in the project area. If this alternative is adopted as an FMP and regulatory amendment, these areas will be closed to bottom trawling by NMFS once TNC/EDF have negotiated purchase contracts or options for at least half of the limited trawl permit holders they have identified as operating in the project area.

We generally support this Alternative only if a majority of the limited entry permit holders of local bottom trawl fishermen and other impacted fishermen cooperate with the NGO's in establishing the open trawl areas and agree with the closed areas. We suggest that a modified alternative be considered which allows for the collaboration of the NGO's and the bottom trawl fishermen to present a pilot project in the southern area of this Alternative study area (Pt. Conception to Pt. Sur) and then expand to the northern boundary of this Alternative study area in the nine months allocated for final action by the Pacific Fisheries Management Council. Consideration of the buy out program and unintended effects to the local harbors should be considered and offset with mitigation measures to insure the continued infrastructure is in place, new markets are explored, funding for new shore side fisheries support facilities are provided and the economic synergy is maintained for the shore side businesses in the local coastal communities. The Final EIS should also implement mitigation measures to prevent the

buy back program from becoming a burden to the local coastal communities and harbors if the subject vessels are abandoned and fall into disrepair, creating a nuisance.

C.11: Relax Gear Endorsement Requirements: Vessels holding a groundfish limited entry permit account for a large portion of groundfish landings. Currently, limited entry permits include a gear endorsement specifying the type of gear the permit holder may use. These endorsements identify three gear categories: trawl, longline, and pot. In addition, longline and pot gear permit holders may also have a sablefish endorsement. Permit holders with this species-specific endorsement may participate in the high-value primary sablefish fishery and are allocated vessel-specific catch quotas, known as tier limits because the endorsements fall into one of several categories, or tiers, with different catch quotas. Under this alternative, gear endorsements are relaxed but the sablefish endorsement is not. This would allow permit holders to switch gear types, providing fishermen greater flexibility in changing strategies based on prevailing conditions in the fishery.

We support this Alternative.

C.12: Close Ecologically Important Areas to Bottom Trawl: This alternative was proposed by the environmental group Oceana. The alternative would close a network of areas to bottom trawling; set a maximum footrope size of eight inches on bottom trawl gear within open area; require Vessel Monitoring Systems on all bottom trawl vessels with positions recorded every 5 minutes; increase onboard observer coverage on bottom trawl vessels to a level determined to be necessary by NOAA to estimate annual bycatch of habitat-forming invertebrates; establish a process for setting a limit on the bycatch of habitat-forming invertebrates; require ongoing research including comprehensive benthic mapping.

We would support this Alternative only if a majority of regional limited entry bottom trawl fishermen cooperate with this NGO in establishing the open trawl areas and agree with the closed areas and if all other fishing gear types would continue to be allowed in the EFH designated in the Alternative.

C.13: Close Ecologically Important Areas to Bottom-contacting Gear: The areas identified in Alternative C.12 would be closed to all bottom-contacting gear types, defined as both fixed gear (longlines, pots, and traps) and bottom trawl.

We oppose this alternative.

C.14: Close Ecologically Important Areas to Fishing: The areas identified in Alternative C.12 (see Figure 2-28) are closed to all fishing.

We oppose this alternative.

The Draft EIS fails to take into consideration or explain the current regulations and restrictions that are in place and should prepare a map with overlays in the Final EIS. The PFMC and NMFS should seriously consider these existing and possible future (such as the California State Blue Ribbon committee studying MPA's) actions that may overlap any designations being considered in this EIS.

This EIS includes the following statement: *6.1.7 EO 12866 (Regulatory Impact Review)* EO 12866, Regulatory Planning and Review was signed on September 30, 1993, and established guidelines for promulgating new regulations and reviewing existing regulations. The EO covers a variety of regulatory policy considerations and establishes procedural requirements for analysis of the benefits and costs of regulatory actions. Section 1 of the EO deals with the regulatory philosophy and principles that are to guide agency development of regulations. It stresses that in deciding whether and how to regulate, agencies should assess all of the costs and benefits across all regulatory alternatives. Based on this analysis, NMFS should choose those approaches that maximize net benefits to society, unless a statute requires another regulatory approach. The information and analyses in Chapter 4 of this EIS would be relevant to a Regulatory Impact Review (RIR) analysis of future regulations developed from this process. If proposed regulations are promulgated, an RIR would be prepared as part of a proposed regulatory package.

The question here is whether the Draft EIS sufficiently meets this requirement of an analysis of the benefits and costs of regulatory actions with regard to the designation of EFH and or HAPC. We would request that the NMFS expand the discussion on this EO and provide additional analysis of the proposed regulations on both the fishing fleets and the harbors and marinas within the study area.

We appreciate your consideration on this very important matter and look forward to the Final EIS including a response to our questions. Overall, we believe that the contents meet the minimum requirements of NEPA but the document must be expanded in the areas identified in our comments. We are available for consultation on our comments if you wish to discuss them further. Again, thank you for the opportunity to comment on this EIS.