Alliance of Communities for Sustainable Fisheries
256 Figueroa Street #1, Monterey, CA 93940
(831) 373-5238
www.alliancefisheries.com

May 20, 2014

Ms. Dorothy Lowman, Chair
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite101
Portland, OR 97220-1384

RE: Expansion, or the Creation of New, National Marine Sanctuaries on the West Coast

Dear Chair Lowman and Council Members,

The Alliance of Communities for Sustainable Fisheries (ACSF) is a 12-year-old 501(c)(3) not-for-profit educational organization, founded to connect fishermen with their communities, and to represent fishing interests in state and federal processes. The ACSF is a regional organization, with commercial fishing leader representatives from Monterey, Moss Landing, Santa Cruz, Morro Bay and Pillar Point harbors and Port San Luis on our Board of Directors. Port communities and several recreational fishing organizations also have representatives on our Board. Thus, the ACSF represents a large cross-section of fishing and community interests for the Central Coast of California. The ACSF was first formed, in part, to create a unified voice for fishing interests in response to the designation of the Monterey Bay as a National Marine Sanctuary (NMS). Thus, our organization has years of experience in working with a NMS.

Recently, proposals have been put forward to either expand existing Sanctuaries, or create new ones, along the West Coast. Many commercial and recreational fishermen, as well as community members, have asked about our experiences with the Monterey Sanctuary, and to a lesser degree the other California Sanctuaries.

The ACSF supports the broad goals of the NMS Program. There are Sanctuary educational and water quality programs, among others, which are of value to our communities. However, our experience is such that we feel that both Congress (in re-authorized National Marine Sanctuary Act (NMSA), and the Magnuson-Stevens Fishery Conservation and Management Act (MSA) ), and the NMS Program itself, need to make certain changes or clarifications to the law and Program before it grows or expands. These include:

1) Clarify that the MSA is the dominate statute for any fishing-related management issues, including the creation of marine protected areas, inside Sanctuaries and marine National Monuments. The existing language of the NMSA, which some have interpreted as providing Sanctuaries with the ability to override the regional fishery management councils, combined with the repeated statements from the sanctuary leaders that their primary mandate is “resource protection,” creates an atmosphere of intense unease among fishermen and other resource users. In the case of Monterey Sanctuary, it used
its prestige in California's Marine Life Protection Act process to lead the effort to create 29 marine reserves or marine conservation areas in the Central Coast of California, while rejecting a fishermen's proposal for a network that took into account socioeconomic needs.

2) Scholarly studies of the history and evolution of the NMSA indicate that Congress intends for the Sanctuary Program to balance resource protections, when needed, with multiple use opportunities. This, however, does not appear to be the value of the Program, which appears to tilt toward preservationist management. Congress would do well to make its intent even clearer in a re-authorized NMSA.

3) Task the NMSP and individual sites to use robust, peer-reviewed science in management decisions. The Sanctuaries have no equivalent of the Councils' Scientific and Statistical Committees (SSCs), nor any requirement to use the best available science in decision-making. Some Sanctuary science products are quite good; others appear to be advocacy pieces, which would benefit from an independent peer-review.

4) Fully comply with the Freedom of Information Act in content and in a timely manner.

5) The public in the sanctuary region must have a stronger, independent voice in Sanctuary management decisions. Currently, the main public input to sanctuaries is through "Sanctuary Advisory Councils" (SACs). While these SACs give the appearance of public participation, and are certainly populated by sincere people who are concerned about the health of the ocean, Sanctuary management controls the majority of representation of the SAC, and its agenda. (Perhaps the PFMC recalls recent controversy over the appointment of a fishing representative on the SAC.) These SACs also cannot communicate outside of the NMSP without management permission. Further, the SAC role is to provide advice, which can be accepted — or ignored. The SAC's are instructed to support the goals of sanctuary management, not to represent the will of the communities. Considering also that the resources of the Sanctuary are viewed by Program managers as national, not local resources, a loss of local control is created. Whether it is through changes in the NMSA, or internal Program changes, it is our experience and advice that the Sanctuary Program will need to solve this problem before communities will want or accept a new level of federal management in areas of the coast so dear to them.

6) The Sanctuary Program should explain why expansions, some quite large, do not violate Congressional intent, in as much as there is a prohibition on new sanctuary designations, found in the NMSA, until such time as the Sanctuary Programs shows that it is meeting its goals within its budget.

Fishermen have had at times, a difficult and disappointing relationship with Sanctuaries. For the Monterey Sanctuary, we have had a noteworthy recent improvement with a truly collaborative effort to create recommendations for groundfish essential fish habitat (EFH) boundary adjustments. We very much appreciate this improvement in our relationship, and hope this collaboration continues. The comments made above reflect our overall experience and ways in which, in our opinion, the NMSP can be improved and be made more attractive to future
communities. The ACSF does not believe sanctuaries should be expanded or new ones created until these issues are resolved.

Thank you for considering these comments.

Kathy Fosmark
Co-Chair

Frank Emerson
Co-Chair
23 May 2014

Ms. Maria Brown, Superintendent
Gulf of the Farallones National Marine Sanctuary
Building 991, O’Neill-Ueber Marine Campus
The Presidio
San Francisco, CA 94129

Mr. Dan Howard, Superintendent
Cordell Bank National Marine Sanctuary
1 Bear Valley Road, Pt. Reyes Station
P.O. Box 159
Olema, CA 94950

RE: Proposed Expansion and Regulatory Revision of Gulf of the Farallones and Cordell Bank National Marine Sanctuaries

Dear Superintendents Brown and Howard:

The Pacific Coast Federation of Fishermen’s Associations (PCFFA), representing working men and women in the West Coast commercial fishing fleet, has reviewed the above-entitled notice of proposed boundary expansion and regulatory revision and has the following comments. Please note these are preliminary comments offered at the outset of the public hearing process and additional comments may be submitted prior to the close of comments date.

**PREFACE**

PCFFA has had a long history working with both the Gulf of the Farallones and the Cordell Banks National Marine Sanctuaries. PCFFA worked for the creation of the original Pt. Reyes-Farallon Islands National Marine Sanctuary (later renamed the Gulf of the Farallones National Marine Sanctuary) in order to provide protection for important fishing grounds and the dependent fisheries, as well as provide protection for one of the world’s four major ocean upwelling areas.

Indeed, it was PCFFA that first suggested inclusion of Cordell Bank as part of a Point Reyes/Farallon Islands sanctuary in the early hearings on the creation of the sanctuary. That recommendation was not followed, but later, following undersea photographs of Cordell Bank, Cordell Bank was made a stand-alone marine sanctuary.

**STEWARDS OF THE FISHERIES**
In recent years, PCFFA worked with former Representative Lynn Woolsey, her staff, and sanctuary staff, on the proposed boundary expansion of the northern boundaries of the two sanctuaries, to ensure traditional fishing activity, as well as the fishing grounds, would be protected under such a boundary expansion.

PCFFA’s support for expansion (but not the proposal here) is based on the desire to protect the important fishing grounds and upwelling area encompassed under the expansion of these two sanctuaries. More importantly, however, it is based on the fishing community’s long and cordial working relationship and collaboration with past and present management and staff of the two sanctuaries. In fact, there is probably no other government entity – State or Federal – that PCFFA and the fishing community has worked closer with than the Gulf of the Farallones and Cordell Bank National Marine Sanctuaries.

PCFFA is highly troubled now, however, that a five-year review of sanctuary regulations (now in its third year) encompassing some highly controversial proposals for changes in sanctuary management, together with NOAA’s attempt to create a “one size fits all” set of national marine sanctuary rules, has been tacked onto proposed sanctuary boundary expansion language.

THE BOUNDARIES – NEED FOR GFNMS SOUTHERN BOUNDARY ADJUSTMENT

PCFFA currently has no preference among the alternatives proposed for the northern boundary expansions of the two sanctuaries. All of the alternatives for expansion would appear to fully encompass the upwelling area warranting protection that is not encompassed currently by the existing northern boundaries of the two sanctuaries.

What is missing in the proposal is the consideration of the need for a southern boundary adjustment for the Gulf of the Farallones National Marine Sanctuary. While the proposed north boundaries expansion would encompass the important area of upwelling, the current Gulf of the Farallones Sanctuary political boundary does not encompass the Gulf of the Farallones’ geographical/oceanographic boundary. PCFFA is troubled that, despite numerous comments on the southern boundary issues, NOAA has refused to take action to make this correction. Previously, NOAA did cede, reluctantly, management authority over the southern part of the Gulf of the Farallones, southward of its current political boundary, to Ano Nuevo to the Farallones Sanctuary, nevertheless a southern boundary expansion for that Sanctuary should have been included in a proposal for boundary expansion.

PCFFA recommends an alternative or alternatives in any boundary expansion proposal to move the Gulf of the Farallones sanctuary boundary south to Ano Nuevo (in an area now part of the Monterey Bay National Marine Sanctuary) to reflect the geographic/oceanographic boundaries of the Gulf of the Farallones. Such an adjustment would clarify for the public which sanctuary has authority over these waters and improve conservation and management of sanctuary waters in this area.

STEWARDS OF THE FISHERIES
TECHNICAL ISSUES TO BE ADDRESSED WITH A NORTHERN BOUNDARY CHANGE

In any northern boundary expansion of the sanctuaries, there are at least three technical issues PCFFA believes must be addressed whether a final proposal is just for a boundary expansion or includes the controversial regulatory package encompassed in the current proposal. They are:

**Bodega Bay Maintenance Dredging.** Language needs to be developed allowing routine maintenance dredging and nearshore ocean disposal of dredged material from Bodega Bay harbor. The dredging and disposal of dredged materials at Bodega Bay has been occurring for decades with no documentation of adverse impact on the environment. A northern boundaries’ sanctuaries expansion would encompass the waters offshore Bodega Bay. For that reason a special dredging provision for this harbor must be included (similar provisions were made for the Port of San Francisco’s Golden Gate harbor entrance dredge material disposal when the Gulf of the Farallones Sanctuary was first established in 1981). Without such a provision, the harbor would be left with two very costly alternatives – finding an onshore site or barging dredged materials offshore for disposal outside of the sanctuary boundary. Either of these would be too costly and would have the effect of closing Bodega Bay’s harbor. PCFFA understands the Gulf of the Farallones Sanctuary in in discussion with the Corps of Engineers regarding dredge material reuse and encourages this as a preferred method of disposal whenever possible.

**Gray Water Discharges from Commercial Fishing Vessels and Recreational Craft.** Language needs to be developed for the on-going discharge of non-toxic gray water from commercial fishing vessels and recreational craft. Most of this gray water consists of melted ice, fish slime and scales and entrails from fish dressed (cleaned) at-sea. These types of discharges have been occurring in these waters for over a century, have proven to be benign, and would not endanger sanctuary resources.

**Shipwrecks and the use of the Point Arena Pier.** There are at least two shipwrecks in the waters adjacent to the Point Arena pier. This area would be encompassed by the proposed northern boundary expansion. While there may be an interest in preserving the shipwreck sites, it is equally important that any preservation effort recognize the ongoing use of the Point Arena pier and not interfere with the historic and current uses of that pier.

REGULATION OF FISHING

PCFFA supported the proposal by former Representative Lynn Woolsey and other members of Congress specifying that management of fisheries within sanctuary waters would remain with existing state and federal fishery entities (i.e., California Department of Fish & Wildlife, California Fish & Game Commission, National Marine Fisheries Service, Pacific Fishery Management Council) in the proposed northern boundary expansion of the two sanctuaries.

PCFFA recognizes, however, the sanctuaries’ charge to protect the resources of the waters of the sanctuaries. To that end, Cordell Bank National Marine Sanctuary and the Gulf of the Farallones National Marine Sanctuary have developed a highly successful, albeit informal, method for dealing with conflicts between fishing and the protection of sanctuary resources in the few times a conflict has arisen.

STEWARDS OF THE FISHERIES
When the potential for fishing conflicts with sanctuary purposes has arisen, sanctuary management has contacted the fishing community, communicating the nature of the problem with any proposed solutions, soliciting input from the fishing community, including thoughts on the nature of the conflict and fishing community recommendations for a solution. Both sides have worked in good faith and with mutual respect. If regulatory action was needed, (i.e., beyond an agreement with the fishing community), the two sanctuaries have sought resolution by taking the issue to the California Fish & Game Commission for a state managed fishery, or to the Pacific Fishery Management Council for a federally managed fishery.

This approach has proven highly successful, minimizing interference with fishing while maximizing sanctuary resource protection. The sanctuaries have recognized the authority and expertise of the fishery management entities; the fishery management entities have recognized the sanctuaries’ charge to protect sanctuary resources. Indeed, the approach by the two sanctuaries to fishing issues should be a model for the nation; it is the primary reason these two sanctuaries are held in high regard by both the fishing community and fishery management entities.

What concerns PCFFA is that this has been a largely informal process; there is no guarantee this process of addressing fishing issues will be followed by future sanctuary management, much less their overseers at NOAA. PCFFA requests therefore that the current process be formalized in regulation and preferably codified where it would be followed by all of the marine sanctuaries.

As mentioned above, PCFFA supported creation of the sanctuaries, and initial proposals for expansion, to provide additional protection for important fishing grounds and one of the world’s great upwelling areas. PCFFA is now very concerned with the effort by some in NOAA and upper sanctuary office management to slip a stealth fisheries regulatory package into what was a widely supported proposal for the expansion of these two sanctuaries’ boundaries. By “stealth fisheries regulation” we mean the designation of so-called “research areas” and “areas of special biological concern.” This action, at best, shows bad faith and, at worst, is devious and deceitful.

WAIVERS OF SANCTUARY PROTECTION

Not only has slipping stealth fishery regulations into the boundary expansion been a breach of faith with the public, but one of the proposals would seriously weaken existing sanctuary protections.

PCFFA appreciates and fully supports the continuing ban on offshore oil and gas development within sanctuary waters, but is aghast at the proposal to allow a sanctuary superintendent (or, in fact, that superintendent’s superior) to waive sanctuary rules and allow for, among other things:

- Renewable energy development, which could include wave or offshore wind in sanctuary waters. This is particularly troubling since such development could be harmful to
sanctuary resources and there is no compelling reason along the West Coast for this form of offshore energy development given the potential for solar and wind development onshore.

- Disposal of municipal sewage water
- Dumping
- Mining
- Installation of cables on the seafloor
- Expanded shellfish mariculture using non-native species
- Offshore finfish aquaculture with the potential for escapes, marine mammal interactions, pollution (e.g., fecal material from these concentrated “feed lot” types of operation, pesticides used to control sea lice, herbicides used to control algae growth), spread of disease or parasites into the wild, and conflicts with navigation.

These types of non-traditional and harmful activities are exactly what sanctuaries were first established to protect against. Allowing them would be contrary to the purpose of marine sanctuaries; all would be harmful to our fish stocks and fisheries.

CONCLUSION

PCFFA, although a long-time supporter and friend of both the Gulf of the Farallones and Cordell Bank National Marine Sanctuaries, has no option other than to oppose the current proposal that has wrapped a controversial set of regulatory changes into the proposed boundaries expansion. PCFFA urges the expansion be separated from the regulatory change package, and they be dealt with separately. As to the latter, PCFFA believes that any regulatory package should be considered together with a statutory package that, among other things, clarifies the sanctuary - fishery management issue at the national level.

Sincerely,

W.F. “Zeke” Grader, Jr.
Executive Director

cc: The Honorable Barbara Boxer
    The Honorable Dianne Feinstein
    The Honorable Jared Huffman
    Pacific Fishery Management Council
    California Fish & Game Commission

STEWARDS OF THE FISHERIES