

## SUPPLEMENTAL HABITAT COMMITTEE REPORT

In the event the Council wishes to append a Habitat Committee (HC) Statement to a letter to the National Marine Sanctuary (NMS) on agenda item C.2. regarding the National Marine Sanctuary expansion, the following points represent the HC's comment on habitat related matters.

HC comments on Gulf of Farallones and Cordell Bank National Marine Sanctuary expansion:

### **1. Essential Fish Habitat**

As you know, the Magnuson-Stevenson Fishery Conservation and Management Act (MSA) includes provisions to identify, conserve, and enhance essential fish habitat (EFH) for species managed under a Council fishery management plan. Its provisions deal with both fishing impacts and non-fishing impacts to EFH. The MSA requires the Council to identify and describe EFH and recommends designating habitat areas of particular concern (HAPCs) for its managed species. EFH is the habitat necessary for each Council-managed species to support a sustainable fishery and the managed species' contribution to a healthy ecosystem, while HAPCs are high priority areas for conservation, management, or research because they are rare, sensitive, stressed by development, or important to ecosystem function. Each Council is authorized under the MSA to comment on any Federal or state activity that, in the view of the Council, may affect the habitat, including EFH, of a fishery resource under its authority. In the region of the proposed sanctuary expansion, EFH for groundfish exists from the shore to the 3500 meter line. Thus, it encompasses the entire proposed expansion area.

Sanctuary management of the expanded area may add to existing habitat and ecosystem knowledge, and the new information, research and mapping that Sanctuaries may provide will help inform updates to EFH for Council-managed species.

### **2. Existing Regulations Related to Habitat Protection**

The HC is encouraged that the Office of National Marine Sanctuaries (ONMS) has incorporated regulatory and non-regulatory programs in the proposed management plans that may advance protections and public knowledge of ecosystem and habitat science, such as water quality education and outreach and invasive species awareness. The protections within these programs are similar to those implemented by the Gulf of Farallones and the Monterey Bay National Marine Sanctuary programs. Since there are numerous existing habitat regulations in place by other Federal and state agencies, as noted in the draft environmental impact statement (DEIS) (Sections 4.3.2 and 4.7-3), it is not clear how Sanctuary designation will improve on existing protection measures. It would be useful to include a table that summarizes all the existing and proposed protective measures and regulations for the expansion area, with an explanation of how additional protective measures benefit the resources.

### **3. Additional Permitted Uses in the Sanctuaries**

The HC notices that there is a regulation change proposed giving the GFNMS and CBNMS “Authorization” capability, similar to existing regulation in the Monterey Bay National Marine Sanctuary. It appears that additional uses and discharges in the existing sanctuary that have been prohibited in the past as well as in the proposed expansion area could be allowed if a proposed use or activity is approved by another federal, State or local agency. In order for ONMS to authorize an otherwise prohibited activity that was permitted, licensed or otherwise authorized by another federal State or local agency, ONMS would need to make a finding that the activity will have at most short term and negligible adverse effects on Sanctuary resources and qualities. ONMS may also require the applicant to comply with any terms and conditions deemed necessary to protect sanctuary resources and qualities. This change may be useful for considering discharges with minimum impacts, such as to allow the discharge of grey water from fishing boats, a welcome flexibility. It also may allow consultation with the Council and state agencies so as to analyze whether it is appropriate to allow the activity and if so, what conditions to impose to protect sanctuary resources and qualities.

### **4. Upwelling Zone Protection**

A primary stated purpose for Sanctuary expansion is to protect the resources of the important upwelling zone off Point Arena. Sections 4.2, 4.3, and 4.4 of the DEIS provide a general analysis of the environmental consequences of this action on physical and biological resources. However, it is unclear how Sanctuary expansion would protect or benefit this upwelling zone. The HC requests additional information on the benefits of the expansion with respect to protection of the upwelling zone and associated resources. The HC is pleased to see that there is a comprehensive monitoring plan proposed, the HC recommends an analysis in the final EIS regarding how the monitoring plan will further protection of the upwelling waters. This is an essential part of habitat conservation efforts in light of impacts such as ocean acidification.

### **5. Oil and Gas Development**

The HC welcomes the prohibition of oil and gas development in the area of Sanctuary expansion, while noting that it is unclear that such a threat exists in this area. Since the public generally believes that Sanctuary designation would bring permanent protection from such development, it is important that the DEIS clearly note that there are exceptions to this, and the prohibition is not necessarily permanent. The HC also recommends making note of what protections and prohibitions are already in place by other state and federal agencies.

### **6. Alternative Offshore Energy**

The proposal does not prohibit offshore hydrokinetic energy development as it does oil and gas development. It would be helpful to understand the Sanctuaries’ policy and criteria for hydrokinetic energy development in Sanctuaries. The HC supports a comprehensive marine spatial planning effort to analyze existing uses, including fishing and habitat conservation uses, and recommends the DEIS incorporate clear direction on how Sanctuaries will evaluate wave and wind energy proposals, and what role the Council will have in this evaluation.

## **7. Department of Defense Activities**

The DEIS states that ongoing Department of Defense activities occurring at the time of expansion would be exempt from the prohibitions listed in the proposed regulations, although there would be consultation with the Sanctuaries. The HC suggests that Sanctuaries develop a formal consultation process with DOD to assure minimization of impacts and include Council and NMFS notification within this process so that impacts to EFH in the Sanctuaries can be minimized.

## **8. Wildlife Protection Zones**

The DEIS and revised Management Plans describe a resource protection plan and regulations that might include designating Special Wildlife Protection Zones. The HC understands the intent is to protect areas from cargo vessels and aircraft, and that these zones were previously named “Cargo Vessel Restriction Zones” and “Overflight Restriction Zones.” To avoid misunderstanding of the intended restrictions, the names and definitions of these zones should be clearly articulated in the final EIS. Are there limitations of the types of activities that can be regulated in such a zone? The final EIS should clearly articulate under what circumstances and for what purposes these Special Wildlife Protection Zones can be used in the future.

## **9. Management and Enforcement Resources**

Given the current uncertainties of federal funding for programs, the HC has concerns that the resources required to manage this large new area could detract from the protection of existing resources in already designated Sanctuaries. The final EIS should identify what additional enforcement capabilities—beyond existing state and federal law enforcement agencies--will come with sanctuary designation. An analysis of these questions would be appreciated, with an assurance that the management of existing sanctuaries will not be compromised.

PFMC  
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