

GROUND FISH ADVISORY SUBPANEL REPORT ON  
REVIEW OF OREGON OCEAN POLICY ADVISORY COUNCIL REPORT

The Oregon Ocean Policy Advisory Council (OPAC) Status Report is very thorough and objective. It is an excellent example of using a transparent public process to analyze a proposal. OPAC made every effort to receive input from all sides of this issue. Officials representing the National Marine Sanctuary Program were given ample agenda time to present information favorable to this sanctuary proposal. Somewhat less agenda time was afforded to individuals representing a counter viewpoint. Nonetheless, ample and equal time was religiously provided for public comment during the appropriate periods at each meeting.

OPAC looked at two issues regarding an Oregon National Marine Sanctuary (NMS): (1) fishery management in National Marine Sanctuaries, and (2) sanctuary governance relative to federal vs. state and local control.

1. Fishery management in National Marine Sanctuaries.

On this issue there is complete agreement with the OPAC report statement: *Many existing sanctuaries directly or indirectly get involved with fishery management.*

It is felt that the report statement would have even greater accuracy if the word *indirectly* were omitted. Experience reveals that sanctuaries have a direct de-facto regulatory authority to manage fisheries. A sanctuary can set “goals and objectives” independent of science-based public process, which PFMC must use as required by federal statute. These “goals and objectives” are usually resource protection based and in conflict with mandates of the Magnuson-Stevens Act. The sanctuary can then impose these protection requirements on the PFMC deliberations. Scrutiny of the need for these protections is not an issue open to determination by PFMC through its scientific processes. In this situation the PFMC reluctantly becomes an entity which is expected to “rubber stamp” sanctuary fishery management proposals. PFMC becomes a secondary authority in this situation.

If the PFMC chooses not to “rubber stamp” a proposal it becomes likely the Council will simply be bypassed in the future. A sanctuary can apply to the U.S. Secretary of Commerce for a change in sanctuary designation documents to allow it to regulate fishing directly through the National Marine Sanctuary Act. This application process is ongoing at present.

That the PFMC regulates fishing in a NMS is merely a process perception. It is not, in practice, a reality.

2. Sanctuary governance relative to federal vs. state and local control.

A statement on governance (p. 16) that addresses the primary issue: *Based on what OPAC has learned to date, establishing governance arrangements favorable to state, local, ocean user, and conservation interests in Oregon would be especially challenging for the large sanctuary now being proposed.*

Many members of the PFMC and its advisory bodies have been directly involved with sanctuary governance. The West Coast sanctuaries are not structured statutorily or culturally to accommodate local control. The only true authority is the sanctuary manager. All other governance groups of a given sanctuary are selected by the manager and are advisory only. Since the manager is a federal employee with ultimate local authority, it is only by manager's choice that an advisory member with local and/or state interests could have significant influence.

Comment on National Marine Sanctuary Program review of OPAC report.

Several statements in the NMS Program review of the OPAC report by Daniel J. Basta are of concern.

1. *The communities and states where there are sanctuaries are all supportive of having a sanctuary.*

This statement is misleading in that many local interests have expressed serious concerns over the culture of political manifest destiny exhibited by some sanctuary management regimes. No vote has ever been allowed to terminate the existence of a sanctuary, so support therefore must be assumed. OPAC was presented, through public testimony, over 23 letters from local sanctuary interests expressing serious conflict with sanctuary management.

2. *OPAC has heard from a single member of one user group (commercial fishing) from one sanctuary community.*

This statement is misleading as well. The referenced person is a designated representative of a very large and diverse group of stakeholders and local government entities. This was not an individual representing one person's viewpoint. There was much input from California sanctuary user groups and communities submitted through written and oral testimony in public comment.

3. *The NOAA administrator has recognized that NOAA has two authorities that can be used to regulate a fishing activity in national marine sanctuaries, and that NOAA will consider the use of both the Magnuson-Stevens Act and the NMSA, either exclusively or in conjunction, to meet NOAA's goals.*

This statement is accurate. It is also a revealing, clear statement of a perceived position of supreme authority over other management entities whose jurisdictions may include land, sea, or air space.

PFMC  
04/04/07