

CURRENT HABITAT ISSUES

The Habitat Committee (HC) will meet on Monday, June 12, 2006, to conduct a planning session on future HC priorities and tasks. In addition, the Council received a response to its letter to the Federal Energy Regulatory Commission (FERC) calling for the decommissioning and removal of the four lower Klamath dams (Agenda Item D.1, Attachment 1).

Council Action:

Consider comments and recommendations developed by the HC at its June meeting.

Reference Materials:

1. Agenda Item D.1, Attachment 1: Response letter from FERC.
2. Agenda Item D.1.a, Supplemental HC Report.
3. Agenda Item D.1.c, Public Comment.

Agenda Order:

- a. Report of the HC
- b. Reports and Comments of Advisory Bodies
- c. Public Comment
- d. **Council Action:** Consider HC Recommendations

Stuart Ellis

PFMC
05/22/06

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426
May 12, 2006

OFFICE OF ENERGY PROJECTS

Project No. 2082-027 – California
and Oregon
Klamath Hydroelectric Project
PacifiCorp

Donald O. McIssac
Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Ste. 200
Portland, OR 97220-1384

RE: PFMC Essential Fish Habitat Recommendation

Dear Mr. McIssac:

We received your letter, dated April 24, 2006, forwarding the Pacific Fishery Management Council's Essential Fish Habitat (EFH) recommendations and comments on the relicensing of PacifiCorp's Klamath Project (FERC No. P-2082). As you point out, under section 305(b)(3) of the Magnuson-Stevens Act, the Pacific Council is obligated to comment and make recommendations on activities that, in the view of the Council, are likely to substantially affect the habitat (including EFH) of anadromous fish under its authority, and that under section 305(b)(4)(B), federal agencies must respond to such comments within 30 days.

However, we think your EFH recommendations are premature. Although PacifiCorp filed its application to relicense the project in February 2004, we have just recently received comments, recommendations, terms and conditions, and prescriptions from state and federal agencies, tribes, and other interested parties, and are now conducting our analysis of the proposed action and alternatives. As such, there is no proposed activity at this point and, accordingly, we have not completed preparation of our EFH Assessment. We will consider your April 24, 2006, EFH comments under section 10(a) of the Federal Power Act as we prepare our Draft Environmental Impact Statement (DEIS). Our DEIS will include our EFH Assessment and is currently scheduled to be issued in July, 2006. We will look forward to your comments and any EFH recommendations after you've reviewed our DEIS and EFH Assessment.

On a related note, I would like to take this opportunity to comment on footnote 2 of your letter, which states “we understand that the Keno and Link Dams are not currently being relicensed” and that “the Council calls upon FERC” to address the operation of Keno and Link dams. Please note that although Keno dam is not part of PacifiCorp’s proposed project, it is part of the existing project and the Commission will determine whether and under what conditions Keno dam will be included in any new license issued for the project. Link River dam, on the other hand, is not a component of the existing or proposed Klamath hydroelectric project, but is owned and operated by (or under the direction of) the U.S. Department of the Interior’s Bureau of Reclamation. You should address any concerns you have concerning the operation of Link River Dam to them.

Thank you for your interest in Commission activities. If you have any questions concerning the foregoing, please contact John Mudre at (202) 502-8902.

Sincerely,

Timothy J. Welch
Chief
Hydro West Branch 2

cc: Public Files
Mailing List

Scientific Consensus Statement for Mapping the Oregon Territorial Seafloor

Agenda Item D.1.a
SUDD. Attachment 2
June 2004



For Oregon, as for most coastal states, the sea represents both a valuable resource and a potential threat. The sea provides many Oregonians with a livelihood, food, and recreation, and it attracts visitors to our coastal communities. The sea also represents a significant threat in the form of an inevitable earthquake-generated tsunami, akin to the recent one in Indonesia.

Understanding the nature of Oregon's Territorial Sea is critical to sustaining sport and commercial fisheries, coastal tourism, and a broad range of other ocean derived ecosystem services valued by Oregonians, in addition to addressing the threat posed by a major tsunami.

Presently, we have detailed bottom mapping of only about 5% of the area of the Oregon Territorial Sea, which extends 3 nautical miles from the coast and comprises approximately 950 square nautical miles. Effective decisions concerning the management and conservation of ocean resources and the modeling of shoreline inundation and erosion from storm waves or a tsunami all depend upon better knowledge of the nearshore waters.

This consensus statement expresses the belief that completing seafloor mapping of Oregon's coastal nearshore ocean is of the highest priority. We, the undersigned academic and government agency scientists, urge State and Federal officials to support and expedite ocean floor mapping of Oregon's territorial sea within the next two years. Oregon Statewide Planning Goal 19 (12/1/2000) calls for stewardship and conservation of ocean resources in Oregon's Territorial Sea. This consensus statement is consistent with and inspired by Goal 19.

Seafloor mapping of the Oregon continental margin is presently underway through a variety of efforts. However, the nearshore area is commonly left out due to the difficulty of mapping in shallow waters and insufficient resource allocations. As a group of leading scientists engaged in all aspects of study of our coastal ocean, we

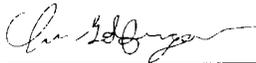
urge an initiative to map the seafloor of our coastal territorial sea. The costs are not excessive (under \$6 million), and the benefits are inestimable. Presently, there is no State or Federal agency charged with this responsibility. Over the last several years, new sonar technologies, and the associated data management infrastructure, have moved what was once prohibitively expensive within our reach. Nevertheless, current efforts to accomplish this important work are insufficient. Without a coordinated effort, it will take 50 years or more at the present rate of progress. This pace is much too slow to meet the needs of coastal erosion studies, tsunami planning and resource management decision-making.

Specifically, we recommend mapping of the seafloor of the Oregon Territorial Sea for the following reasons:

- Oregon, along with Northern California, Washington, and Vancouver Island, faces a 20% probability of experiencing a magnitude-9 subduction earthquake and tsunami in the next 50 years, much like the 2004 disaster in Indonesia. We are just now beginning to understand what this disaster will mean for the Oregon coast. For the many towns along the coast, we presently cannot say how far the waters will rise, because the modeling of tsunami waves depends on detailed knowledge of coastal water depths that presently does not exist. Managing the hazards posed by this inevitable geological event requires this knowledge.
- We now understand that many Oregon nearshore fisheries and other marine life are dependent upon spatially explicit, yet limited, habitat features. Describing and classifying nearshore habitats are essential components of effectively assessing and managing Oregon's marine resources, including nearshore fish populations for both the Federal Essential Fish Habitat and State nearshore management processes.

• Governor Kulongoski has tasked the Oregon Ocean Policy Advisory Council (OPAC) with further developing and advising him on two challenging spatial management topics. First, is the continuation of the 2002 OPAC recommendation for a limited system of marine reserves within Oregon State waters to evaluate their efficacy in meeting nearshore conservation and management goals. Second, in December 2005, the Governor proposed the establishment of a National Marine Sanctuary off the Oregon coast, and has tasked OPAC with identifying and evaluating information and issues to guide this proposal. A detailed seafloor map depicting geologic and habitat features is essential as a scientific support tool for discussion and informed decision-making

We, the undersigned, urge the implementation of an Oregon state waters seafloor mapping plan to support the resolution of these issues at the earliest possible time. This consensus group has already outlined a working plan to utilize idled fishing vessels staffed by university, State and Federal agency scientists. Efforts supported by NOAA to augment those already made by ODFW will begin in Summer, 2006.



Chris Goldfinger
College of Oceanic and Atmospheric Sciences, Oregon State University



Chris Romsos



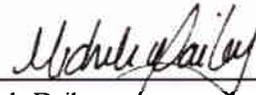
Andy Lanier



Dawn Wright
Department of Geosciences, Oregon State University



Bob Yeats



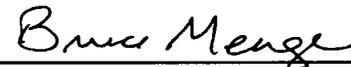
Michele Dailey



Mark Hixon
Department of Zoology, Oregon State University



Jane Lubchenco



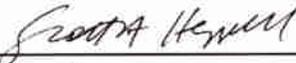
Bruce Menge



Sherman Bloomer, Dean
College of Science, Oregon State University



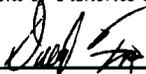
Mark Abbott, Dean
College of Oceanic and Atmospheric Sciences, Oregon State University



Scott Heppell
Department of Fisheries & Wildlife, Oregon State University



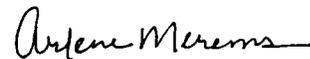
Selena Heppell



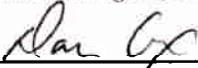
Dave Fox
Marine Resources Program, Oregon Department of Fish & Wildlife



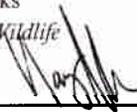
Hal Weeks



Arlene Merems



Dan Cox
Coastal and Ocean Engineering Program, O.H. Hinsdale Wave Research Laboratory, Oregon State University



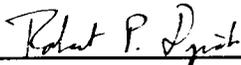
Harry Yeh



Solomon Yim



Vicki McConnell
State Geologist and Director, Oregon Department of Geology and Mineral Industries



Bob Dziak
Pacific Marine Environmental Lab, National Oceanic & Atmospheric Administration (NOAA)

DRAFT

June 13, 2006

Michael Murray
Management Plan Coordinator
Channel Islands National Marine Sanctuary
113 Harbor Way, Suite 150
Santa Barbara, CA 93109

Dear Mr. Murray:

The Pacific Fishery Management Council wishes to comment on the revised Channel Islands National Marine Sanctuary Draft Management Plan/Draft Environmental Impact Statement. The Council's comments deal specifically with the following issues:

Prohibition 1. The proposed action is a change from the status quo that makes the current prohibition on oil and gas development more strict. We concur with this change.

Prohibition 2. We concur with the proposed action, which prohibits other mining activities within the Sanctuary.

Prohibition 3. This is an alteration to an existing rule that prohibits discharging or depositing materials, other than normal materials resulting from lawful fishing activity, including chum used as bait. We concur with both the proposed action and Alternative 1.

Prohibition 4. We concur with the proposed action, which prohibits altering the seabed in any way. Lawful fishing activities and anchoring are excluded from the prohibition.

Prohibition 5. This is a new proposal that prohibits the abandonment of structural material or other matter in Sanctuary waters. It is unclear whether this regulation applies to fishing gear that is accidentally lost during the course of normal fishing activities.

Prohibition 6. The proposed action and Alternative 1 contain language prohibiting large vessels such as tankers and cruise ships from approaching Sanctuary islands, but specifically excludes fishing vessels from the prohibition. We concur.

Prohibition 12. This is a new proposal that prohibits release of introduced species, except for striped bass released during catch and release fishing. We concur.

Prohibition 14. This is a new proposal prohibiting lightering, or non-emergency at-sea refueling. We concur.

We are not commenting on the boundary description clarification, Prohibition 7 (disturbing of seabirds or marine mammals by aircraft overflight), Prohibition 8 (moving,

removing, possessing, or injuring a Sanctuary historical resource), Prohibition 9 (taking a marine mammal, sea turtle, or seabird), or Prohibition 11 (tampering with signs). (There is no Prohibition 10).

Although our Habitat Committee initially thought that these prohibitions excluded normal fishing activities, upon further study it is unclear whether Prohibition 5 makes fishermen liable for gear (like lines and nets) lost in the course of normal fishing activities. The Council would like clarification on this issue. If the intent of the regulation would force fishermen who accidentally lose gear to make unreasonable efforts to recover it, the Council suggests the language be modified to the effect that lost gear should be recovered when physically and economically practicable, but not to penalize the accidental loss of gear that cannot be reasonably recovered.

Thank you for the opportunity to comment on the draft management plan.

Sincerely

DRAFT

**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update**

<p>No Action (Status Quo)</p>	<p>Proposed Action Underlined (new) and strike through (deleted) text show differences from No Action (Status Quo)</p>	<p>Alternative 1 (bold text is different from Proposed Action)</p>
<p>Sanctuary Boundary (15 CFR 922.70). The Channel Islands National Marine Sanctuary (Sanctuary) consists of an area of the waters off the coast of California of approximately 1252.5 square nautical miles (NM) adjacent to the following islands and offshore rocks: San Miguel Island, Santa Cruz Island, Santa Rosa Island, Anacapa Island, Santa Barbara Island, Richardson Rock, and Castle Rock (collectively the Islands) extending seaward to a distance of six NM. The boundary coordinates are listed in appendix A to this subpart.</p>	<p>Sanctuary Boundary. The Channel Islands National Marine Sanctuary (Sanctuary) consists of an area of the waters off the coast of California of approximately 1252.51243 square nautical miles (NM) of coastal and ocean waters, and the submerged lands thereunder, off the southern coast of California. The Sanctuary boundary begins at the Mean High Water Line of and extends seaward to a distance of approximately six NM adjacent to <u>from</u> the following islands and offshore rocks: San Miguel Island, Santa Cruz Island, Santa Rosa Island, Anacapa Island, Santa Barbara Island, Richardson Rock, and Castle Rock (collectively the Islands) extending seaward to a distance of six NM. The <u>seaward</u> boundary coordinates are listed in the a<u>Appendix</u> A to this subpart.</p>	<p>Sanctuary Boundary. Same as Proposed Action</p>
<p>1. Oil and Gas. Prohibited: Exploring for, developing, and producing hydrocarbons except pursuant to leases executed prior to March 30, 1981, and except the laying of pipeline, if the following oil spill contingency equipment is available at the site of such operations: (i) 1500 feet of open ocean containment boom and a boat capable of deploying the boom; (ii) One oil skimming device capable of open ocean use; and (iii) Fifteen bales of oil sorbent material, and subject to all prohibitions, restrictions and conditions imposed by applicable regulations, permits, licenses or other authorizations and consistency reviews including those issued by the Department of the Interior, the Coast Guard, the Corps of Engineers, the Environmental Protection Agency and under the California Coastal Management Program and its implementing regulations. Other Exceptions: • Except as may be necessary for the national defense • Except as may be necessary to respond to an emergency threatening life, property, or the environment • Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72</p>	<p>1. Oil and Gas. Prohibited: Exploring for, developing, and/or producing hydrocarbons <u>within the Sanctuary</u>, except pursuant to leases executed prior to March 30, 1981, and except the laying of pipeline <u>pursuant to exploring for, developing, or producing hydrocarbons</u>, if the following oil spill contingency equipment is available at the site of such operations: (i) 1500 feet of open ocean containment boom and a boat capable of deploying the boom; (ii) One oil skimming device capable of open ocean use; and (iii) Fifteen bales of oil sorbent material, and subject to all prohibitions, restrictions and conditions imposed by applicable regulations, permits, licenses or other authorizations and consistency reviews including those issued by the Department of the Interior, the Coast Guard, the Corps of Engineers, the Environmental Protection Agency and under the California Coastal Management Program and its implementing regulations. Other Exceptions: • Except as may be necessary for the national defense • Except as may be necessary to respond to an emergency threatening life, property, or the environment; • Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72</p>	<p>1. Oil and Gas. Same as Proposed Action</p>
<p>2. Mineral Activities. No existing regulation</p>	<p>2. Mineral Activities. Prohibited: <u>Exploring for, developing, or producing minerals within the Sanctuary, except producing by-products incidental to hydrocarbon production allowed by paragraph (a)(1) of this section [see #1 above].</u></p>	<p>2. Mineral Activities. Same as Proposed Action</p>

Table 2.1-1, Page 1 of 9

**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)**

<p>No Action (Status Quo)</p>	<p>Proposed Action <u>Underlined</u> (new) and strike through (deleted) text show differences from No Action (Status Quo)</p>	<p>Alternative 1 (bold text is different from Proposed Action)</p>
<p>3. Discharging or Depositing. Prohibited: Discharging or depositing any material or other matter except: (i) Fish or fish parts and chumming materials (bait); (ii) Water (including cooling water) and other biodegradable effluents incidental to vessel use of the Sanctuary generated by: (A) Marine sanitation devices; (B) Routine vessel maintenance, e.g., deck wash down; (C) Engine exhaust; or (D) Meals on board vessels; (iii) Effluents incidental to hydrocarbon exploration and exploitation activities allowed by paragraph (a)(1) of this section [see #1 above].</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • Except as may be necessary for the national defense • Except as may be necessary to respond to an emergency threatening life, property, or the environment • Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72 	<p>3. Discharging or Depositing. Prohibited: Discharging or depositing <u>from within or into the Sanctuary</u> any material or other matter except: <u>(A)(i) Fish, or fish parts, and or chumming materials (bait) used in or resulting from lawful fishing activity within the Sanctuary, provided that such discharge or deposit is during the conduct of lawful fishing activity within the Sanctuary;</u> <u>(B)(ii) Water (including cooling water) and other biodegradable effluents incidental to vessel use of the Sanctuary and generated by:</u> <u>(A) an operable Type I or II marine sanitation devices (U.S. Coast Guard classification) approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended, (FWPCA), 33 U.S.C. 1321 et seq. Vessel operators must lock all marine sanitation devices in a manner that prevents discharge of untreated sewage;</u> <u>(B)(C) Routine vessel maintenance, e.g., Biodegradable matter from a vessel resulting from deck wash down, vessel engine cooling water, or graywater as defined by section 312 of the FWPCA;</u> (C)(D) Vessel eEngine or generator exhaust; or (D) Meals on board vessels; (iii) (E) Effluents routinely and necessarily discharged or deposited incidental to hydrocarbon exploration, development, or production and exploitation activities allowed by paragraph (a)(1) of this section [see #1 above]; <u>(F) Discharges allowed under section 312(n) of the FWPCA; or</u> <u>(ii) Discharging or depositing from beyond the boundary of the Sanctuary any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality, except those listed in subparagraphs (a)(3)(i)(B) through (F) of this section and fish, fish parts, or chumming materials (bait) used in or resulting from lawful fishing activity beyond the boundary of the Sanctuary, provided that such discharge or deposit is during the conduct of lawful fishing activity there.</u></p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • Except as may be permitted by the Director in accordance with <u>the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.</u> • Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment. • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] 	<p>3. Discharging or Depositing. Prohibited: Discharging or depositing <u>from within or into the Sanctuary</u> any material or other matter except: <u>(A)(i) Fish, or fish parts, and or chumming materials (bait) used in or resulting from lawful fishing activity within the Sanctuary, provided that such discharge or deposit is during the conduct of lawful fishing activity within the Sanctuary;</u> <u>(B)(ii) Water (including cooling water) and other biodegradable effluents incidental to vessel use of the Sanctuary and generated by: (A) an operable Type I or II marine sanitation devices (U.S. Coast Guard classification) approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended, (FWPCA), 33 U.S.C. 1321 et seq. excluding any vessel of 300 gross registered tons or more. Vessel operators must lock all marine sanitation devices in a manner that prevents discharge of untreated sewage;</u> <u>(B)(C) Routine vessel maintenance, e.g., Biodegradable matter from a vessel resulting from deck wash down, vessel engine cooling water, or graywater as defined by section 312 of the FWPCA;</u> (C)(D) Vessel eEngine or generator exhaust; or (D) Meals on board vessels; (iii) (E) Effluents routinely and necessarily discharged or deposited incidental to hydrocarbon exploration, development, or production and exploitation activities allowed by paragraph (a)(1) of this section [see #1 above]; <u>(F) Discharges allowed under section 312(n) of the FWPCA; or</u> <u>(ii) Discharging or depositing from beyond the boundary of the Sanctuary any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality, except those listed in subparagraphs (a)(3)(i)(B) through (F) of this section and fish, fish parts, or chumming materials (bait) used in or resulting from lawful fishing activity beyond the boundary of the Sanctuary, provided that such discharge or deposit is during the conduct of lawful fishing activity there.</u></p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • Except as may be permitted by the Director in accordance with <u>the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.</u> • Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment. • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.]

Table 2.1-1, Page 2 of 9

**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)**

<p>No Action (Status Quo)</p>	<p>Proposed Action <u>Underlined</u> (new) and struckthrough (deleted) text show differences from No Action (Status Quo)</p>	<p>Alternative 1 (bold text is different from Proposed Action)</p>
<p>4. Altering the Seabed. Prohibited: Except in connection with the laying of any pipeline as allowed by paragraph (a)(1) of this section, within 2 NM of any Island: (i) Constructing any structure other than a navigation aid, (ii) Drilling through the seabed, or (iii) Dredging or otherwise altering the seabed in any way, other than (A) To anchor vessels, or (B) To bottom trawl from a commercial fishing vessel. Other Exceptions: <ul style="list-style-type: none"> • Except as may be necessary for the national defense • Except as may be necessary to respond to an emergency threatening life, property, or the environment, • Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72 </p>	<p>4. Altering the Submerged Lands. Prohibited: Except in connection with the laying of any pipeline as allowed by paragraph (a)(1) of this section, within 2 NM of any Island: (ii) Drilling into through the seabed, (iii) Dredging, or otherwise altering the seabed submerged lands of the Sanctuary in any way, other than: (i) or <u>Constructing or placing any structure other than a navigation aid, material, or other matter on or in the submerged lands of the Sanctuary, except as incidental to and necessary to:</u> (A)(i) To anchor a <u>vessels;</u> (ii) <u>Install an authorized navigational aid;</u> (B) (iii) To bottom trawl from a commercial fishing vessel <u>Conduct lawful fishing activity;</u> (iv) <u>Lay pipeline pursuant to exploring for, developing, or producing hydrocarbons; or</u> (v) <u>Explore for, develop, or produce hydrocarbons as allowed by subparagraph (a)(1) of this section [see #1 above].</u> Other Exceptions: <ul style="list-style-type: none"> • <u>Except as may be permitted by the Director in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.</u> • <u>Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment.</u> • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] </p>	<p>4. Altering the Submerged Lands. Same as Proposed Action</p>
<p>5. Abandoning. No existing regulation</p>	<p>5. Abandoning. Prohibited: <u>Abandoning any structure, material, or other matter on or in the submerged lands of the Sanctuary.</u> Exceptions: <ul style="list-style-type: none"> • <u>Except in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.</u> • <u>Except for an activity necessary to respond to an emergency threatening life, property, or the environment.</u> • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] </p>	<p>5. Abandoning. Same as Proposed Action</p>

Table 2.1-1, Page 3 of 9

**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)**

<p>No Action (Status Quo)</p>	<p>Proposed Action Underlined (new) and struckthrough (deleted) text show differences from No Action (Status Quo)</p>	<p>Alternative 1 (bold text is different from Proposed Action)</p>
<p>6. Nearshore Operation of Vessels.</p> <p>Prohibited: Except to transport persons or supplies to or from an Island, operating within one NM of an Island any vessel engaged in the trade of carrying cargo, including, but not limited to, tankers and other bulk carriers and barges, or any vessel engaged in the trade of servicing offshore installations. In no event shall this section be construed to limit access for fishing (including kelp harvesting), recreational, or research vessels.</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • Except as may be necessary for the national defense • Except as may be necessary to respond to an emergency threatening life, property, or the environment, • Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72 	<p>6. Nearshore Operation of Vessels.</p> <p>Prohibited: Except to transport persons or supplies to or from any Island, operating within one NM of any Island any vessel engaged in the trade of carrying cargo, including, but not limited to, tankers and other bulk carriers and barges, or any vessel engaged in the trade of servicing offshore installations, <u>or any vessel of three hundred gross registered tons or more, except.</u> In no event shall this section be construed to limit access for fishing (including or kelp harvesting), recreational, or research vessels.</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • <u>Except as may be permitted by the Director in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.</u> • <u>Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment.</u> • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] 	<p>6. Nearshore Operation of Vessels.</p> <p>Prohibited: Except to transport persons or supplies to or from any Island, operating within one NM of any Island any vessel engaged in the trade of carrying cargo, including, but not limited to, tankers and other bulk carriers and barges, or any vessel engaged in the trade of servicing offshore installations, or any vessel of one hundred fifty gross registered tons or more, except. In no event shall this section be construed to limit access for fishing (including or kelp harvesting), recreational, or research vessels.</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • <u>Except as may be permitted by the Director in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.</u> • <u>Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment.</u> • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.]
<p>7. Disturbing a Seabird or Marine Mammal by Aircraft.</p> <p>Prohibited: Disturbing seabirds or marine mammals by flying motorized aircraft at less than 1000 feet over the waters within one NM of any Island except:</p> <p>(i) For enforcement purposes;</p> <p>(ii) To engage in kelp bed surveys; or</p> <p>(iii) To transport persons or supplies to or from an Island.</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • Except as may be necessary for the national defense • Except as may be necessary to respond to an emergency threatening life, property, or the environment • Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72 	<p>7. Disturbing a Seabird or Marine Mammal by Aircraft.</p> <p>Prohibited: Disturbing a seabirds or marine mammals by flying a motorized aircraft at less than 1000 feet over the waters within one NM of any Island, <u>except, if allowed under subparagraph (a)(9) of this section [see #9 below]:</u></p> <p>(i) For enforcement purposes;</p> <p>(ii) (i) to engage in kelp bed surveys; or</p> <p>(iii) (ii) to transport persons or supplies to or from an Island.</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • <u>Except as may be permitted by the Director in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.</u> • <u>Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment.</u> • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] 	<p>7. Disturbing a Seabird or Marine Mammal by Aircraft.</p> <p>Same as Proposed Action</p>

Table 2.1-1, Page 4 of 9

**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)**

<p>No Action (Status Quo)</p>	<p>Proposed Action Underlined (new) and struck through (deleted) text show differences from No Action (Status Quo)</p>	<p>Alternative 1 (bold text is different from Proposed Action)</p>
<p>8. Moving, Removing, or Injuring a Sanctuary Historical Resource.</p> <p>Prohibited: Removing or damaging any historical or cultural resource.</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • Except as may be necessary for the national defense • Except as may be necessary to respond to an emergency threatening life, property, or the environment, • Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72 	<p>8. Moving, Removing, or Injuring a Sanctuary Historical Resource.</p> <p>Prohibited: <u>Moving, Removing, injuring, or possessing, or attempting to move, remove, injure, or possess or damaging any a Sanctuary historical or cultural resource.</u></p> <p>Exceptions:</p> <ul style="list-style-type: none"> • <u>Except as may be permitted by the Director in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.</u> • <u>Except as may be for an activity</u> necessary to respond to an emergency threatening life, property, or the environment. • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] 	<p>8. Moving, Removing, or Injuring a Sanctuary Historical Resource.</p> <p>Same as Proposed Action</p>
<p>9. Taking a Marine Mammal, Sea Turtle, or Seabird.</p> <p>No existing regulation</p>	<p>9. Taking a Marine Mammal, Sea Turtle, or Seabird.</p> <p>Prohibited: <u>Taking any marine mammal, sea turtle, or seabird within or above the Sanctuary, except as expressly authorized by the Marine Mammal Protection Act, as amended, (MMPA), 16 U.S.C. 1361 et seq., Endangered Species Act, as amended, (ESA), 16 U.S.C. 1531 et seq., Migratory Bird Treaty Act, as amended, (MBTA), 16 U.S.C. 703 et seq., or any regulation, as amended, promulgated under the MMPA, ESA, or MBTA.</u></p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • <u>Except in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.</u> • <u>Except for an activity necessary to respond to an emergency threatening life, property, or the environment.</u> • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] 	<p>9. Taking a Marine Mammal, Sea Turtle, or Seabird.</p> <p>Same as Proposed Action</p>
<p>10. Possessing a Marine Mammal, Sea Turtle, or Seabird.</p> <p>No existing regulation</p>	<p>10. Possessing a Marine Mammal, Sea Turtle, or Seabird.</p> <p>Prohibited: <u>Possessing within the Sanctuary (regardless of where taken from, moved, or removed from) any marine mammal, sea turtle, or seabird, except as expressly authorized by the MMPA, ESA, MBTA, or any regulation, as amended, promulgated under the MMPA, ESA, or MBTA.</u></p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • <u>Except in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.</u> • <u>Except for an activity necessary to respond to an emergency threatening life, property, or the environment.</u> • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] 	<p>10. Possessing a Marine Mammal, Sea Turtle, or Seabird</p> <p>Same as Proposed Action</p>

Table 2.1-1, Page 5 of 9

**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)**

No Action (Status Quo)	Proposed Action <u>Underlined (new) and strikethrough (deleted) text show differences from No Action (Status Quo)</u>	Alternative 1 (bold text is different from Proposed Action)
<p>11. Tampering with Signs</p> <p>No existing regulation</p>	<p>11. Tampering with Signs</p> <p>Prohibited: <u>Marking, defacing, damaging, moving, removing, or tampering with any sign, notice, or placard, whether temporary or permanent, or any monument, stake, post, or other boundary marker related to the Sanctuary.</u></p> <p>Exceptions:</p> <ul style="list-style-type: none"> • <u>Except for an activity necessary to respond to an emergency threatening life, property, or the environment.</u> • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] 	<p>11. Tampering with Signs</p> <p>Same as Proposed Action</p>
<p>12. Releasing an Introduced Species</p> <p>No existing regulation</p>	<p>12. Releasing an Introduced Species</p> <p>Prohibited: <u>Introducing or otherwise releasing from within or into the Sanctuary an introduced species, except striped bass (<i>Roccus saxatilis</i>) released during catch and release fishing activity.</u></p> <p>Exceptions:</p> <ul style="list-style-type: none"> • <u>Except in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.</u> • [See Department of Defense at the end of this table.] <p>Proposed definition (at Sec. 922.71): <u>Introduced species means (1) a species (including but not limited to any of its biological matter capable of propagation) that is non-native to the ecosystems protected by the Sanctuary; or (2) any organism into which genetic matter from another species has been transferred in order that the host organism acquires the genetic traits of the transferred genes.</u></p>	<p>12. Releasing an Introduced Species</p> <p>Same as Proposed Action</p>
<p>13. Operation of Motorized Personal Watercraft</p> <p>No existing regulation</p>	<p>13. Operation of Motorized Personal Watercraft</p> <p>Prohibited: <u>Operating a motorized personal watercraft within waters of the Channel Islands National Park, established by 16 U.S.C. 410(ff).</u></p> <p>Proposed definition (at Sec. 922.71): <u>Motorized personal watercraft means a vessel, usually less than 16 feet in length, which uses an inboard, internal combustion engine powering a water jet pump as its primary source of propulsion. The vessel is intended to be operated by a person or persons sitting, standing or kneeling on the vessel, rather than within the confines of the hull. The length is measured from end to end over the deck excluding sheer, meaning a straight line measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow sprits, bumpkins, rudders, outboard motor brackets, and similar fittings or attachments, are not included in the measurement. Length is stated in feet and inches.</u></p> <p>Exceptions:</p> <ul style="list-style-type: none"> • <u>Except in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.</u> • <u>Except for an activity necessary to respond to an emergency threatening life, property, or the environment.</u> • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] 	<p>13. Operation of Motorized Personal Watercraft</p> <p>Same as Proposed Action</p>

Table 2.1-1, Page 6 of 9

**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)**

No Action (Status Quo)	Proposed Action <u>Underlined</u> (new) and struckthrough (deleted) text show differences from No Action (Status Quo)	Alternative 1 (bold text is different from Proposed Action)
<p>14. Lightering</p> <p>No existing regulation</p>	<p>14. Lightering</p> <p>No regulation proposed</p>	<p>14. Lightering</p> <p>Prohibited: Lightering in the Sanctuary.</p> <p>Note: Sanctuary regulations define lightering as at-sea transfer of petroleum-based products, materials, or other matter from vessel to vessel (15 CFR 922.3).</p> <p>Exceptions:</p> <ul style="list-style-type: none"> • Except for an activity necessary to respond to an emergency threatening life, property, or the environment. • Except for an activity necessary for valid law enforcement purposes in the Sanctuary. • [See Department of Defense at the end of this table.]
<p>Department of Defense Activities.</p> <p>All activities currently carried out by the Department of Defense within the Sanctuary are essential for the national defense and, therefore, not subject to the prohibitions in this section. The exemption of additional activities having significant impact shall be determined in consultation between the Director and the Department of Defense.</p>	<p>Department of Defense Activities.</p> <p>(b) All activities currently carried out by the Department of Defense within the Sanctuary are essential for the national defense and, therefore, not subject to the prohibitions in this section. The exemption of additional activities having significant impact shall be determined in consultation between the Director and the Department of Defense.</p> <p><u>(b)(1) The prohibitions in paragraphs (a)(3) through (13) do not apply to military activities carried out by DOD as of the effective date of these regulations and specifically identified in section 3.5.9 (Department of Defense Activities) of the Final Channel Islands National Marine Sanctuary Management Plan/Environmental Impact Statement (FMP/FEIS), Volume II: Environmental Impact Statement, 200 [year of completion of the FMP/FEIS will be entered here], authored and published by NOAA ("pre-existing activities"). Copies of the document are available from the Channel Islands National Marine Sanctuary, 113 Harbor Way, Santa Barbara, CA 93109. Other military activities carried out by DOD may be exempted by the Director after consultation between the Director and DOD.</u></p> <p><u>(2) A military activity carried out by DOD as of the effective date of these regulations and specifically identified in the section entitled "Department of Defense Activity" of the FMP/FEIS is not considered a pre-existing activity if:</u></p> <p><u>(A) it is modified in such a way that requires the preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act, 42 U.S.C. 4321 et seq., relevant to a Sanctuary resource or quality;</u></p> <p><u>(B) it is modified, including but not limited to changes in location or frequency, in such a way that its possible adverse effects on Sanctuary resources or qualities are significantly greater than previously considered for the unmodified activity;</u></p> <p><u>(C) it is modified, including but not limited to changes in location or frequency, in such a way that its possible adverse effects on Sanctuary resources or qualities are significantly different in manner than previously considered for the unmodified activity; or</u></p> <p><u>(D) there are new circumstances or information relevant to a Sanctuary resource or quality that were not addressed in the FMP/FEIS.</u></p> <p><u>(3) In the event of destruction of, loss of, or injury to a Sanctuary resource or quality resulting from an incident, including, but not limited to, discharges, deposits, and groundings, caused by a DOD activity, DOD, in coordination with the Director, must promptly prevent and mitigate further damage and must restore or replace the Sanctuary resource or quality in a manner approved by the Director.</u></p> <p><u>(4) All DOD activities must be carried out in a manner that avoids to the maximum extent practicable any adverse impacts on Sanctuary resources and qualities.</u></p>	<p>Department of Defense Activities.</p> <p>Same as Proposed Action.</p>

Table 2.1-1, Page 7 of 9

**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)**

No Action (Status Quo)	Proposed Action <u>Underlined</u> (new) and struckthrough (deleted) text show differences from No Action (Status Quo)	Alternative 1 (bold text is different from Proposed Action)
<p>Permit Procedures and Issuance Criteria.</p> <p>(a) Any person in possession of a valid permit issued by the Director in accordance with this section and Sec.922.48 may conduct any activity in the Sanctuary prohibited under Sec. 922.71 [see above] if such activity is either:</p> <p>(1) Research related to the resources of the Sanctuary,</p> <p>(2) To further the educational value of the Sanctuary; or</p> <p>(3) For salvage or recovery operations.</p> <p>(b) Permit applications shall be addressed to: Director, Office of Ocean and Coastal Resource Management, ATTN: Manager, Channel Islands National Marine Sanctuary, 113 Harbor Way, Santa Barbara, CA 93109.</p> <p>(c) In considering whether to grant a permit the Director shall evaluate such matters as:</p> <p>(1) The general professional, and financial responsibility of the applicant;</p> <p>(2) The appropriateness of the methods envisioned to the purpose(s) of the activity;</p> <p>(3) The extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, or as a source of educational or scientific information;</p> <p>(4) The end value of the activity and</p> <p>(5) Such other matters as may be deemed appropriate.</p> <p>The Director may observe any permitted activity and/or require the submission of one or more reports of the status or progress of such activity. Any information obtained shall be available to the public.</p>	<p>Permit Procedures and Issuance Criteria.</p> <p>(a) Any person in possession of a valid permit issued by the Director in accordance with this section and Sec.922.48 may conduct any activity in the Sanctuary prohibited under by <u>922.71+2(a)(3) through (10), (a)(12), and (a)(13)</u> if such activity is either:</p> <p>(1) <u>Research related to the resources of the Sanctuary;</u></p> <p>(2) <u>To further the educational value of the Sanctuary; or</u></p> <p>(3) <u>For salvage or recovery operations specifically authorized by, and conducted in accordance with the scope, purpose, terms, and conditions of, a permit issued under 922.48 and this section.</u></p> <p>(b) <u>The Director, at his or her sole discretion, may issue a permit, subject to terms and conditions as he or she deems appropriate, to conduct an activity prohibited by 922.72(a)(3) through (10), (a)(12), and (a)(13) if the Director finds that the activity:</u></p> <p>(1) <u>Is appropriate research designed to further understanding of Sanctuary resources and qualities;</u></p> <p>(2) <u>Will further the educational value of the Sanctuary;</u></p> <p>(3) <u>Will further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty;</u></p> <p>(4) <u>Will assist in managing the Sanctuary; or</u></p> <p>(5) <u>Will further salvage or recovery operations in connection with an abandoned shipwreck in the Sanctuary title to which is held by the State of California.</u></p> <p>(c) <u>In considering whether to grant a permit the Director shall evaluate such matters as:</u> <u>The Director may not issue a permit under 922.48 and this section unless the Director also finds that:</u></p> <p>(1) <u>The general professional, and financial responsibility of the applicant;</u></p> <p>(2) <u>The appropriateness of the methods envisioned to the purpose(s) of the activity;</u></p> <p>(3) <u>The extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, or as a source of educational or scientific information;</u></p> <p>(4) <u>The end value of the activity and</u></p> <p>(5) <u>Such other matters as may be deemed appropriate.</u></p> <p>(1) <u>The proposed activity will have at most short-term and negligible adverse effects on Sanctuary resources and qualities;</u></p> <p>(2) <u>The applicant is professionally qualified to conduct and complete the proposed activity;</u></p> <p>(3) <u>The applicant has adequate financial resources available to conduct and complete the proposed activity;</u></p> <p>(4) <u>The duration of the proposed activity is no longer than necessary to achieve its stated purpose;</u></p> <p>(5) <u>The methods and procedures proposed by the applicant are appropriate to achieve the goals of the proposed activity, especially in relation to the potential effects of the proposed activity on Sanctuary resources and qualities;</u></p> <p>(6) <u>The proposed activity will be conducted in a manner compatible with the primary objective of protection of Sanctuary resources and qualities, considering the extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities, any potential indirect, secondary, or cumulative effects of the activity, and the duration of such effects;</u></p> <p>(7) <u>The proposed activity will be conducted in a manner compatible with the value of the Sanctuary as a source of recreation and as a source of educational and scientific information, considering the extent to which the conduct of the activity may result in conflicts between different users of the Sanctuary and the duration of such effects;</u></p> <p>(8) <u>It is necessary to conduct the proposed activity within the Sanctuary;</u></p>	<p>Permit Procedures and Issuance Criteria.</p> <p>Same as Proposed Action</p>

Table 2.1-1, Page 8 of 9

**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)**

No Action (Status Quo)	<p align="center">Proposed Action</p> <p>Underlined (new) and struckthrough (deleted) text show differences from No Action (Status Quo)</p>	<p align="center">Alternative 1</p> <p align="center">(bold text is different from Proposed Action)</p>
	<p><u>(9) The reasonably expected end value of the proposed activity furthers Sanctuary goals and purposes and outweighs any potential adverse effects on Sanctuary resources and qualities from the conduct of the activity; and</u></p> <p><u>(10) Any other matters the Director deems appropriate do not make the issuance of a permit for the proposed activity inappropriate.</u></p> <p><u>(d) Applications.</u></p> <p>(b)(1) Permit aApplications for permits shall <u>should</u> be addressed to: the Director, Office of Ocean and Coastal Resource Management National Marine Sanctuaries; ATTN: Manager, Channel Islands National Marine Sanctuary, 113 Harbor Way, Santa Barbara, CA 93109.</p> <p><u>(2) In addition to the information listed in 922.48(b), all applications must include information the Director needs to make the findings in paragraphs (b) and (c) of this section.</u></p> <p><u>(e) In addition to any other terms and conditions that the Director deems appropriate, a permit issued pursuant to this section must require that the permittee agrees to hold the United States harmless against any claims arising out of the conduct of the permitted activities.</u></p>	

Table 2.1-1, Page 9 of 9

PACIFIC FISHERY MANAGEMENT COUNCIL

7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384

CHAIRMAN
Donald K. Hansen

EXECUTIVE DIRECTOR
Donald O. McIsaac

Telephone: 503-820-2280
Toll Free: 866-806-7204
Fax: 503-820-2299

June XX, 2006

Mr. Chris Mobley
Superintendent
Channel Islands National Marine Sanctuary
113 Harbor Way, Suite 150
Santa Barbara, California 93109

Dear Mr. Mobley:

The Pacific Fishery Management Council (Council) appreciates the opportunity to review and comment on the Draft Revised Management Plan (DMP) and Draft Environmental Impact Statement (DEIS) prepared in response to the management plan review for the Channel Islands National Marine Sanctuary (CINMS or Sanctuary). The Council received the letter from Mr. Daniel Basta requesting Council comments and the DMP/DEIS documents on May 18, 2006. This letter, the proposed rule, and the DMP and DEIS were included in the June meeting briefing materials presented to the Council, its advisory bodies, and the public for the Council's June 12-16, 2006 meeting in Foster City, California and were specifically reviewed by the Council's Habitat Committee.

The Council considered the comments of the Habitat Committee and the public and wishes to provide specific comments on the list of Regulatory Alternatives as listed in Table 2.1-1 of the DEIS as follows:

- **Sanctuary Boundary.** The Council is supportive of the Proposed Action to clarify that submerged lands are part of the CINMS boundary. The Council notes the CINMS will be considering expansion of the existing Sanctuary boundary and establishment of marine reserves and marine conservation areas at a future date. The Council requests that the public review period for these actions encompass two Council meetings to allow full Council deliberation and comment development.
- **Prohibition 1 (Oil and Gas).** The Proposed Action Alternative is a revision of status quo that maintains current prohibitions on oil and gas development while removing outdated exemptions. The Council concurs with this change.
- **Prohibition 2 (Mineral Activities).** The Council concurs with the Proposed Action Alternative which further protects Sanctuary habitats by adding prohibitions mining activities within the Sanctuary.

- **Prohibition 3 (Discharging or Depositing).** The Council agrees with the additional provisions under the Proposed Action Alternative to further protect water quality in the Sanctuary and is supportive of the exemption for the discharge of fish, fish parts, or chumming materials resulting from lawful fishing activity. The Council notes there are minimal impacts associated with the additional discharge restrictions for any vessel of 300 gross registered tons or more under Alternative 1.
- **Prohibition 4 (Altering the Submerged Lands).** The Council supports the provisions under the Proposed Action Alternative which strengthens existing protections for fish habitat including the exemptions for legal fishing activities and vessel anchoring.
- **Prohibition 5 (Abandoning).** The Council supports the provisions of the Proposed Action Alternative which prohibits the abandoning of large debris and shipwrecks. It is unclear whether this regulation applies to fishing gear that is accidentally lost during the course of normal fishing activities. The Council would not support the proposed action if the intent of the regulation is to require fishermen who accidentally lose gear to make unreasonable efforts to recover it. The Council suggests the language be modified to the effect that lost gear should be recovered when physically and economically practicable, but not to prohibit the accidental loss of gear that cannot be reasonably recovered.
- **Prohibition 6 (Nearshore Operation of Vessels).** The Council supports the Proposed Action Alternative including expanded restrictions to prevent large non-fishing vessels from traveling nearshore within the Sanctuary. These prohibitions provide additional protection to nearshore habitats such as reefs. The proposed action and Alternative 1 contain language prohibiting large vessels such as tankers and cruise ships from approaching Sanctuary islands, but specifically exclude fishing vessels from the prohibition.
- **Prohibition 9 (Taking a Marine Mammal, Sea Turtle, or Seabird).** The Council is supportive of actions to further protect these species including the Proposed Action Alternative. The Council also recommends language in Section 4.1.9 of the DEIS which states “commercial fishing or certain research activities which may involve the occasional take of these species may lawfully operate as such under authorizations granted pursuant to the Marine Mammal Protection Act, Endangered Species Act, or Migratory Bird Treaty Act”, be included or referenced in the Proposed Action Alternative.
- **Prohibition 10 (Possessing a Marine Mammal, Sea Turtle, or Seabird).** The Council is supportive of the Proposed Action Alternative. As noted under Prohibition 9, the Council is also in support of exemptions for research and fishing activities which legally possess these species under the authority of the appropriate laws.
- **Prohibition 12 (Introducing or otherwise releasing an Introduced Species).** The Council continues to be supportive of efforts to prevent the release of introduced species in the Sanctuary, including the Proposed Action Alternative. The Council also supports the exemption under this prohibition for striped bass released during catch and release fishing.

Mr. Chris Mobley

June XX, 2006

Page 3

- **Prohibition 13 (Operation of Motorized Personal Watercraft).** Based on the definition of personal watercraft in the DEIS, it appears to the Council that the intent of this prohibition is to not regulate fishing. If this is the intent, the Council has no formal position on this prohibition as it does not directly affect fishing, fishing vessels, fish stocks, or fish habitat.
- **Prohibition 14 (Lightering).** The Council supports the efforts to further protect water quality under the Proposed Action Alternative which prohibits lightering, or non-emergency at-sea refueling.

The Council is not commenting on proposed actions which do not appear to have direct impacts to fish stocks, fishing, fishing vessels, or fish habitat including: Prohibition 7 (Disturbing of Seabirds or Marine Mammals by Aircraft Overflight), Prohibition 8 (Moving, Removing, Possessing, or Injuring a Sanctuary Historical Resource), or Prohibition 11 (Tampering with Signs).

The Council understands from the May 18, 2006, letter from Mr. Basta that marine reserve and marine conservation areas will be the subject of a future environmental review. The Council looks forward to working with the CINMS on this matter.

Thank you again for providing the Council an opportunity to provide comments on these important matters. If you or your staff have any questions about this letter, please contact me or Mr. Mike Burner, the lead Staff Officer on this matter at 503-820-2280.

Sincerely,

DRAFT

D. O. McIsaac, Ph.D.
Executive Director

c: Mr. Daniel Basta, Director, National Marine Sanctuary Program
Mr. William Dorous, Acting Regional Superintendent
Mr. Michael Murray, Management Plan Coordinator, CINMS
Council Members
Habitat Committee

PFMC
6/16/06

HABITAT COMMITTEE REPORT ON CURRENT HABITAT ISSUES

HC Strategic Planning Session

The Habitat Committee (HC) conducted a strategic planning session to discuss future HC activities and improve the efficiency and effectiveness of the HC.

The HC notes that the U.S. Commission on Ocean Policy and the Pew Oceans Commission Report have urged fishery management councils to move towards ecosystem-based management. This is also a high priority for NOAA. Therefore, the HC discussed how to assist the Council in moving forward with ecosystem-based management. The HC seeks direction on how it and other advisory bodies should be involved in this effort.

The HC would be willing to:

- Develop a workable definition of ecosystem-based management based on existing definitions, including a definition developed by a Pacific States Marine Fisheries Commission panel;
- Describe actions the Council has already taken that address an ecosystem-based management approach;
- Work with other advisory bodies to jointly discuss incremental steps the Council could take toward ecosystem-based management.

The HC thought it might be useful to initially focus on salmon because of several upcoming salmon-related activities, but seeks input from the Council and other advisors about whether this would be appropriate. Examples of steps toward ecosystem-based management include:

- Incorporating climate, oceanographic, and other environmental factors into stock assessment and salmon models;
- Developing a conceptual model of the salmon food web (including role of salmon as prey), assembling prioritized list of forage species;
- Investigating how new research tools, such as genetic stock identification and otolith studies, can be used to improve knowledge about the spatial and temporal distribution of salmon stocks.

Channel Islands Draft Management Plan

The HC discussed the revised Channel Islands National Marine Sanctuary (CINMS) Draft Management Plan/Draft Environmental Impact Statement. The HC supports the changes within Section 2, which strengthen protection for habitat and reduce the vulnerability of sanctuary resources, including fish habitat, from damage from non-fishing-related activities. The recommended changes in Section 2 do not impact directed fishing activities. Of special note, the HC endorses the changes within Section 2.1.3, which prohibits the exploration, development or production of minerals within the sanctuary; Section 2.1.4, which prohibits discharge or deposit of certain materials within the sanctuary; Section 2.1.5, which prohibits drilling, dredging, or

other alterations to the seabed; Section 2.1.6, which prohibits abandoning materials in the sanctuary; Section 2.1.7, which prohibits certain operations of large vessels (>300 registered gross tons) within 1 nautical mile of an island, and Section 2.1.13, which prohibits releasing introduced species within the sanctuary. Since the comment period for the draft management plan ends July 13, 2006, the HC suggests that the Council forward these comments directly to CINMS.

Mapping of Oregon State Waters

The HC heard an update concerning a consensus statement developed by Oregon scientists regarding mapping Oregon's state waters both for marine resource management and tsunami preparation. (See attachment.) The HC supports this effort, as it would better inform our understanding of fish spatial distribution based on habitat features; help the Council refine essential fish habitat (EFH) (the value of having such detailed information assisted the Council in its designation of groundfish EFH, but detail was lacking in the territorial sea); enhance the Council's ability to manage nearshore fisheries; and provide the Oregon Ocean Policy Advisory Council and State of Oregon with a better understanding of habitat features in their consideration of research reserves.

We urge the Council to endorse efforts to seek funding for this mapping effort.

PFMC
6/13/06

Subject: Re: PFMC Letter Re: Klamath Hydropower Project

From: MWelsh9538@aol.com

Date: Sat, 29 Apr 2006 18:06:06 EDT

To: Jennifer.Gilden@noaa.gov

I commend the Pacific Fishery Management Council for recommending the removal of the listed hydroelectric dams on the Klamath River. The recovery of the Klamath River fall chinook run will allow the sport, commercial, and tribal fisheries to take the harvestable surplus once this run is made whole.

Another important amenity once the dams are removed is the restoration of many miles of river and the associated river recreation that will follow.

Thomas L. Welsh, Ph.D.

Idaho Sport Representative on the PMFC Salmon Advisory Subpanel.