

Dear Chair Lowman and Council Members,

Thank you for your past work to protect ocean habitat, including the recently concluded five-year review of Essential Fish Habitat for groundfish. The Council is now well positioned to find many win-win possibilities for habitat protection and the fishing economy, thanks to a stakeholder-driven process in the five-year review along with ongoing collaborative discussions between fishermen and conservation advocates.

In considering the upcoming amendment to the management plan for groundfish, I urge the Council to advance the following:

- Closure to bottom trawling of the deepwater areas (beyond 3,500 meters) off California south of the Mendocino Ridge.
- A coastwide scope for potential changes to the groundfish management plan.
- Potential designation of new Essential Fish Habitat (EFH).
- Potential creation of new EFH Conservation Areas or adjustment of current EFH Conservation Areas.
- Inclusion of all remaining stakeholder proposals as potential alternatives.
- Adjustment of area-based management measures such as the Rockfish Conservation Area to improve fishing while also protecting habitat.
- Measures to address bottom contact by midwater trawl fishing gear.
- Designation of key prey species of groundfish.

Healthy marine habitats ensure a sustainable supply of fish for commercial and recreational fisheries. But these essential places—which contain deep-sea corals, sponges, and seamounts—can be damaged by fishing gear such as bottom trawls. I urge the Council to move habitat protection forward and seek a broad set of solutions for fishing communities and a healthy ocean.

Thank you for your time,

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August 14, 2015

Ms. Dorothy Lowman, Chair  
Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, OR 97220

**RE: Agenda Item H.8 –Amendment to Modify Groundfish Essential Fish Habitat and Adjust Rockfish Conservation Areas**

Dear Chair Lowman and Council Members:

We are writing to request that the Pacific Fishery Management Council (Council) include the proposed Essential Fish Habitat (EFH) Conservation Areas closed to non-tribal bottom trawling and the deepwater footprint closure contained in the July 31, 2013 [coastwide conservation proposal](#) submitted by Oceana, Natural Resources Defense Council, and Ocean Conservancy as a distinct alternative in the Range of Alternatives to modify Pacific Coast Groundfish EFH conservation and management (with minor modifications, see below). At the April 2015 Council meeting, the Council determined the scope of actions, subject areas, and management measures to include in a Fishery Management Plan (FMP) or regulatory amendment related to groundfish EFH and fishing area modifications. The scope includes further evaluation of potential adverse effects of fishing activities on EFH, and minimization of those effects to the extent practicable. It also includes evaluation of the effects on EFH from adjustments to trawl Rockfish Conservation Areas (RCA), in conjunction with the addition of new EFH Conservation Areas and modifications to existing EFH Conservation Areas.

In September 2015, the Council will adopt a range of alternatives for analysis. This Council must “give full and meaningful consideration to all reasonable alternatives.”<sup>1</sup> “The choice of alternatives is ‘bounded by some notion of feasibility’ and an agency is not required to consider ‘remote and speculative’ alternatives.”<sup>2</sup> Instead, the “touchstone” for determining whether a range of alternatives is sufficiently broad “is whether [the agency’s] selection and discussion of alternatives fosters informed decision-making and informed public participation.”<sup>3</sup>

Our 2013 coastwide conservation proposal includes 75 modifications (additions, deletions, and boundary changes) to currently designated EFH Conservation Areas plus the closure of deepwater (>3500 m depth) areas to bottom trawling. This proposal was the result of a multi-year outreach and

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<sup>1</sup> *Te-Moak Tribe of Western Shoshone of Nev. v. United States*, 608 F.3d 592, 601-02 (9<sup>th</sup> Cir. 2010); *Citizens for Better Henderson v. Hodel*, 768 F.2d 1051, 1057 (9<sup>th</sup> Cir. 1985) (stating that the “existence of a viable but unexamined alternative renders an environmental impact statement inadequate”).

<sup>2</sup> *Westlands Water Dist. v. United States*, 376 F.3d 853, 868 (9<sup>th</sup> Cir. 2004) (quoting *Vt. Yankee Nuclear Power Corp. v. Natural Res. Def. Council, Inc.*, 435 U.S. 519, 551 (1978)).

<sup>3</sup> *Id.* (quoting *California v. Block*, 690 F.2d 753, 767 (9<sup>th</sup> Cir. 1982)).

research effort and it benefited greatly from input of the Council's EFH Review Committee. It received high review scores from other members of the EFH Review Committee and it performed exceptionally well in the preliminary analysis conducted by NMFS<sup>4</sup> (highest increase in habitat protections while restoring and minimizing further displacement of recent bottom trawl fishing effort). Using new fishery and habitat information compiled during the Council's EFH review process, the proposal builds on the approach adopted by the Council in 2005 to protect sensitive seafloor habitats while avoiding significant economic impacts to bottom trawl fisheries. In addition the proposal has broad public support from California, Oregon, Washington, and Idaho residents.<sup>5</sup>

Since July 2013 when the original proposal was submitted, we have received further input from agencies and stakeholders, and we have minor modifications to the original proposal as it moves forward in the Range of Alternatives. Therefore, we ask that the Council consider all changes to area boundaries contained in the original proposal with the following exceptions:

- Remove Proposed Closure Area 4 ("Copalis Inner Shelf"): based on input from Treaty Tribes in Washington State;
- Remove Proposed Closure Area 21 (Pt. St. George Reef): based on information from the shrimp trawl fleet on the importance of this area to their fishery;
- Remove Proposed Reopenings 43 and 44 (Cordell Bank East and South Reopenings): based on concerns raised by the Cordell Bank National Marine Sanctuary (CBNMS) regarding reopening of areas currently closed to trawling within CBNMS boundaries;
- Remove Proposed Closure 59 (Monterey Canyon Deep Expansion): Based on input from participants in the collaborative MBNMS proposal; and
- Do not analyze Proposed Reopening 76 (Concept for Monterey Bay State Waters): Reopening of state waters closed by California legislature is not within the scope or authority of the PFMC's action (this discussion will continue in a different venue).

Because midwater trawl regulation changes are no longer in the scope of this action, proposed enforcement changes will be considered elsewhere, and prey species identification is envisioned to happen concurrently without an FMP amendment process, we understand that these aspects of our original proposal won't be included in the range of alternatives. Conversely, although the proposed deepwater closure may be implemented through Magnuson–Stevens Act (MSA) discretionary authority, and not through MSA authority to conserve and enhance EFH, we concur with the Council's decision to retain the closure within the scope of this action, and request that the Council include it in the range of alternatives.

We ask that this proposal be analyzed in addition to the proposal submitted by the "Collaborative EFH Working Group." We will provide additional feedback and input on the Collaborative EFH proposal in the near future; however, development of the collaborative proposal is ongoing at the time of this letter. While we participated in this working group and are supportive of many of its proposed

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<sup>4</sup> See Tables 3 through 8 of NMFS Response to Council's Questions concerning the Effectiveness, Accuracy, and Completeness of Pacific Coast Groundfish EFH. Supplemental Informational Report 7. PFMC September 2014 Meeting. [http://www.pcouncil.org/wp-content/uploads/IR7\\_Sup\\_NMFS\\_EFH\\_EvalRpt\\_Sept2014BB.pdf](http://www.pcouncil.org/wp-content/uploads/IR7_Sup_NMFS_EFH_EvalRpt_Sept2014BB.pdf)

<sup>5</sup> See October 9, 2013 Public Comment from 52,165 U.S. West Coast residents supporting analysis, adoption, and implementation of the Oceana, NRDC, and Ocean Conservancy Comprehensive Conservation EFH proposal. Available at p. 3-596 of [http://www.pcouncil.org/wp-content/uploads/H7d\\_PC\\_ELECTRIC\\_SIGS\\_NOV2013BB.pdf](http://www.pcouncil.org/wp-content/uploads/H7d_PC_ELECTRIC_SIGS_NOV2013BB.pdf)

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Groundfish EFH  
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conservation areas, we believe our original proposal should be included in the range of alternatives as it contains some substantively distinct options, and it will foster both informed decision-making and informed public participation.

Thank you for your previous actions and ongoing commitment to minimizing adverse effects of fishing on essential fish habitat, while providing for vibrant West Coast fishing opportunities.

Sincerely,

A handwritten signature in black ink, appearing to read "Geoff Shester". The signature is fluid and cursive.

Geoffrey Shester, Ph.D.  
California Campaign Director

A handwritten signature in black ink, appearing to read "Ben Enticknap". The signature is bold and cursive.

Ben Enticknap  
Pacific Campaign Manager and Senior Scientist

cc. Kerry Griffin, Council Staff  
John Stadler, National Marine Fisheries Service