

Pacific Fishery Management Council



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Herbert A. Pollard II, Chair | Charles A. Tracy, Executive Director

DRAFT: September XX, 2016

The Honorable Duncan Hunter
United States House of Representatives
2429 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Hunter:

Thank you for your letter of July 28 requesting Pacific Fishery Management Council comment on HR 5797, the California Seamounts and Ridges National Marine Conservation Area Designation and Management Act.

As you know, the Pacific Council is one of eight Regional Fishery Management Councils established by the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and recommends management actions for Federal fisheries off Washington, Oregon and California. The Pacific Council manages over 100 species under four fishery management plans and an overarching Fishery Ecosystem Plan that provides ecosystem-level information to all Pacific Council management considerations.

HR 5797 aims to protect certain seamounts, ridges, and banks in the Exclusive Economic Zone (EEZ) off the coast of California by establishing a California Seamounts and Ridges National Marine Conservation Area. The Conservation Area would include Gorda Ridge, a portion of Mendocino Ridge west of longitude 125° 40' 4.8" W; and Guide, Pioneer, Taney, Gumdrop, Rodriguez, San Juan, and Northeast seamounts. In addition, Cortes and Tanner Banks, and a portion of Mendocino Ridge, would be withdrawn from commercial leasing for oil and gas production, energy projects, and cable laying.

Under the bill, the Secretaries of Commerce and Interior would have joint authority for management of the Conservation Area, while the establishment of the area could not occur without "direct and thorough consultation with the Pacific Fishery Management Council, stakeholders from commercial and recreational fishing sectors, and other key fishery groups," including tribes, "to develop and implement a plan for the comprehensive and long-term protection and management of the Conservation Area" (Sec 5(b)(1)).

Within the Conservation Area, the bill would specifically prohibit exploration, development, and production of oil, gas and minerals; use of poisons, electrical charges, or explosives in the collection or harvest of marine resources; intentional introduction of introduced species; anchoring on corals; drilling or dredging the Outer Continental Shelf in the Conservation Area; and other activities determined by the Secretary. The troll albacore fishery, recreational and charter fisheries

are explicitly exempted from the prohibitions, as are certain military, emergency, and scientific activities.

The Council makes the following observations.

- 1. The requirement for consultation with the Pacific Council in Section 5(b)(1)** is consistent with the Pacific Council’s mandate under the MSA to develop and amend fishery management plans (FMP) for the conservation and management of fisheries under its authority, to conduct public hearings to allow interested persons an opportunity to be heard in development of such plans, and to conduct other activities necessary for those functions (MSA Section 302 (h)(1), (3), and (8), respectively). The Pacific Council’s transparent system provides all stakeholders an opportunity to express their opinions, share their knowledge and be involved in the fishery management process, thereby fostering inclusiveness and improving decision-making.
- 2. Section 2(b) states the purpose of the bill lists is to protect nationally significant historical, natural, cultural, scientific, and educational values of the California Seamounts and Ridges National Marine Conservation Area from non-fishing impacts.** All seamounts and the Mendocino Ridge are designated “habitat areas of particular concern” and are designated as essential fish habitat (EFH) under the Council’s FMP. Protection of these areas is consistent with the Pacific Council’s Authority under MSA Section 302 (h)(7) to identify non-fishing impacts to EFH, and describe conservation measures to avoid or minimize those impacts.

In addition, under the EFH provisions of the Pacific Council’s Groundfish FMP over 130,000 square miles of seafloor off the U.S. West Coast has been closed to groundfish bottom trawling, including all of the areas affected by this bill except for Tanner and Cortes Banks. However, those areas are included in the Cowcod Conservation Area West, which is one of the long-term bycatch mitigation areas identified in the Groundfish FMP, and is closed to groundfish bottom trawling in addition to other commercial and recreational groundfish fishing restrictions.

Any Federal action in EFH areas must include consultation with the National Marine Fisheries Service (NMFS), which then provides recommended conservation measures to the action agency. Further, the Council is required to comment on any Federal activities that may affect habitat, including Essential Fish Habitat, of anadromous fishery resources under its authority, which includes all waters of the West Coast EEZ north of Point Conception.

- 3. Section 5(1) of the bill calls for the Secretary of Commerce and the Secretary of the Interior to have joint authority** over management of the proposed Conservation Area. The division of responsibilities is not stated explicitly, so it is unclear how this authority would be shared. The Pacific Council requests clarification of the roles of the Secretaries, and emphasizes that any management of Federal fisheries resources should take place under the authority of the Secretary of Commerce and the MSA to avoid potential conflicting legislative mandates.

4. **Section 5(b)(2)(B)(iv-v) of the bill specifically allows the troll albacore fishery, recreational and charter fisheries** in the Conservation Area, which is generally consistent with the existing fishing regulations in the Conservation Area; however, other fisheries are also currently allowed in the Conservation Area. The Council requests clarification on the intent of the bill with regard to prohibitions/exceptions for other non-bottom-contact commercial fisheries such as other tuna and highly migratory species fisheries, salmon fisheries, coastal pelagic species fisheries, and mid-water groundfish fisheries. This clarification would assist the Council in developing any potential of a plan for protection of the Conservation Area as identified in section 5(b)(2)(A) of the bill.
5. **Section 5(b)(2)(A) prohibits a number of extractive and disturbance activities that could affect bottom habitat in the Conservation area.** These provision are consistent with EFH conservation measures for non-fishing impacts identified in the Pacific Council's various FMPs.
6. **Section 2(a)(5) of the bill** notes that "Despite currently limited direct pressure from extractive use, the Conservation Area is undergoing rapid change due to warming waters, ocean acidification, and ecological stress from pollution and other sources..." The Pacific Council has identified similar findings and notes that its Fishery Ecosystem Plan and NMFS' annual State of the Ecosystem Reports is tracking and responding to these changes, to the extent practicable.

The Pacific Council works collaboratively with stakeholders to develop meaningful protections of both species and sensitive habitats. We are in the final phase of a six-year process to refine, and potentially increase, areas to be protected from fishing and non-fishing activities. All the proposed Conservation Areas are already closed to bottom trawling, and the fishing industry is committed to protecting important habitat and to continuing to managing sustainable fisheries for the benefit of all U.S. citizens. Based on our track record of collaborative, effective fisheries and habitat management, we appreciate the intent of the bill to include the Pacific Council in any decisions that would affect fisheries management in the U.S. West Coast EEZ.

Thank you again for the opportunity to comment on this legislation; please don't hesitate to contact me or Ms. Jennifer Gilden of the Pacific Council office if you have any further questions.

Sincerely,

Charles A. Tracy
Executive Director

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