

October 19, 2017

Mr. Phil Anderson, Chair  
Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 101  
Portland, OR 97220

**RE: Groundfish FMP Amendment 28, EFH-RCA Update**

Dear Chair Anderson and members of the Council:

Oceana appreciates the Pacific Fishery Management Council's continued work to advance the conservation and enhancement of groundfish essential fish habitat (EFH). We firmly believe it is possible to prevent irreversible impacts to fish habitat and address current impacts in a manner that maintains vibrant fisheries and coastal communities. Furthermore, we believe the Council has before it the alternatives necessary to accomplish this objective. The Council, NOAA's National Marine Fisheries Service (NMFS), NOAA's West Coast National Marine Sanctuaries, West Coast states and the public (including conservation organizations and fishermen) have all made tremendous investments in the current EFH review and EFH and rockfish conservation area (RCA) amendment process. Given the unanticipated protracted nature of this groundfish EFH-RCA amendment process and changes in Council membership and leadership since the EFH review began, we submit this letter as both a reminder of progress made to date and an appeal to prioritize Groundfish Fishery Management Plan (FMP) Amendment 28 for final action in March 2018.

**I. The Council and NMFS have made significant progress and investment in the EFH review and EFH-RCA Amendment 28 Process**

The Council reconvened its EFH Review Committee in September 2010, and in April 2011 the Council defined and initiated its three-phased EFH review process. That process included Phase 1) data collection, Phase 2) data synthesis and a request for proposals to modify EFH designation or conservation, and Phase 3) a Groundfish FMP amendment process based on the Phase 1 data and Phase 2 proposals (Figure 1).

In Phase 1 the Groundfish EFH Review Committee (EFHRC) solicited, gathered, and provided new scientific information to the Council detailing significant changes in knowledge since the last EFH review was completed in 2006.<sup>1</sup> The EFHRC report included new information on the location and extent of priority habitats, improved bathymetry, changes in fishing effort and area, and updated science on the effects of bottom trawling on seafloor habitats. "Priority habitats" are defined consistent with the Amendment 19 Environmental Impact Statement (EIS) definition of "complex sensitive habitats." Priority habitats include "hard substrate, including rocky ridges and rocky slopes,

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<sup>1</sup> PFMC 2012. Pacific Coast Groundfish 5-Year Review of Essential Fish Habitat Report to the Pacific Fishery Management Council Phase 1: New Information. Agenda Item H.6.b EFHRC Report 1. September 2012. Available: [https://www.pcouncil.org/wp-content/uploads/H6b\\_EFHRC\\_RPT\\_1\\_SEP2012BB.pdf](https://www.pcouncil.org/wp-content/uploads/H6b_EFHRC_RPT_1_SEP2012BB.pdf)

habitat-forming invertebrates, submarine canyons and gullies, untrawlable areas (trawl hangs and abandoned trawl survey stations), seamounts, and highest 20 percent habitat suitability for overfished groundfish species as defined by NOAA.”<sup>2</sup>

In September 2012, the Council adopted the Phase 1 report as the final data source for the evaluation of current EFH and proposals to change current EFH designations.<sup>3</sup> The data and information gathered during Phase 1 further confirmed the basis for a conservation approach designed to protect Council identified priority habitats from bottom trawl fishing impacts while minimizing displaced fishing effort.

In April 2013, during Phase 2 of the EFH review, the NMFS Northwest Fisheries Science Center finalized a comprehensive Groundfish Essential Fish Habitat Synthesis Report<sup>4</sup> and the Council issued a call for proposals to modify Pacific Coast groundfish EFH designation, conservation or management. By the proposal deadline – July 31, 2013 – the Council received eight proposals from the public and from West Coast National Marine Sanctuaries to modify or designate new EFH conservation areas.<sup>5</sup> This included a consensus proposal put forth by Monterey Bay National Marine Sanctuary supported by conservation and industry stakeholders and a comprehensive coastwide conservation proposal from Oceana, Ocean Conservancy and the Natural Resources Defense Council (Oceana et al. 2013). Based on proposals received, the EFHRC’s draft Phase 2 report, and other information, in November 2013 the Council “agreed that there was sufficient new information to move into Phase 3 of the EFH review process.”<sup>6</sup>

The Council finalized Phase 2 in March 2014 with adoption of the final Phase 2 EFHRC report, and moved forward with next steps in the Phase 3 process.<sup>7</sup> In June 2014 members from the conservation community and industry requested the Council pause the Phase 3 process to allow for the opportunity to see if they could develop a “collaborative” EFH modification proposal. While the request for proposals had ended, the Council agreed to encourage this joint effort.

Then, in April 2015 the Council defined the scope of the Phase 3 process including new and modified EFH conservation areas closed to bottom trawling, protection of the deep-water ecosystem off California >3,500 meters, plus trawl RCA adjustments, among other considerations.<sup>8</sup> In September 2015 the Council adopted a purpose and need statement and provided further direction for the development of the range of EFH, RCA and other alternatives, including making the remaining public

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<sup>2</sup> PFMC 2006. Agenda Item F.5.a EFH/RCA Project Team Report, at 5.

<sup>3</sup> PFMC Decision Summary Document. September 2012, at 5. Available: <https://www.pcouncil.org/wp-content/uploads/0912decisions.pdf> at 5.

<sup>4</sup> NMFS 2013. Groundfish Essential Fish Habitat Synthesis Report. Agenda Item D.6.b. NMFS Synthesis Report. April 2013. Available: [https://www.pcouncil.org/wp-content/uploads/D6b\\_NMFS\\_SYNTH\\_ELECTRIC\\_ONLY\\_APR2013BB.pdf](https://www.pcouncil.org/wp-content/uploads/D6b_NMFS_SYNTH_ELECTRIC_ONLY_APR2013BB.pdf)

<sup>5</sup> Proposals available in the November 2013 PFMC briefing book, at: <https://www.pcouncil.org/resources/archives/briefing-books/november-2013-briefing-book/#groundfishNov2013>

<sup>6</sup> November 2013 Council Decision Summary Document. Available: <https://www.pcouncil.org/wp-content/uploads/1113decisions.pdf>, at 5.

<sup>7</sup> PFMC 2014. Review of Pacific Coast Groundfish Essential Fish Habitat. Phase 2 Report to the Pacific Fishery Management Council. Agenda Item D.2.b EFHRC Report March 2014.

<sup>8</sup> April 2015 Council decisions, <https://www.pcouncil.org/wp-content/uploads/2015/04/0415decisions.pdf>

proposals and collaborative group proposal stand-alone EFH alternatives.<sup>9</sup> In January 2016 NMFS determined that alternatives being considered warranted the preparation of an EIS pursuant to the National Environmental Policy Act (NEPA) and the agency published a notice of intent to prepare the document on February 1, 2016.<sup>10</sup>

In April 2016, at the request of the EFH Project Team, the Council narrowed the range of alternatives and, consistent with requests made by the proponents, made modifications to the Oceana et al. and collaborative group alternatives. The Council removed from consideration any EFH or RCA changes within the Tribal Usual and Accustomed Areas off the coast of Washington. The Council also selected a preliminary preferred alternative (PPA) to use Magnuson-Stevens Act discretionary authorities to prohibit bottom contact fishing activities deeper than 3,500 meters, and adopted PPAs to update the administrative alternatives pertaining to groundfish life histories, prey species and other actions.<sup>11</sup>

The Council last took up the EFH-RCA Amendment 28 process a year ago, in November 2016, when the Council moved to retain the collaborative and Oceana et al. EFH alternatives in the range of alternatives for further analysis (with modifications by the California Department of Fish and Game for Oceana's Southern California proposal area). The Council included a new EFH alternative for areas off central Oregon, narrowed other alternatives addressing the RCA, and adopted preliminary preferred alternatives and areas to advance for further analysis for both EFH conservation and modifications to the trawl RCA.<sup>12</sup>

Also at the November 2016 meeting, the EFH Project Team presented significant progress on the Amendment 28 analysis. Importantly, the analysis found that the collaborative EFH alternative, combined with the opening of the RCA resulted in net loss of total area protected from bottom trawling. Meanwhile the Oceana et al. alternative, combined with trawl RCA removal resulted in a net gain in EFH conservation in terms of overall area and proportion of known priority habitats protected, while also resulting in a net increase in fishing opportunity (as measured by restored fishing effort).<sup>13</sup>

## **II. The public has made significant investment in the EFH Review and there is broad interest in completing the EFH-RCA Amendment 28 process**

Many members of the public including scientists, the fishing industry and conservation organizations have made significant investments in this process since it first began in 2010. The Council should be proud of its robust public process and significant stakeholder engagement. Oceana has contributed to this process by collecting new data on the location of priority habitat features, and groundfish distributions and associations. We collected this data using remotely operated vehicles to survey seafloor habitats off California, Oregon and Washington during at-sea expeditions in 2010, 2011, 2013, and 2016. We participated as an active member of the EFHRC. We worked with partners at the Ocean Conservancy and Natural Resources Defense Council to submit a comprehensive proposal for modifications to EFH. Starting as early as February 2011, before, during, and then after the

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<sup>9</sup> September 2015 Council Decision Summary Document. Available: <https://www.pcouncil.org/wp-content/uploads/2015/09/0915decisions.pdf>

<sup>10</sup> 81 Fed. Reg. 5102 (February 1, 2016).

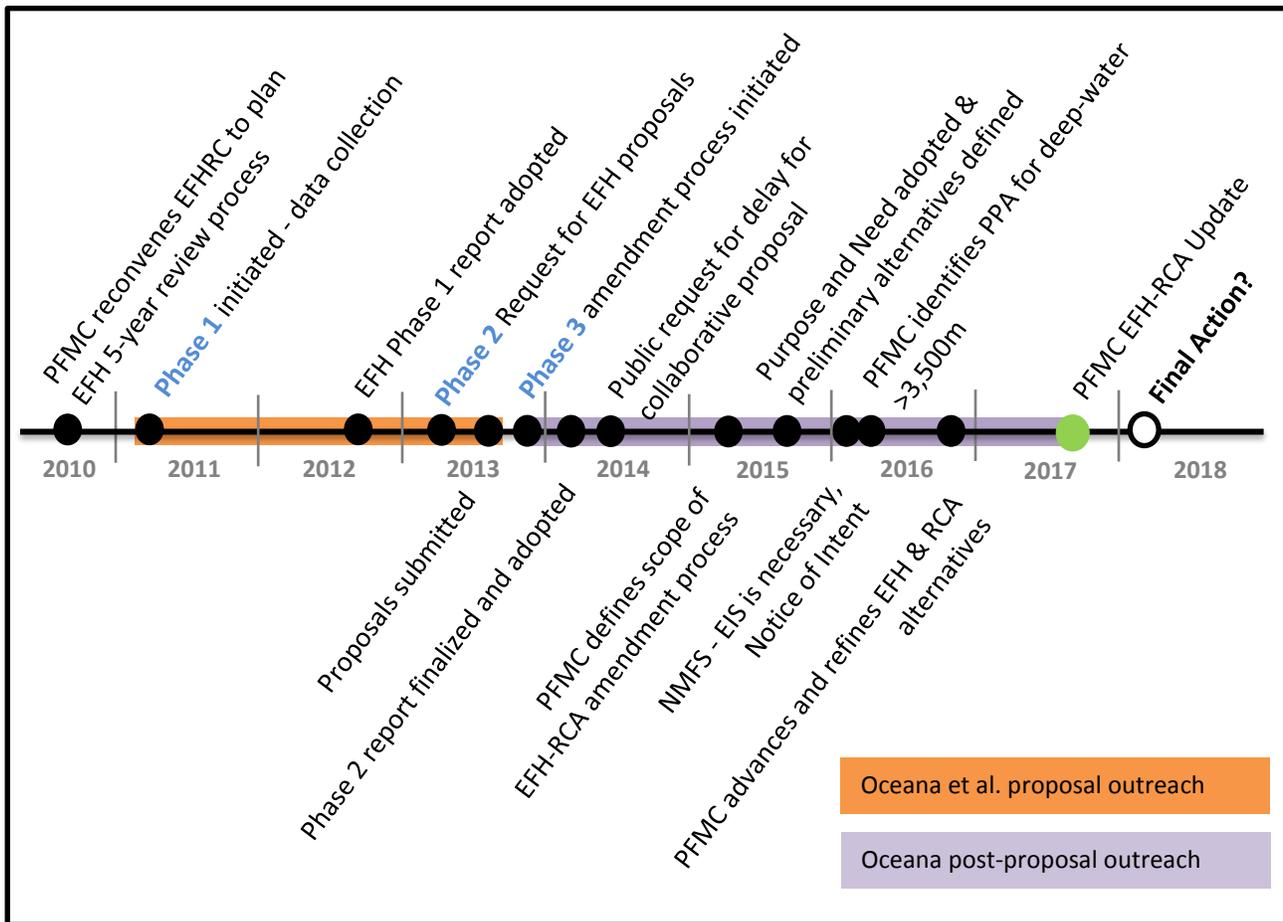
<sup>11</sup> PFMC Decision Summary Document, April 2016. Available: <https://www.pcouncil.org/wp-content/uploads/2016/04/0416decisions.pdf>, at 2-3.

<sup>12</sup> PFMC Decision Summary Document, November 2016. Available, <https://www.pcouncil.org/wp-content/uploads/2016/11/November2016FINALDecisionSummaryDocument.pdf>, at 3-4.

<sup>13</sup> PFMC Agenda Item F.4.a. Project Team Report. November 2016, at 101.

development of our proposal, we reached out to and met with Tribes, West Coast fishermen, fishing representatives and other stakeholders coastwide, plus members of the Council and its committees, NMFS managers and scientists, West Coast Sanctuaries, and state fish and wildlife agencies (Figure 1). We participated in the Monterey Bay National Marine Sanctuary collaborative EFH proposal process from the fall of 2012 through proposal submission in July 2013. We contributed to an updated literature review on biogenic habitats and groundfish EFH, and we provided the Council with scientific reports, proposal summaries, and GIS analyses to help inform understanding of the areas we are working to protect.

**Figure 1.** Timeline of Pacific Fishery Management Council EFH review process



Oceana initially participated in collaborative group discussions in the northern region, however, ultimately Oceana did not participate in the formation of the collaborative proposal. Oceana was not involved in the collaborative proposal for the southern region (south of Cape Mendocino, CA). The collaborative was unable to achieve consensus on areas including the Southern California Bight and off central Oregon. The collaborative submitted an initial draft proposal in November 2015 and final proposal in November 2016. Oceana submitted comparative GIS analyses to the Council

demonstrating areas where the collaborative proposal, combined with opening the trawl RCA is positive for conservation and other areas where it results in a net loss for habitat conservation.<sup>14</sup>

**III. We encourage the Council and agency to complete the Amendment 28 analysis and prepare for final action in March 2018**

We hope to see the Council continue to refine and advance its precautionary habitat conservation approach, and set a precedent for adaptive management based on best available science identified in the groundfish EFH review, as was originally envisioned in Amendment 19. This Council has long recognized that habitat protection is fundamental to maintaining vibrant West Coast groundfish fisheries, and it has a track record of leadership on this pillar of ecosystem-based management. We appreciate the deliberate, step-wise approach and the resources this Council and NMFS have put into the process, which should pay major dividends when the Council takes final action and when the agency promulgates implementing regulations.

We believe the Council has designed a reasonable and full range of alternatives that will enable selection of a final preferred alternative that increases overall habitat protection and fishing opportunities. What is needed now is for the EFH project team to finalize its analysis so that the Council can make an informed final decision. We urge the Council and agency to prioritize this analysis and schedule final action for March 2018.

Thank you for your time and attention to this important conservation and fishery management issue.

Sincerely,



Ben Enticknap  
Pacific Campaign Manager & Sr. Scientist



Geoff Shester, Ph.D.  
California Campaign Director & Sr. Scientist

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<sup>14</sup> Oceana April 2016. PFMC Agenda Item F.5.c Supplemental Public Comment Power Point 2. And Oceana September 2016. PFMC Agenda Item B.1.b Supplemental Public Comment 3. Available: [https://www.pcouncil.org/wp-content/uploads/2016/09/B1b\\_Sup\\_OPC3\\_EFH\\_Oceana\\_ElectricOnly\\_SEPT2016BB.pdf](https://www.pcouncil.org/wp-content/uploads/2016/09/B1b_Sup_OPC3_EFH_Oceana_ElectricOnly_SEPT2016BB.pdf)