UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Silver Spring, Maryland 20910

JAN - 6 2005

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PFMC

D.O. McIsaac, Ph.D.
Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384

Dear Dr. McIsaac:

Thank you for your December 13, 2004, letter requesting on behalf of the Pacific Fishery Management Council (Council) an extension of the 60-day period to provide comments on potential changes to the Designation Documents for the Cordell Bank National Marine Sanctuary (CBNMS), Gulf of the Farallones National Marine Sanctuary (GFNMS), and Monterey Bay National Marine Sanctuary (MBNMS). The Council also requests an extension of the 120-day period to prepare draft sanctuary fishing regulations for the CBNMS, pursuant to section 304(a)(5) of the National Marine Sanctuaries Act (NMSA), 16 U.S.C. § 1434(a)(5). We are extending the time period to April 22, 2005, for both the 60-day and 120-day time periods. Please note, as explained below, that this extension includes the Council's opportunity to prepare draft NMSA fishing regulations for the proposed addition of the Davidson Seamount area to the MBNMS.

We appreciate the assistance the Council and its staff have provided the National Marine Sanctuary Program (NMSP) as the CBNMS, GFNMS, and MBNMS have moved forward with their Joint Management Plan Review (JMPR). Council staff have provided valuable guidance through participation on working groups and frequent and open communication with NMSP staff, with a desire to overcome the challenges that can accompany such a broad and public programmatic review.

Request for Extension

We regret that the materials we provided did not meet the Council's briefing book deadline. We will make every effort to ensure we meet such deadlines in the future. Please understand that the NMSP is aware of the Council meeting schedule and that reference to response periods in the JMPR documents does not reflect indifference to Council time constraints. As your letter points out, NMSP staff have recognized the need for flexibility regarding these response times. As you know, the 120-day period for drafting NMSA fishing regulations is established by regulation (15 C.F.R. § 922.22) and may be waived only upon a showing of good cause. The 60-day time period associated with consultation required pursuant to section 303(b)(2) of the NMSA, 16 U.S.C. § 1433(b)(2), regarding potential Designation Document changes is meant to provide generally sufficient time for the numerous recipients of such letter to respond, but we recognize

that it may not be well suited to the Council. Given the Council's meeting schedule and the need to ensure adequate time for the Council to get input from its advisory bodies, we agree to the requested extensions until April 22, 2005, two weeks after the close of the April meeting. This will allow sufficient time for two additional meetings for consultation, discussion, and decision making, as well as finalization of any materials and documents the Council intends to provide to the NMSP.

Timeline for Draft Regulations for Addition of Davidson Seamount Area to the MBNMS

Your letter states that the Council believes that considering drafting fishing regulations under the authority of the NMSA for an area (Davidson Seamount) not currently within a national marine sanctuary is premature. Your letter also states that the Council welcomes the opportunity to consider potential fishing regulations for the Davidson Seamount area after it has been added to the MBNMS. As indicated at the Council's November 2004 meeting by the Council legal adviser, expansion of an existing sanctuary triggers the same procedural requirements as designation of a new sanctuary. Protecting the unique and fragile benthic ecosystem of Davidson Seamount from the adverse effects of consumptive or intrusive activities is one of the primary reasons for its proposed incorporation into the MBNMS. Regulations preventing such adverse impacts, including fishing regulations, are integral to achieving the goals and objectives of its designation. Section 304(a)(1)(A) of the NMSA, 16 U.S.C. § 1434(a)(1)(A), requires the NMSP to issue proposed regulations that may be necessary and reasonable to implement the proposed designation simultaneously with the proposed designation. Therefore, this is the time to provide the Council the opportunity to prepare draft NMSA fishing regulations for the proposed addition of Davidson Seamount area as required under section 304(a)(5). As a result, it is necessary for the Council to continue to consider and (if it so chooses) prepare draft sanctuary fishing regulations to fulfill the goals and objectives of adding the Davidson Seamount area to the MBNMS within the time period as extended by this letter.

Thank you again for the time and effort that the Council, you, and your staff continue to allocate to national marine sanctuary initiatives. We appreciate the constructive partnership that we are forging and look forward to continued dialogue on how to best build on this relationship in the future. We look forward to receiving a response on or before April 22, 2005.

Sincerely,

Daniel J. Basta
Director