UNITED STATES DEPARTMENT OF COMMERCE
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PFMC Agenda Item H.2.b &H.3.b
Supplemental CBNMS and MBNMS Report
November 2004

Mr. Donald K. Hansen
Chairman
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, Oregon 97220

Dear Mr. Hansen:

This letter formally provides the Pacific Fishery Management Council (PFMC) with the opportunity to prepare draft sanctuary fishing regulations for the Monterey Bay National Marine Sanctuary (MBNMS) and Cordell Bank National Marine Sanctuary (CBNMS), pursuant to section 304(a)(5) of the National Marine Sanctuaries Act, as amended, (NMSA) (16 U.S.C. 1431 et seq.). To assist the PFMC, this letter is accompanied by a document that provides background information, describes more fully the sanctuaries' goals and objectives, reviews action alternatives, and presents preferred actions.

In 2001, MBNMS and CBNMS initiated a joint review of their management plans along with Gulf of the Farallones National Marine Sanctuary. We would like to express our appreciation for the time and energy that the Council and their staff have allocated over the last several years to making this review a success. During this time NMSP staff have regularly met with staff from PFMC, the California Department of Fish and Game, and NMFS Southwest Region on the review process and the evolution of recommendations developed at scoping meetings, workshops, and meetings of MBNMS and CBNMS Advisory Councils. Implementing several of these recommendations will require regulations governing fishing activities in CBNMS and in the proposed inclusion of Davidson Seamount into the MBNMS. Section 304(a)(5) of the NMSA requires that:

> *"The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this chapter and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall use as guidance the national standards of section 301(a) of the Magnuson-Stevens Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Secretary shall prepare the fishing regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination, which is*

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rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to the fishing regulations shall be drafted, approved, and issued in the same manner as the original regulations. The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations."

The response procedures are set forth in section 922.22(b) (15 CFR) and state:

"If a proposed Sanctuary includes waters within the exclusive economic zone, the Sanctuary shall notify the appropriate Regional Fisheries Management Council(s) which shall have one hundred and twenty (120) days from the date of such notification to make recommendations and, if appropriate, prepare draft fishery regulations and to submit them to the Secretary."

Proposed Actions and Requests

As required by section 304(a)(5) (16 U.S.C. 1434(a)(5)), the NMSP is now providing the PFMC with the opportunity to prepare draft sanctuary fishing regulations for the Exclusive Economic Zone portions of MBNMS and CBNMS to accomplish the goals and objectives of the proposed actions described below. The opportunity to prepare draft sanctuary fishing regulations for MBNMS and CBNMS is being presented jointly for efficiency. However, if PFMC chooses to prepare draft sanctuary fishing regulations, we request that PFMC prepare draft sanctuary fishing regulations for the proposals specific to each sanctuary. The MBNMS and CBNMS are considering the following actions, respectively:

(1) MBNMS - prohibit the take of all Sanctuary resources below 3000 feet within the Davidson Seamount area as defined by the area bound by the coordinates West: 123°W; East: 122.5°W; North: 35.9°N; South: 35.5°N

(2) CBNMS - prohibit the take of all benthic organisms except as incidental and necessary to the use of vertical hook and line fishing gear on Cordell Bank and within the 50 fathom isobath surrounding Cordell Bank,

(3) CBNMS - prohibit any disturbing of the submerged lands or placing any material or matter on Cordell Bank and within the 50 fathom isobath surrounding Cordell Bank except as incidental and necessary to use of vertical hook and line fishing gear.

In preparing draft sanctuary regulations for fishing in MBNMS and CBNMS, the PFMC would be acting under the authority of the NMSA and may address all species of fishes and invertebrates. The PFMC is therefore not restricted to the species or activities regulated under its current fishery management plans created under the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA). Proposed regulations for these actions would be analyzed in the Draft Environmental Impact Statement that will be prepared for the revised management plans and regulations of these sanctuaries.

Monterey Bay National Marine Sanctuary: Davidson Seamount

The goals and objectives of the MBNMS in taking this proposed action can be summarized as seeking to protect the unique and fragile benthic ecosystem of the Davidson Seamount by prohibiting activities that adversely affect this vulnerable habitat. The full goals and objectives are listed beginning on page 12 of the attached supporting document. The NMSP has considered various management alternatives for the Davidson Seamount area, as defined by the area bounded by the coordinates referenced above. The analyzed alternatives include:

- Prohibit the take of all sanctuary resources below 3000 feet of the sea surface within the Davidson Seamount area
- Prohibit the take of all sanctuary resources below 200 feet of the sea surface within the Davidson Seamount area
- Prohibit the take of all sanctuary resources within 100 feet of the submerged lands within the Davidson Seamount area
- Prohibit the take of all sanctuary resources from the submerged lands within the Davidson Seamount area
- No action

Based on the complete analysis, NOAA's preferred alternative, which we feel best reflects the goals and objectives of the proposed action, is to include the Davidson Seamount area as part of the MBNMS and prohibit all extractive and consumptive activities below 3000 feet within this area. As part of the section 304(a)(5) process, NMSP requests that PFMC prepare draft fishing regulations to implement the fishery management aspect of this alternative. Since these regulations will be promulgated under the NMSA, to assist the Council we have provided draft regulatory language intended to provide a regulatory model for the Council to consider (see page 18 of the supporting document).

Background

There are a variety of human based threats to the Davidson Seamount. The top of the seamount is too deep for current fish trawling technology, benthic fish density is very low, and the species seen to date in the deep waters just above the seamount are not commercially desirable. The top of the seamount appears nearly pristine because of the abundance of large, fragile species (e.g., corals greater than 8 feet tall and vast fields of sponges) and an apparently undisturbed seafloor. The existing albacore tuna and swordfish/shark fisheries operate in the top 150 feet of water, more than 3000 feet above the seamount. Therefore, threats from fishing are relatively remote; however, the ability to trawl at great depth is increasing and this threat could become more imminent in the future. More immediate threats include the cumulative effects of research collection and bioprospecting, which could be managed effectively and efficiently through the MBNMS's permitting system.

A prohibition against the take of all sanctuary resources below 3000 feet would protect the vulnerable, long-lived, fragile and slow-growing species, which have long recovery times if impacted. It would also safeguard previously undiscovered species and species assemblages (large, adjacent, patches of corals and sponges). The restrictions would also protect the opportunity to discover unique associations (and other ecological processes) between species by keeping them undisturbed. Regulations would also serve to educate the public and fishermen

about the resources on the Davidson Seamount, including the opportunity for public outreach in the form of future media coverage of this unique and nearly pristine environment. The MBNMS and NOAA Fisheries share a common interest in understanding and protecting cold-water corals such as those found at the Davidson Seamount. The MBNMS has had initial discussions with the NOAA Fisheries Northwest Science Center regarding the potential for joint seamount exploration.

The prohibition below 3000 feet would also provide a 1000-foot buffer between the top of the seamount and any fishing activities. This buffer would protect the communities that have direct ecological relationships with the biogenic habitat on the seamount, but that are found in the water column immediately above the seamount. Prohibiting bottom fishing will also reduce the threat on the seamount posed by lost gear and marine debris.

Based on a socioeconomic study contracted by the NMSP, the Sanctuary has determined that the above-proposed action would have no impact on fishermen. Only two commercial fisheries currently operate in the waters above Davidson Seamount—drift gill netting for swordfish and sharks, and trolling for albacore tuna. As noted, these fisheries operate in the top 150 feet of water, far above the seamount, the top of which is 4100 feet below the surface. Recreational fishermen also access the waters above the Davidson Seamount for albacore, again within 150 feet of the sea surface.

From the analysis of trawl logbooks from 1997-2002 it is apparent that very little trawl activity takes place in the area of the seamount. Of the tow set and haulpoints recorded in the logbooks, only two (which are potentially errant) have crossed the Davidson Seamount Area in the five years analyzed. Examining the depths recorded in the logbooks further corroborates the absence of trawling over the seamount. The mean depth of block 1036 (where much of the seamount is located) is 10,496 feet, with a minimum depth of 5,359 feet and a maximum of 15,396 feet. From the trawl logbooks, however, the mean average tow depth recorded in logbooks ranges from 735 to 1122 feet. Again, the summit of the seamount is 4,101 feet below the surface, further indicating that groundfish fishing activity takes place well outside the depth of the seamount.

As the proposed regulation would apply below 3000 feet, this action would have no fishing related socioeconomic impacts.

Please see the attached document for more details on the alternatives and socioeconomic analyses.

Cordell Bank National Marine Sanctuary: Protection of Cordell Bank

The goals and objectives of the CBNMS in taking this proposed action can be summarized as seeking to protect the fragile benthic invertebrate community on Cordell Bank and where appropriate, restore and enhance its natural habitats, populations and ecological processes by eliminating avoidable adverse impacts to the Bank. The full goals and objectives are listed beginning on page 28 of the attached supporting document.

The CBNMS regulations presently prohibit removing, taking, or injuring benthic invertebrates or algae on Cordell Bank or within the 50 fathom isobath surrounding the Bank, except for accidental removal, injury or takings during "normal fishing operations." Based on the analysis, NOAA's proposed action is to narrow this exception to the above regulation by allowing removal, injury or takings of benthic invertebrates or algae only as incidental and necessary to the use of vertical hook-and-line fishing gear (including trolling gear, but excluding longlines) on Cordell Bank and within the 50 fathom isobath surrounding Cordell Bank. This narrower exception would meet the goal of protecting Cordell Bank and the surrounding area from activities that could injure, cause the loss of, or destroy this sensitive benthic habitat. Related to this, the NMSP is also considering adding a new prohibition to CBNMS which would prohibit drilling into, dredging, or otherwise altering Cordell Bank or the submerged lands within the 50 fathom isobath; or constructing, placing, or abandoning any structure, material or other matter on the Bank or on the submerged lands within the 50 fathom isobath surrounding the Bank; however, vertical hook-and-line gear would also be excepted from this prohibition.

As part of the section 304(a)(5) process, NMSP requests that PFMC prepare draft fishing regulations to implement the fishery management aspect of this alternative. Since these regulations will be promulgated under the NMSA, to assist the Council we have provided draft regulatory language intended to provide a regulatory model for the Council to consider (see page 32 of the supporting document).

Background

Cordell Bank is located about 43 nautical miles (nm) northwest of the Golden Gate Bridge and 20 nm west of the Point Reyes lighthouse. Due to the distance from land and unpredictable, and often-rough sea conditions, access to the Bank is limited. Even so, human use activity remains a threat to the health and function of the Bank. Concern remains about the fragile quality of the Bank, particularly the high relief pinnacles and ridges and benthic organisms covering the Bank. Once the granite pinnacles have been compromised, there is no opportunity for recovery and they can and will remain rubble. The pinnacles and ridges of the Bank provide a hard substrate for attachment resulting in the thick coverage on the Bank of sponges, anemones, hydrocorals, gorgonian corals, hydroids, tunicates, and scattered crabs, holothurians, and gastropods. This benthic coverage in turn provides important habitat and food for fishes and other living marine resources. This area is one of complexity, sensitivity and ecological importance.

The proposed actions to protect benthic invertebrates and algae on and near Cordell Bank and prohibit disturbance to the Bank and submerged lands within the 50 fathom isobath surrounding the Bank would protect the vulnerable, long-lived, fragile and slow-growing species, which have long recovery times if impacted. It would also safeguard the fragile high relief on Cordell Bank, particularly the pinnacles and ridges, from the threat of permanent destruction. The restrictions would also protect the opportunity to better understand unique species associations or ecological processes by keeping them undisturbed. Regulations would also provide an outreach opportunity to educate the public about the resources on the Cordell Bank.

Historically, fisheries have occurred within Sanctuary boundaries for dungeness crab, albacore, salmon and several species of groundfish. Nontrawl sectors such as salmon and pelagic fisheries are only described by landing receipts, not logbooks. The 50 fathom isobath surrounding Cordell

Bank is straddled by two CDF&G fish blocks: 441 and 451. Effort is averaged over these 10-minute fish blocks and therefore is limited in its spatial explicity. Also, there are known quality issues with the landing receipts data because the reporting relies on the fishermen reporting the block accurately, and the fish buyers in turn accurately recording the blocks. Without observer data or other location information available, the broad geographic range of the blocks and unverified nature of landings data limit our understanding of the types and level of fishing activities taking place on the Bank. CBNMS's data collection efforts have been augmented by personal interviews.

A preliminary analysis of fishing activity indicates that given current types and levels of fishing effort taking place on the Bank, the proposed regulatory actions would impose no additional socioeconomic burden on the fishing community. If the PFMC's groundfish closure were to be lifted, there would be a potential for socioeconomic impacts on longliners. Three factors need to be considered in evaluating socioeconomic impacts on this user group: 1) preliminary information indicates that at least 10 of the 14 known local longliners also participate in other fisheries such as crab and salmon, from which they would continue to derive some income; 2) although this group may be displaced from the Bank, effort could be shifted to other areas adjacent to the CBNMS that would mitigate lost income, although some additional burdens may be realized; and 3) having realized the impact of the groundfish closure, indications are that at least 10 of these 14 boats have already been sold.

Additional background information and analyses of alternatives is enclosed. We appreciate the time and effort of the PFMC and our partner organizations in developing proposals for improved conservation and protection of the resources of MBNMS and CBNMS. We look forward to making a presentation regarding this request at the November PFMC meeting in Portland. In the meantime please feel free to contact either Holly Price, MBNMS at 831-647-4247, or Dan Howard, Manager, CBNMS at 415-663-1456 with questions or for additional information.

Sincerely,

Daniel J. Basta
Director
National Marine Sanctuary Program

cc: Don McIsaac, Executive Director. PFMC
Rod McInnis, Regional Administrator, SWR
Patty Wolf, Marine Region Director, CDFG
Holly Price, Acting Superintendent, MBNMS
Dan Howard, Manager, CBNMS